

THE COMPANIES ACT 1985
COMPANY LIMITED BY SHARES
NEW ARTICLES OF ASSOCIATION

of

UNITED BAKERIES LIMITED

(formerly Dunwilco (482) Limited conform to certificate of
incorporation on change of name dated 24 May 1996)

(adopted by special resolution on 24 May 1996)

Preliminary

1. In these articles:-
 - 1.1 'the Act' means the Companies Act 1985 and every statutory modification or re-enactment thereof for the time being in force.
 - 1.2 'Table A' means Table A in the Companies (Tables A - F) Regulations 1985 as amended by the Companies (Tables A - F) (Amendment) Regulations 1985.
 - 1.3 The expressions 'Investor' shall mean each of 3i Group plc and Royal Bank Investments Limited, 'member of an Investor's Group' shall mean an Investor, any subsidiary of that Investor and any holding company of that Investor and any subsidiary of such holding company and any nominee of any of the foregoing and 'Investor's Group' shall be construed accordingly.
 - 1.4 The expression 'Relevant Directors' shall mean (a) those of the Company's and any subsidiary's directors and former directors who are interested in shares of the Company and (b) any director appointed by the Company or any subsidiary of the Company after the date of adoption of these articles of association to fulfil the role of finance director of the Company or any subsidiary of the Company and their respective connected persons (as defined



by section 839 Income and Corporation Taxes Act 1988) but excluding any Special Director (as hereinafter defined).

- 1.5 The word 'emoluments' shall include all salary and all items set out in paragraph 1(4) of schedule 6 to the Act.
- 1.6 Where any amount is stated to be Index Linked it shall be adjusted annually on 1 March each year commencing on 1 March 1997 by a percentage equal to the percentage increase (if any) in the retail price index published by the Government to 1 February in the year in question from 1 February in the previous year except for the adjustment on 1 March 1997 which shall be in respect of the percentage increase (if any) in such index from the date of adoption of these articles to 1 February 1997.
- 1.7 "Acquisition Agreement" means the acquisition agreement entered into or to be entered into of even date with the adoption of these articles between the Vendors (as therein defined) and the Company in connection with the Company's acquisition of the entire issued share capital of United Central Bakeries Limited (No SC116630).
- 1.8 "Loan Note" means the loan stock issued or to be issued by the Company to David Slater Orr in respect of any Deferred Consideration Monies (as defined in the Acquisition Agreement) payable to him pursuant to the Acquisition Agreement.
- 2.1 The regulations contained in or incorporated in Table A shall apply to the Company save insofar as they are excluded or varied hereby or are inconsistent herewith and such regulations (save as so excluded varied or inconsistent) and the articles hereinafter contained shall be the regulations of the Company.
- 2.2 Regulations 50, 54, 73-80 (inclusive), 85, 86, 89, 94-98

(inclusive) and 118 of Table A shall not apply to the Company.

Share capital

3. The share capital of the Company is £1,037,908 divided into 1,750,000 preference shares of 1 pence each (the "preference shares") 500,000 'A' ordinary shares of £1 each (the "'A' ordinary shares") and 520,408 ordinary shares of £1 each (the "ordinary shares"). The rights attaching to the respective classes of shares shall be as follows:-

3.1 Income

The profits of the Company available for distribution (as defined in section 263(3) of the Act) (if any) shall be applied as follows:-

3.1.1 First in paying to the holders of the preference shares a fixed cumulative preferential net cash dividend (hereinafter in these articles referred to as 'the Preference Dividend') of 9 pence per annum on each share accruing from the date of subscription for the preference shares and payable in two equal instalments half yearly on 28 February and 31 August, the first such payment to be made on 31 August 1996 in respect of the period from the date of allotment of the preference shares to that date.

3.1.2 Second in paying to the holders of the 'A' ordinary shares a fixed cumulative preferential net cash dividend (hereinafter in these articles referred to as 'the Fixed Dividend') of 9 pence per annum on each share accruing from the date of subscription for the 'A' ordinary shares and payable half yearly on 28 February and 31 August, the first such

payment to be made on 31 August 1996 in respect of the period from the date of allotment of the 'A' ordinary shares to that date.

- 3.1.3 Third in paying to the holders of the 'A' ordinary shares as a class in respect of each financial year of the Company a cumulative preferential net cash dividend (hereinafter in these articles referred to as 'the Participating Dividend') of a sum (if any) which when added to the total of the Fixed Dividend payable in respect of that year is equal to 12% of the Net Profit (calculated as hereinafter provided) of the Company and its subsidiaries for the relevant financial year. For the avoidance of doubt, the first payment of Participating Dividend (if any) shall be payable in respect of the financial year of the Company ending on 28 February 1997. The Participating Dividend (if any) shall be paid not later than 4 months after the end of each successive accounting reference period of the Company or not later than 14 days after the audit report on the accounts of the Company for such period is signed by the Company's auditors, whichever is earlier.

