

SC 195423

MEMORANDUM and  
ARTICLES of ASSOCIATION

of

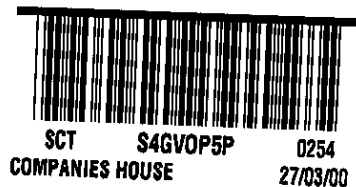
LOCH DUART LIMITED  
(as altered on 16<sup>th</sup> February 2000)

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THE COMPANIES ACTS 1985 to 1989

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COMPANY LIMITED BY SHARES

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MEMORANDUM of ASSOCIATION

of

LOCH DUART LIMITED

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- I. The name of the Company is " LOCH DUART LIMITED ".\*
- II. The Registered Office of the Company will be situated in Scotland.
- III. The objects for which the Company is established are:-
  - (1) (a) To carry on the businesses of fish farming of every kind including shellfish, fish processing, curing, smoking, freezing, drying, canning and generally all or any businesses associated with the fish industry;
  - (b) To export or import and/or act as merchants or dealers in fish, shell fish, marine flora, processed fish and other marine products and by-products;
  - (c) To sell fish products and by-products by wholesale and/or retail;

\* The Company was incorporated as Verimac (No 100) Limited on 4<sup>th</sup> May 1999 and changed its name to Loch Duart Limited conform to Certificate of Incorporation on Change of Name issued on 27<sup>th</sup> May 1999

- (d) To carry on the business of shippers, haulage contractors, vehicle and/or vessel lessors, management consultants, and/or business advisors;
  - (e) To carry on for profit, directly or indirectly, whether by itself or through a subsidiary, associated or allied companies or firms in the United Kingdom or elsewhere in all or any of its branches any business, undertaking, project or enterprise of any description *whether of a private or public character and all or any trades, processes and activities connected therewith or ancillary or complementary thereto.*
  - (f) To carry on any other trade or business whatever which can in the opinion of the Board of Directors be advantageously carried on in connection with or ancillary to any of the business of the Company.
  - (g) To purchase or by any other means acquire and take options over any property whatever, and any rights or privileges of any kind over or in respect of any property.
- (2) To patent any of the Company's products, processes and preparations and to acquire by purchase, licence or otherwise and to exercise and use patent rights or protection in any part of the world for any invention or process of manufacture and to disclaim, alter or modify such patent rights or protection; and also to acquire, use, and register copyrights, trade marks and trade names in relation to any business for the time being

carried on by the Company, and to grant licences to exercise and use any patents belonging to the Company.

- (3) To improve, manage, construct, erect, repair, develop, equip, acquire, exchange, lease, provide, mortgage, charge, sell, dispose of, turn to account, grant licences, options, rights and privileges in respect of or otherwise deal with all or any part of the property or rights of the Company.
- (4) To promote or co-operate or concur in promoting any companies in Scotland or elsewhere throughout the world whose objects shall include the carrying on of any business which this Company is authorised to carry on, or the acquisition of all or any of the property, assets, rights and liabilities of this Company or the undertaking of this Company, or any other purposes within the objects of this Company or which is or may seem directly or indirectly calculated to benefit this Company; to purchase, feu, take on lease or in exchange or hire, or otherwise acquire or undertake all or any part of the goodwill, business or heritable or moveable property or other assets, effects, rights, or privileges or liabilities of any person or company having objects similar to any of those of this Company or possessing any property or rights suitable for the purposes of this Company, to amalgamate with any such person or company, and for the purpose of such amalgamation to transfer the undertaking of this Company to the company or companies with which it is being amalgamated or to accept the transfer to this Company of the undertaking of any such person or company or any part thereof; to

subscribe for, acquire and hold shares, stock or debentures of any company foresaid or any other company or undertaking in which this Company is or may be interested; to take part in the management, supervision and control of the business or operations of any such company or undertaking, and for that purpose to appoint and remunerate any Directors, trustees, solicitors, accountants or other experts or agents; and to guarantee payment of any securities issued by or any other obligations of any company or undertaking foresaid and that by pledging any part of the assets of this Company or by granting any type of security, heritable or moveable (including a floating charge) thereover.