For the purpose of calculating the Participating Dividend, the expression 'Net Profit' shall mean the profit on ordinary activities before taxation of the Company and its subsidiaries calculated on the historical cost accounting basis and shown in the audited consolidated profit and loss account of the Company and its subsidiaries for the relevant financial year (to the nearest £1) but adjusted by:-

- 3.1.3.1 adding back any amortisation of goodwill;

3.1.3.2 adding back any amount in excess of £180,000 (or such greater amount as may be agreed from time to time in writing by the holders of not less than 75% of the 'A' ordinary shares) per annum Index Linked in the aggregate charged in respect of emoluments paid to Relevant Directors in respect of the relevant financial year.

3.1.4 Fourth in paying to the holders of the 'A' ordinary shares in respect of each financial year of the Company a cumulative preferential net cash dividend (hereinafter in these articles referred to as 'the Compensatory Dividend') on each share of an amount (if any) which, when added to the Fixed Dividend and the Participating Dividend paid on such share for the same financial year, shall equal the aggregate of:-

3.1.4.1 any Initial Ordinary Dividend (as hereinafter defined) paid in such financial year on all of the ordinary shares held by or on behalf of Relevant Directors (hereinafter in these articles referred to as 'Directors Shares'); and

3.1.4.2 the Excess Remuneration (as hereinafter defined)

divided by the number of Directors Shares in issue on the last day of the relevant financial year.

For the purpose of calculating the Compensatory Dividend the expression 'Excess Remuneration' shall mean emoluments in excess of £180,000 (or such greater amount as may be agreed in writing from

time to time by the holders of not less than 75% of the 'A' ordinary shares) per annum Index Linked in the aggregate payable in respect of the relevant financial year to Relevant Directors after deducting income tax at the basic rate from time to time applicable on such excess sum. The Compensatory Dividend (if any) shall be paid on the due date for payment of the Participating Dividend.

3.1.5 Fifth, provided that:-

3.1.5.1 the Preference Dividend and the Fixed Dividend and the Participating Dividend (if any) have been paid in full in respect of that financial year and in respect of all previous financial years of the Company;

3.1.5.2 any Compensatory Dividend due in respect of all previous financial years of the Company has been paid in full and in respect of that financial year is declared and, subject to the provisions of Article 3.1.4, paid in full at the same time as any Initial Ordinary Dividend (as hereinafter defined) paid in that year; and

3.1.5.3 all preference shares which have fallen due for redemption have been redeemed

in paying to the holders of the ordinary shares a dividend ('the Initial Ordinary Dividend') on each share of an amount up to but not exceeding the aggregate of the Fixed Dividend and the Participating Dividend paid on each 'A' ordinary share for such year;

and subject thereto the profits (if any) which the Company and/or the directors of the Company may determine to distribute in respect of any financial year shall be applied with the prior written consent of the holders of 75% of the 'A' ordinary shares in distributing the balance of such profits (if any) amongst the holders of the 'A' ordinary shares and the ordinary shares (pari passu as if the same constituted one class of share).

3.1.6 Every dividend shall be distributed to the appropriate shareholders pro-rata according to the amounts paid up or credited as paid up on the shares held by them respectively and shall accrue on a daily basis.

3.1.7 Unless the Company has insufficient profits available for distribution and the Company is thereby prohibited from paying dividends by the Act the Preference Dividend and the Fixed Dividend and the Participating Dividend and the Compensatory Dividend and the Initial Ordinary Dividend (if any) shall (notwithstanding regulations 102 to 108 inclusive contained in Table A or any other provision of these articles and in particular notwithstanding that there has not been a recommendation of the directors or resolution of the Company in general meeting) be paid immediately on the due date and if not then paid shall be a debt due by the Company and be payable in priority to any other dividend provided that if due to delays in the preparation of the audited accounts of the Company the Participating Dividend cannot be calculated by the date it is due for payment in terms of these articles then there shall, insofar

as the same may lawfully be paid, be paid forthwith an interim dividend in respect of the Participating Dividend of a sum equal to the last Participating Dividend (if any) which was payable or, if agreed prior to the due date for payment of the Participating Dividend by the holders of not less than 75% of the 'A' ordinary shares, such other sum as the directors may recommend be paid by way of interim dividend in respect of the Participating Dividend. The next and (if appropriate) any subsequent Participating Dividend shall be adjusted to take account of any overpayment or underpayment in respect of the said interim dividend which becomes apparent when the audited accounts are available.

- 3.1.8 The Company shall procure that, subject to the relevant provisions of the Act or any statutory provisions in substitution therefor, each of its subsidiaries which has profits available for distribution shall from time to time declare and pay to the Company such dividends as are necessary to permit lawful and prompt payment by the Company of any redemption moneys due on the preference shares and the Preference Dividend and the Fixed Dividend and the Participating Dividend and the Compensatory Dividend and the Initial Ordinary Dividend and any dividend payable under Article 3.1.5.5.

3.2 Capital

On a return of assets on liquidation or capital reduction or otherwise, the assets of the Company remaining after the payment of its liabilities shall be applied as follows:-

- 3.2.1 first in paying to the holders of the preference

shares £1 per share together with a sum equal to any arrears or accruals of the Preference Dividend calculated down to the date of the return of capital;

- 3.2.2 second in paying to the holders of the 'A' ordinary shares £1 per share together with a sum equal to any arrears or accruals of the dividends on the 'A' ordinary shares calculated down to the date of the return of capital;
- 3.2.3 third in paying to the holders of ordinary shares £1 per share; and
- 3.2.4 the balance of such assets shall be distributed amongst the holders of the 'A' ordinary shares and ordinary shares (pari passu as if the same constituted one class of share) in proportion to the amounts paid up or credited as paid up on the 'A' ordinary shares and ordinary shares held by them respectively.

3.3 Conversion

All the holders of the 'A' ordinary shares may at any one time convert the whole (but not part only) of their fully paid 'A' ordinary shares into a like number of fully paid ordinary shares and the following provisions shall have effect:-

- 3.3.1 the conversion shall be effected by notice in writing given to the Company signed by the holders of not less than 75% of the 'A' ordinary shares and the conversion shall take effect immediately upon the date of delivery of such notice to the Company at its registered office unless such notice states that conversion is to be effective when any conditions specified in the notice have been

fulfilled in which case conversion shall take effect when such conditions have been fulfilled;

- 3.3.2 forthwith after conversion takes effect the holders of the ordinary shares resulting from the conversion shall send to the Company the certificates in respect of their respective holdings of 'A' ordinary shares and the Company shall issue to such holders respectively certificates for the ordinary shares resulting from the conversion;
- 3.3.3 the ordinary shares resulting from the conversion shall rank from the date of conversion *pari passu* in all respects with the other ordinary shares in the capital of the Company but shall not be entitled to rank for any dividends paid or payable to the holders of ordinary shares referable to the period up to and including the date of conversion with the result that any dividends paid or payable to the holders of ordinary shares referable to the period after conversion shall be deemed to accrue on a daily basis and shall be calculated *pro rata* according to the profits of the Company and its subsidiaries if any for the relevant period after the date of such conversion;
- 3.3.4 on the date of conversion the Company shall pay a dividend to the holders of the 'A' ordinary shares of a sum equal to any arrears or accruals of the dividends on the 'A' ordinary shares calculated on a daily basis to the date of conversion and the Participating Dividend shall be calculated *pro rata* according to the profits of the Company and its subsidiaries for the relevant financial year down to the date of such conversion such profits to be calculated by the Company on a basis reasonably

acceptable to the holders of not less than 75% of the 'A' ordinary shares.

3.4 Redemption

- 3.4.1 Subject to the provisions of the Act on each of the dates set out below that number of preference shares set out below opposite the relevant date shall be redeemed:-

<u>Redemption date</u>	<u>Number of shares redeemable</u>
28 February 2000	499044
28 February 2001	499044
28 February 2002	499044
28 February 2003	252868

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

- 3.4.2 Subject to the provisions of the Act the Company may with prior written consent of the holders of not less than 75% of the preference shares (provided there are no arrears of dividend on the 'A' ordinary shares or preference shares) redeem all or (in instalments of not less than 25,000 shares) some of the preference shares in advance of the due date for redemption and in the absence of any contrary agreement between such holders and the Company any partial early redemption shall be deemed to relate to the shares falling due for redemption in inverse order of maturity.

- 3.4.3 Subject to the provisions of the Act all of the

preference shares shall (unless the holders of not less than 75% of the preference shares give notice in writing to the Company to the contrary) be redeemed immediately upon any of the following dates:-

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

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

3.4.4 On the date fixed for any redemption the Company shall pay to each registered holder of preference shares the amount payable in respect of such redemption pursuant to article 3.4.5 and upon receipt of that amount each such holder shall surrender to the Company the certificate for his shares which are to be redeemed in order that they may be cancelled provided that if any certificate so surrendered includes any shares not redeemable at that time the Company shall issue a fresh certificate for the balance of the shares not redeemable to the holder. If there is more than one holder of preference shares any redemption shall be made among such holders pro rata (as

nearly as may be) to their respective holdings.