- (5) To guarantee the payment of any principal monies, premiums, interest and other monies secured by or payable under securities or obligations of any subsidiary company of the Company or any other company which may be promoted or established by the Company either alone or in conjunction with others to purchase or take over the whole or any part of the undertaking of the Company and to guarantee the payment of dividends and premiums on, and the repayment of the capital of, stocks and shares of all kinds and description.
- (6) To purchase, feu, take on lease or in exchange, hire or otherwise acquire any heritable or moveable property of any tenure whether in Scotland or elsewhere, including without prejudice to said generality, any lands, buildings, servitudes, machinery, plant, and stock-in-trade, or any other assets, effects, rights or privileges necessary or convenient for the purposes of the Company or the acquisition of which may be deemed to

be directly or indirectly for the benefit of the Company including power to acquire the said property for the purposes of investment with a view to receiving income therefrom and for the purpose of re-selling, feuing, leasing, exchanging or disposing of the said property in any other way and that at whatever price and on whatever conditions as shall to the Company seem proper.

- (7) To sell, dispose of, or transfer the business, property or assets, or the undertaking of the Company, or any part thereof, in consideration of payment wholly or partly in cash or shares, stock mortgages, bonds, or debentures of any other company, or for such other consideration as may be deemed proper.
- (8) To subscribe for, take, purchase or otherwise acquire, place and underwrite shares, stocks, debentures, debenture stocks, bonds, obligations or securities issued or guaranteed by any other company constituted or carrying on business in any part of the world, or debentures or debenture stocks, bonds, obligations or securities issued or guaranteed by any government or authority, municipal, local or otherwise in any part of the world.
- (9) To pay or to accept payment for any assets, property, rights or others acquired or disposed of by the Company, or services rendered to or by the Company either in stocks or shares or in cash, by instalments or in debentures or debenture stock or bonds and with or without preferred or deferred rights or security in respect of dividend or repayment of capital or otherwise, or by any securities which the Company has power to issue

or grant, or accept wholly or partly in any of such modes and generally on such terms and conditions as the Company may determine.

- (10) To lend or advance money or give credit on any terms and with or without security to any person, firm or company (including without prejudice to the foregoing generality any holding company, subsidiary or fellow subsidiary of, or any other company associated in any way with, the Company), to enter into guarantees, contracts of indemnity and suretyships of all kinds to recover money on deposit or loan upon any terms, and to secure or guarantee in any manner or upon any terms the payment of any sum of money or the performance of any obligation by any person, firm or company (including without prejudice to the foregoing generality any such holding company, subsidiary, fellow subsidiary or associated company as aforesaid); Provided always that the foregoing are resolved by the Directors acting in good faith to be for the benefit of the Company and its Shareholders.
- (11) To draw, make, accept, endorse, and to discount, negotiate, execute or issue cheques, promissory notes, bills of exchange, bills of lading, and other negotiable instruments and documents of title.
- (12) To invest and deal with the monies of the Company not immediately required in such manner as may from time to time be determined and to hold or otherwise deal with any investments made.
- (13) To establish branches or agencies in the United Kingdom or abroad, and to regulate the same.

- (14) To borrow or raise money by cash credit, or bank overdraft or by the issue or execution of standard securities, debentures, mortgages, charges, floating or otherwise or any other securities of or over all or any part of the assets and property of the Company, heritable or moveable, including its *uncalled capital, or by the issue of or upon bills of exchange, promissory notes, bills of lading, warrants or other obligations of or in favour of the Company or by the creation and issue of debenture stock, and for such purpose to dispo*ne, transfer, convey, mortgage, pledge or charge the whole or any part of the property, assets or revenue of the Company, including future calls on the shareholders, and that either absolutely or in security to or in trust for the lenders, and to give the lenders, transferees, or trustees, *powers of foreclosure, sale and management, and other usual and necessary powers, authorities, privileges, and exemptions.*
- (15) To insure the Company against loss or damage, by fire, shipwreck, accident, legal liability or otherwise, either by effecting insurance with outsiders, or by establishing and accumulating any fund for the purpose or otherwise.
- (16) To adopt and carry out such means of making known, advertising, and furthering the business of the Company or any part thereof, as may seem expedient, and in particular (but without prejudice to the foregoing generality) by advertising in the press, in cinemas, on television, by circulars and posters, by land, sea or air, by exhibitions and demonstrations, by lectures, publication of books, pamphlets, and



periodicals, and by granting prizes, rewards, and donations or otherwise; and to act as publishers, printers, and advertising contractors.