- 3.4.5 The Company shall pay on each of the preference shares so redeemed the sum of £1 together with a sum equal to any arrears or accruals of the Preference Dividend calculated to the date of redemption and in the absence of any direction to the contrary by the holder of the relevant preference share any moneys paid on redemption of such share shall relate first to the said arrears and accruals of Preference Dividend. The Preference Dividend shall cease to accrue from the date of payment of the redemption moneys.

Class Rights

4. Whenever the capital of the Company is divided into different classes of shares the special rights attached to any class may be varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding up, only with the consent in writing of the holders of not less than 75% of the issued shares of that class. Without prejudice to the generality of this article, the special rights attached to the preference shares and the 'A' ordinary shares shall be deemed to be varied:-
- 4.1 by the grant of any option or other right to subscribe for shares (other than the allotment and issue of any Deferred Consideration Shares (as defined in the Acquisition Agreement) by the Company to David Slater Orr subject to and in accordance with the conditions set out in the Acquisition Agreement) and by any alteration or increase or reduction or sub-division or consolidation of the authorised or issued share capital of the Company or of any of its subsidiaries (other than pursuant to the allotment and issue of Deferred Consideration Shares), or any variation of the rights attached to any of the shares for the time being in the capital of the

Company or of any of its subsidiaries (other than pursuant to the allotment and issue of Deferred Consideration Shares) excepting always any conversion or redemption of shares in the capital of the Company pursuant to article 3; or

- 4.2 by the disposal of the undertaking of the Company or of any of its subsidiaries or any substantial part thereof or by the disposal of any share in the capital of any subsidiary of the Company; or
- 4.3 by the acquisition of any interest in any share in the capital of any company by the Company or any of its subsidiaries excepting any redemption of shares in the capital of the Company pursuant to article 3; or
- 4.4 by the application by way of capitalisation of any sum in or towards paying up any share or loan capital of the Company; or
- 4.5 by any alteration of the restrictions on the powers of the directors of the Company and its subsidiaries to borrow give guarantees or create charges as set out in these articles; or
- 4.6 by the winding up of the Company; or
- 4.7 by the redemption of any of the Company's shares (otherwise than pursuant to these articles) or by the entering into of a contract by the Company to purchase any of its shares; or
- 4.8 by any alteration of the Company's memorandum or articles of association; or
- 4.9 by any alteration of the Company's accounting reference date; or
- 4.10 by the calling of a meeting of the Company to effect or approve any matter which would by virtue of this article be

a variation of the class rights of the 'A' ordinary and preference shares.

Further Issue of Shares

5. Notwithstanding any other provisions of these Articles the directors shall be bound to offer to each member for the time being holding shares in the equity share capital of the Company such a proportion of any shares forming part of the equity share capital of the Company which the directors determine to issue (other than the Deferred Consideration Shares (as defined in the Acquisition Agreement) to be allotted pursuant to the Acquisition Agreement) as the aggregate nominal value of shares in the equity share capital of the Company for the time being held by such member bears to the total issued equity share capital of the Company immediately prior to the issue of the shares. Any shares issued to a member pursuant to such offer shall be issued upon terms and conditions no less favourable to those issued to any other person and so that such shares shall at the request of any member which is an Investor be registered in its name or in the name or names of any one or more members of that Investor's Group.

Lien

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

Calls

7. The liability of any member in default in respect of a call shall be increased by the addition at the end of the first sentence of regulation 18 in Table A of the words 'and all

expenses that may have been incurred by the Company by reason of such non-payment.'

Transfer of Shares

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

9.1 For the purposes of these articles:-

9.1.1 "Privileged Relation" in relation to a member means the spouse or widow or widower of the member and the member's children and grandchildren (including step and adopted children and their issue) and step and adopted children of the member's children (irrespective in any case of whether the member is an employee or a former employee or a director or a former director of the Company and/or any of its subsidiaries).

9.1.2 "Family Trust" in relation to any member means a trust which does not permit any of the settled property or the income therefrom to be applied otherwise than for the benefit of that member and/or a Privileged Relation of that member and

under which no power of control is capable of being exercised over the votes of any shares which are the subject of the trust by any person other than the trustees or such member or his Privileged Relations;

9.1.3 "settlor" includes a testator or an intestate in relation to a Family Trust arising respectively under a testamentary disposition or an intestacy of a deceased member.

9.2.1 Notwithstanding any other provision in these articles any member may at any time transfer (or by will bequeath or otherwise dispose of on death) all or any shares held by him to a Privileged Relation or to trustees to be held upon a Family Trust provided that any transfer of shares to a Privileged Relation or to trustees to be held upon a Family Trust made during the lifetime of such member may only be made with the consent in writing of the holders of not less than 75% of the 'A' ordinary shares.

9.2.2 Where the consent of a holder of 'A' ordinary shares is requested to a transfer to a Family Trust such consent shall only be given when the holder is satisfied:-

9.2.2.1 with the terms of the trust instrument and in particular with the powers of the trustees;

9.2.2.2 with the identity of the proposed trustees;

9.2.2.3 that the proposed transfer will not result in 50% or more in the aggregate

of the Company's equity share capital being held by trustees of that and any other trusts; and

9.2.2.4 that no costs incurred in connection with the setting up or administration of the Family Trust in question are to be paid by the Company.

9.3 Where any shares are held by trustees upon a Family Trust:-

9.3.1 on any change of trustees such shares may be transferred to the new trustees of that Family Trust;

9.3.2 such shares may be transferred at any time to the settlor or to another Family Trust of the settlor or to any Privileged Relation of the settlor; and

9.3.3 if and whenever any such shares cease to be held upon a Family Trust (otherwise than in consequence of a transfer to the settlor or to another Family Trust of the settlor or to any Privileged Relation of the settlor) a Transfer Notice (as hereinafter defined) shall be deemed to have been given in respect of the relevant shares (as hereinafter defined) by the holders thereof and such shares may not otherwise be transferred;

9.3.4 for the purposes of this article the expression "relevant shares" means and includes the shares originally transferred to the trustees and any additional shares issued or transferred to the trustees by virtue of the holding of the relevant shares or any of them.

9.4 Notwithstanding any other provision in these articles a member

shall not be entitled to transfer shares held by him to any trustee or trust or company or other entity which holds or is proposed to hold shares for the benefit of directors and employees of the Company and its subsidiaries or their Privileged Relations.

- 9.5 If any person, who is from time to time an employee or director of the Company or its subsidiaries, holds shares in the Company or has held shares in the Company but has transferred those shares to his Privileged Relations and/or Family Trusts (an 'Employee Member') and ceases to be an employee or director of the Company or its subsidiaries by reason of breach or termination by the Employee Member of the Employee Member's contract of service, and does not forthwith become or continue to be an employee or director of any of the Company or its subsidiaries Transfer Notices (as hereinafter defined) shall be deemed to have been served forthwith upon such cessation in respect of:-

9.5.1 all shares held by the Employee Member; and

9.5.2 all shares originally held by the Employee Member but held by his Privileged Relations and/or his Family Trust(s) at the time of such cessation.

In the event that at the time of such cessation an Employee Member and/or his Privileged Relations and/or Family Trusts have rights to acquire shares and shares are subsequently issued to such Employee Member and/or Privileged Relations and/or Family Trusts after such cessation, Transfer Notices shall be deemed to be served forthwith upon such issue in respect of all of the shares so issued.

- 10.1 Save as otherwise provided in these articles every member who desires to transfer any shares (hereinafter called 'the Vendor') shall give to the Company notice in writing of such desire (hereinafter called a 'Transfer Notice'). Subject as

hereinafter mentioned a Transfer Notice shall constitute the Company the Vendor's agent for the sale of the shares specified therein (hereinafter called 'the Sale Shares') in one or more lots at the discretion of the directors in accordance with these articles at the Sale Price. The Sale Price shall be the price agreed by the Vendor and the directors or if the Vendor and the directors are unable to agree a price within 28 days of the Transfer Notice being given or if the Transfer Notice is a deemed Transfer Notice pursuant to Article 9.5 the price which a chartered accountant (acting as an expert and not as an arbiter) nominated by agreement between the Vendor and the Company or in default of such agreement by the President for the time being of the Institute of Chartered Accountants of Scotland shall by writing under his hand certify to be in his opinion a fair value thereof on a going concern basis as between a willing seller and a willing buyer ignoring any reduction or enhancement in value which may be ascribed to the Sale Shares by virtue of the fact that they represent a minority or majority interest (as the case may be) and on the assumption that the Sale Shares are capable of transfer without restriction. Save for shares sold pursuant to a deemed Transfer Notice pursuant to Article 9.5 the Transfer Notice may contain a provision that unless all the shares comprised therein are sold by the Company pursuant to this article none shall be sold and any such provision shall be binding on the Company.