- (17) To enter into any trade or other combinations or agreements with any other person or companies, and to subscribe to any trade or other associations.
- (18) To apply for, promote, obtain or co-operate with others in obtaining any Provisional Order or Act of Parliament, or other legislative or legal sanction for enabling the Company to carry any of its objects into effect, or for effecting any modification of the Company's constitution, or for any other purpose which may seem expedient, and to oppose any actions, proceedings, or applications which may seem calculated directly or indirectly to prejudice the Company's interests; to enter into any arrangements with any government or authority (supreme, municipal, local, or otherwise) that may seem conducive to the attainment of the Company's objects or any of them, and to obtain from any such government or authority any charters, decrees, rights, privileges or concessions which the Company may think desirable and to carry out, exercise, and comply with any such charters, decrees, rights, privileges and concessions.
- (19) To procure the Company to be domiciled, registered and recognised in any foreign country or place, or in any colony or dependency of the United Kingdom or of any foreign country.
- (20) To make gifts or grant bonuses to persons in the employment of the Company including Directors and to provide for the welfare of persons in

the employment of the Company, or formerly in its employment or of Directors or former Directors of the Company and the widows, widowers and children of such persons, and others dependent upon them and that by setting up a pension scheme contributory or non-contributory and/or by granting money or pensions, either directly or by arrangement with an insurance company, or otherwise, as the Board shall think fit; and to give or make any donation, subscription, or other payment to any person or public, trade, charitable, educational, or other institution, association or objects.

- (21) To remunerate the servants of, or any person, firm or company rendering services to, the Company either by cash payment or by the allotment to him or them of shares or other securities of the Company credited as paid up in full or in part or otherwise, as the Board may think fit.
- (22) To pay commission, brokerage and other expenses which may be deemed expedient for placing, selling, or otherwise disposing of all or any of the Company's shares, debentures, debenture stock, bonds or other securities or assets, property, or rights, or assisting to do so.
- (23) To pay all costs, charges, and expenses, preliminary or incidental to, or connected with, the formation, incorporation or registration of the Company, and to remunerate any persons whether Directors or officers of the Company or others for special services rendered to the Company or in connection with the formation of the Company.

- (24) To alter from time to time by special resolution the Memorandum and Articles of Association of the Company or either of them in terms of the powers to that effect conferred by law.
- (25) To distribute among the members of the Company in specie any property or assets of the Company, and in particular shares, debentures or other securities of other companies belonging to the Company, or of which the Company may have the power to dispose, but so that no distribution amounting to a reduction of capital be made except with the sanction (if any) for the time being required by law.
- (26) To do all such other things as may be deemed incidental or conducive to the attainment of the Company's objects or any of them.

And so that:-

- (a) None of the objects set forth in any sub-clause of this Clause shall be restrictively construed but the widest interpretation shall be given to each such object, and none of such objects shall, except where the context expressly so requires, be in any way limited or restricted by reference to or inference from any other object or objects set forth in such sub-clause, or by reference to or inference from the terms of any other sub-clause of this Clause, or by reference to or inference from the name of the Company;
- (b) None of the sub-clauses of this Clause and none of the objects therein specified shall be deemed subsidiary or ancillary to any of the objects specified in any other such sub-clause, and the Company shall have as full a power to exercise each and every

WE, the several persons whose names, addresses and descriptions are subscribed, are desirous of being formed into a Company in pursuance of the Memorandum of Association, and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names.

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Names, Addresses and Descriptions of Subscribers	Number of Ordinary Shares taken by each Subscriber
SIMON THOMAS DAVID BROWN 48 Castle Street EDINBURGH EH2 3LX Solicitor	One
JOHN NEILSON KERR 48 Castle Street EDINBURGH EH2 3LX Solicitor	One

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Dated this 27<sup>th</sup> day of April 1999

Name, Address and Description of Witness to the above signatures:-

NEIL KILLICK  
48 Castle Street  
Edinburgh EH2 3LX  
Trainee Solicitor

one of the objects specified in each sub-clause of this Clause as though each such sub-clause contained the objects of a separate Company.

- IV. The liability of the members is limited.
- V. The share capital of the Company is £166,666 divided into 100,000 Ordinary Shares of £1 each and 66,666 A Ordinary Shares of £1 each making pari passu in all respects.

- \* Share Capital was increased from £1,000 by virtue of written Resolution passed on 23 August 1999 creating an additional 99,000 Ordinary Shares of £1 each and 66,666 A Ordinary Shares of £1 each.

# THE COMPANIES ACTS 1985 TO 1989

## COMPANY LIMITED BY SHARES

### ARTICLES OF ASSOCIATION OF LOCH DUART LIMITED

#### INTERPRETATION

1. In these regulations -

"the Act" means the Companies Act 1985 including any statutory modification or re-enactment thereof for the time being in force.

"the articles" means the articles of the company.

"clear days" in relation to the period of a notice means that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect.

"executed" means any mode of execution.

"office" means the registered office of the company.

"the holder" in relation to shares means the member whose name is entered in the register of members as the holder of the shares.

"the seal" means the common seal of the company.

"secretary" means the secretary of the company or any other person appointed to perform the duties of the secretary of the company, including a joint, assistant or deputy secretary.