- 10.2 If a chartered accountant is asked to certify the fair value as aforesaid his certificate shall be delivered to the Company and as soon as the Company receives the certificate it shall furnish a certified copy thereof to the Vendor and save for shares sold pursuant to a deemed Transfer Notice pursuant to Article 9.5 the Vendor shall be entitled by notice in writing given to the Company within ten days of the service upon him of the certified copy to cancel the Company's authority to sell the Sale Shares. The cost of obtaining the certificate

shall be borne by the Company unless the Vendor shall give notice of cancellation as aforesaid in which case the Vendor shall bear the cost.

10.3 Upon the price being fixed as aforesaid and provided the Vendor shall not give a valid notice of cancellation within the time limit specified in article 10.2 the Company shall forthwith offer the Sale Shares as follows:-

10.3.1 in the cases of 'A' ordinary shares and preference shares, to all holders of 'A' ordinary shares (other than the Vendor) pro rata as nearly as may be in proportion to the existing numbers of 'A' ordinary shares held by such members; and

10.3.2 in the case of ordinary shares, to all holders of ordinary shares (other than the Vendor) pro rata as nearly as may be in proportion to the existing numbers of ordinary shares held by such members

and in all such cases giving details of the number and the Sale Price of such Sale Shares. The Company shall invite each such member as aforesaid to state in writing within twenty-one days from the date of the notice whether he is willing to purchase any of the Sale Shares so offered to him and if so the maximum thereof which he is willing to purchase. If at the expiration of the said period of twenty-one days there are any Sale Shares offered which any of the members hereinbefore mentioned have not so stated their willingness to purchase the Company shall offer such shares to such members as have stated in writing their willingness to purchase all the shares previously offered to them. Such remaining shares shall be offered pro rata as nearly as may be in proportion to the existing numbers of 'A' ordinary shares or ordinary shares (as the case may be) then held by such members which offer shall remain open for a further period of twenty-one days. If at the expiration of the said further period of twenty-one days

there are any Sale Shares which any of the members hereinbefore mentioned have not stated their willingness to purchase the Company shall offer such shares as follows:-

10.3.3 in the cases of 'A' ordinary shares and preference shares, to all holders of ordinary shares (other than the Vendor if applicable) pro rata as nearly as may be in proportion to the existing numbers of ordinary shares held by such members; and

10.3.4 in the case of ordinary shares, to all holders of 'A' ordinary shares (other than the Vendor if applicable) pro rata as nearly as may be in proportion to the existing numbers of 'A' ordinary shares held by such members

and in all such cases giving details of the number and the Sale Price of such Sale Shares. The Company shall invite each such member to whom shares have been offered under this article to state in writing within twenty-one days from the date of the relevant notice whether he is willing to purchase any of the Sale Shares so offered to him and if so the maximum thereof which he is willing to purchase. If at the expiration of the said third period of twenty-one days there are any Sale Shares which any of the members to whom they have been offered have not so stated their willingness to purchase the Company shall offer such shares to such members as have stated in writing their willingness to purchase all the shares previously offered to them. Such remaining shares shall be offered pro rata as nearly as may be in proportion to the existing numbers of ordinary shares or 'A' ordinary shares (as the case may be) then held by such members which offer shall remain open for a further period of twenty-one days.

10.4 If the Company shall pursuant to the above provisions of this article find a member or members of the Company willing to purchase all or any of the Sale Shares the Vendor shall be

bound upon receipt of the Sale Price to transfer the Sale Shares (or such of the same for which the Company shall have found a purchaser or purchasers) to such persons. If the Vendor shall make default in so doing the Company shall if so required by the person or persons willing to purchase such Sale Shares receive and give a good discharge for the purchase money on behalf of the Vendor and shall authorise some person to execute transfers of the Sale Shares in favour of the purchasers and shall enter the names of the purchasers in the Register of Members as the holder of such of the Sale Shares as shall have been transferred to them as aforesaid.

- 10.5 If the directors shall not have found a member or members of the Company willing to purchase all of the Sale Shares pursuant to the foregoing provisions of this article the Vendor shall at any time within six months after the final offer by the Company to its members be at liberty to sell and transfer such of the Sale Shares as have not been so sold to any person at a price being no less than the Sale Price.
- 10.6 The foregoing provisions of this article shall not apply to a transfer if the holders of not less than 75% of the ordinary shares and the holders of not less than 75% of the 'A' ordinary shares so direct in writing and the directors shall be obliged to register any such transfer.
- 10.7 Subject to the provisions of articles 9 and 11, any purported transfer of shares otherwise than in accordance with the foregoing provisions of this article 10 shall be void and have no effect.
11. Notwithstanding any other provisions of these articles a transfer of any shares in the Company held by any member of an Investor's Group may be made between the member in an Investor's Group holding such shares and any other member in the same Investor's Group without restriction as to price or otherwise and any such transfer shall be registered by the

directors PROVIDED THAT if any such transferee ceases to be a member of the relevant Investor's Group it shall forthwith transfer the relevant shares to a member of the relevant Investor's Group.

Limitation on transfer of control

12.1 Subject to the provisions of articles 9.2.1 and 11, no sale or transfer (other than a sale or transfer of shares made pursuant to a deemed Transfer Notice in accordance with article 9.5) of the legal or beneficial interest in any shares in the Company may be made or validly registered without the consent in writing of the holders of not less than 75% of the 'A' ordinary shares if as a result of such sale or transfer and registration thereof a Controlling Interest (as hereinafter defined) would be obtained in the Company:-

12.1.1 by a company (other than a company to which the immediately following sub-article applies) or by a person or persons (other than a company) who are not Original Members (as hereinafter defined) unless the proposed transferee or transferees or his or their nominees are independent third parties acting in good faith and has or have offered to purchase all the 'A' ordinary shares at the Specified Price (as hereinafter defined) and (to the extent that they are not redeemed) all the preference shares in issue at a price per share of at least £1 plus a sum equal to any arrears or accruals of the Preference Dividend grossed up at the rate of corporation tax then in force calculated down to the date of sale or transfer; or

12.1.2 by a company in which one or more of the members of the Company or persons acting in concert (which expression shall have the meaning ascribed to it in the July 1993 edition of the City Code on Takeovers

and Mergers) with any member of the Company has or as a result of such sale or transfer will have a Controlling Interest (as hereinafter defined).

12.2 For the purpose of this article:-

12.2.1 the expression 'a Controlling Interest' shall mean an interest in shares in a company conferring in the aggregate 50% or more of the total voting rights conferred by all the issued shares in that company;

12.2.2 the expression 'Original Members' shall mean persons who were members of the Company on the date of the adoption of these articles and the Privileged Relations and Family Trusts of such members;

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

12.2.4 the expression 'the Specified Price' shall mean at the option of the holders of not less than 75% of the 'A' ordinary shares either:-

12.2.4.1 a price per share of £1; or

12.2.4.2 the consideration (in cash or otherwise) per share equal to that offered or paid or payable by the proposed transferee or transferees or his or their nominees for any other shares in the equity share capital of the Company plus an amount equal to the relevant proportion of any other consideration (in cash or

otherwise) received or receivable by the holders of such other shares which having regard to the substance of the transaction as a whole can reasonably be regarded as an addition to the price paid or payable for such other shares provided that if any part of the price per share is payable otherwise than by cash the holders of the 'A' ordinary shares may at their option elect to take a price per share of such cash sum as may be agreed by them having regard to the substance of the transaction as a whole;

plus in either case a sum equal to any arrears or accruals of the dividends on such share grossed up at the rate of corporation tax then in force calculated down to the date of sale or transfer and in the event of disagreement the calculation of the Specified Price shall be referred to an umpire (acting as an expert and not as an arbiter) nominated by the parties concerned (or in the event of disagreement as to nomination, appointed by the President for the time being of the Institute of Chartered Accountants of Scotland) whose decision shall be final and binding.

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

Voting

- 13.1 Subject to the following provisions of this article and to any special rights or restrictions as to voting attached to any shares by or in accordance with these articles, on a show of

hands every member who (being an individual) is present in person or (being a corporation) is present by a representative not being himself a member, 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 representative or by proxy shall (except as hereinafter provided) have one vote for every £1 in nominal amount of shares in the capital of the Company of which he is the holder.

- 13.2 The holders of the preference shares shall be entitled to receive notice of all general meetings but shall not by reason of such holding be entitled to attend or vote thereat.

Appointment of Directors

14. The directors may appoint a person who is willing to act to be a director, either to fill a vacancy or as an additional director. The maximum number and minimum number respectively of the directors may be determined from time to time by ordinary resolution in general meeting of the Company. Subject to and in default of any such determination there shall be no maximum number of directors and the minimum number of directors shall be one. Whensoever the minimum number of the directors shall be one, a sole director shall have the authority to exercise all the powers and discretions by Table A and by these Articles expressed to be vested in the directors generally and Regulations 89 and 90 of Table A shall be modified accordingly.

Proceedings of Directors

15. Notice of every meeting of the directors shall be given to each director at any address supplied by him to the Company for that purpose whether or not he be present in the United Kingdom provided that any director may waive notice of any meeting either prospectively or retrospectively and if he shall do so it shall be no objection to the validity of such

meeting that notice was not given to him.

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

16.1.1 may be a party to or otherwise interested in any transaction or arrangement with the Company or in which the Company is in any way interested;

16.1.2 may be a director or other officer of or employed by or be a party to any transaction or arrangement with or otherwise interested in any body corporate promoted by the Company or in which the Company is in any way interested;

16.1.3 may (and any firm or company of which he is a partner or member or director may) act in a professional capacity for the Company or any body corporate in which the Company is in any way interested;

16.1.4 shall not by reason of his office be accountable to the Company for any benefit which he derives from such office service or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit; and

16.1.5 shall be entitled to vote and be counted in the quorum on any matter concerning the foregoing paragraphs of this article.

16.2 For the purposes of this article:-

- 16.2.1 a general notice to the directors that a director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the director has an interest in any such transaction of the nature and extent so specified;
 - 16.2.2 an interest of which a director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his; and
 - 16.2.3 an interest of a person who is for any purpose of the Act (excluding any statutory modification not in force when these articles were adopted) connected with a director shall be treated as an interest of the director and in relation to an alternate director an interest of his appointor shall be treated as an interest of the alternate director without prejudice to any interest which the alternate director has otherwise.
- 16.3 Any director (or, where appropriate, his alternate director) may participate in a meeting of the directors by means of conference telephone or other communications equipment whereby all parties participating in the meeting can hear and speak to one another and participation in this manner shall be deemed to constitute presence in person at such meeting.

Directors' Borrowing Powers

17. Subject as hereinafter provided the directors may exercise all the powers of the Company (whether express or implied):-

- 17.1 of borrowing or securing the payment of money;
- 17.2 of guaranteeing the payment of money and the fulfilment of obligations and the performance of contracts; and
- 17.3 of mortgaging or charging the property assets and uncalled capital of the Company and (subject to section 80 of the Act) of issuing debentures, debenture stock and other securities whether outright or as security for any debt, liability or obligation of the Company or any third party (including, without limitation, any subsidiaries of the Company)

but so that:-

- 17.4 the directors of the Company shall procure that the aggregate amounts for the time being remaining undischarged by virtue of any of the foregoing operations by the Company and all subsidiaries of the Company and by virtue of any like operations by the Company and all subsidiaries of the Company (including any liability (whether ascertained or contingent)) shall not without the previous written consent of the holders of not less than 75% of the 'A' ordinary shares and the holders of not less than 75% of the preference shares exceed the principal sum of £4,000,000 at any one time outstanding and in addition interest, commissions costs, charges and expenses;
- 17.5 no such written consent referred to in article 17.4 shall be required to the borrowing of any sum of money intended to be applied in the repayment (with or without premium) of any moneys then already borrowed and outstanding, notwithstanding that the same may result in such limit being exceeded;
- 17.6 no lender or other person dealing with the Company shall be concerned to see or enquire whether the limit imposed by this article is observed and no debt or liability incurred in excess of such limit shall be invalid and no security given

for the same shall be invalid or ineffectual except in the case of express notice to the lender or recipient of the security or person to whom the liability is incurred at the time when the debt or liability was incurred or the security given that the limit hereby imposed has been or was thereby exceeded;

- 17.7 except with the previous written consent of the holders of not less than 75% of the 'A' ordinary shares and the holders of not less than 75% of the preference shares no mortgage or charge shall be created on any part of the undertaking property or assets of the Company or any subsidiary of the Company except for the purpose of securing moneys borrowed from any member of an Investor's Group with interest thereon and from bankers with interest thereon and bank charges or within the financial limit specified in article 17.4.

Special Director

18. Notwithstanding any other provisions of these articles the Investors acting together shall be entitled to appoint as a director of the Company any one person (herein referred to as the 'Special Director') approved by the directors (whose approval shall not be unreasonably withheld) and to remove from office any person so appointed and (subject to such approval) to appoint another person in his place. Upon request by the Investors acting together the directors shall also procure that the Special Director is appointed and acts as Chairman of the board of directors of the Company. The remuneration and reasonable expenses to be paid to the Special Director shall be payable by the Company and shall be such sum as may be agreed between him and the Company or failing agreement such reasonable sum as shall be fixed by the Investors acting together. Upon request by the Investors acting together the Company shall also procure that the Special Director be appointed a director to any subsidiary of the Company.

Indemnity

19. Subject to the provisions of the Act but without prejudice to any indemnity to which a director may otherwise be entitled, every director or other officer or auditor of the Company shall be indemnified out of the assets of the Company against all costs, charges, losses, expenses and liabilities incurred by him in the execution of his duties or in relation thereto including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company.