"the United Kingdom" means the Great Britain and Northern Ireland.

Unless the context otherwise requires, words or expressions contained in these regulations bear the same meaning as in the Act but excluding any statutory modification thereof not in force when these regulations become binding on the company.

#### SHARE CAPITAL

2. Subject to the provisions of the Act and without prejudice to any rights attached to any existing shares, any share may be issued with such rights or restrictions as the company may by special resolution determine.
3. Subject to the provisions of the Act and the articles, shares may be issued which

are to be redeemed or are to be liable to be redeemed at the option of the company or the holder on such terms and in such manner as may be provided by the articles but not within a period of five years from the date of issue.

4. The company may exercise the powers of paying commissions conferred by the Act. Subject to the provisions of the Act, any such commission may be satisfied by the payment of cash or by the allotment of fully or partly paid shares partly in one way and partly in the other.
5. The company shall not have power to issue share warrants to bearer.
6. All shares not comprised in the authorised share capital with which the company is incorporated and which the directors propose to issue shall first be offered to the members in proportion as nearly as may be to the number of the existing shares held by them respectively. The offer shall be made by notice specifying the number of shares offered, and limiting a period (not being less than fourteen days) within which the offer, if not accepted, will be deemed to be declined. After the expiration of that period, those shares so deemed to be declined shall be offered in the proportion aforesaid to the persons who have, within the said period, accepted all the shares offered to them; such further offer shall be made in like terms in the same manner and limited by a like period as the original offer. Any shares not accepted pursuant to such offer or further offer as aforesaid shall be under the control of the directors, who may allot, grant options over or otherwise dispose of the same to such persons, on such terms, and in such manner as they think fit, provided that, in the case of shares not accepted as aforesaid, such shares shall not be disposed of on terms which are more favourable to the subscribers therefor than the terms on which they were offered to the members.

#### SHARE CERTIFICATES

7. Every member, upon becoming the holder of any shares, shall be entitled without payment to one certificate for all the shares of each class held by him (and, upon transferring a part of his holding of shares of any class, to a certificate for the balance of such holding) or several certificates each for one or more of his

shares upon payment for every certificate after the first of such reasonable sum as the directors may determine. The company shall not be bound to issue more than one certificate for shares held jointly by several persons and delivery of a certificate to one joint holder shall be a sufficient delivery to all of them.

8. If a share certificate is defaced, worn-out, lost or destroyed, it may be renewed on such terms (if any) as to evidence and indemnity and payment of the expenses reasonably incurred by the company in investigating evidence as the directors may determine but otherwise free of charge, and (in the case of defacement or wearing-out) on delivery up of the old certificate.

#### LIEN

9. The company shall have a first and paramount lien on every share (not being fully paid share) for all moneys (whether presently payable or not) payable at a fixed time or called in respect of that share. The directors may at any time declare any share to be wholly or in part exempt from the provisions of this regulation. The company's lien on a share shall extend to any amount payable in respect of it.
10. The company may sell in such manner as the directors determine any shares on which the company has a lien of a sum in respect of which the lien exists presently payable and is not paid within fourteen clear days after notices has been given to the holder of the share or to the person entitled to it in consequence of the death or bankruptcy of the holder, demanding payment and stating that if the notice is not complied with the shares may be sold.
11. To give effect to a sale the directors may authorise some persons to execute an instrument of transfer of the shares sold to, or in accordance with the directions of, the purchaser. The title of the transferee of the shares shall not be affected by any irregularity in or invalidity of the proceedings in reference to the sale.
12. The net proceeds of the sale, after payment of the costs, shall be applied in payment of so much of the sum for which the lien exists as is presently payable, and any residue shall (upon surrender to the company for cancellation of the certificate for the shares sold and subject to a like lien for any moneys not



presently payable as existed upon the shares before the sale) be paid to the person entitled to the shares at the date of the sale.

### CALLS ON SHARES AND FORFEITURE

13. Subject to the terms of allotment, the directors may make calls upon the members in respect of any moneys unpaid on their shares (whether in respect of nominal value or premium) and each member shall (subject to receiving at least fourteen clear days' notice specifying when and where payment is to be made) pay the company as required by the notice the amount called on his shares. A call may be required to be paid by instalments. A call may, before receipt by the company of any sum due thereunder, be revoked in whole or part and payment of a call may be postponed in whole or part. A person upon whom a call is made shall remain liable for calls made upon him notwithstanding the subsequent transfer of the shares in respect whereof the call was made.
14. A call shall be deemed to have been made at the time when the resolution of the directors authorising the call was passed.
15. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.
16. If a call remains unpaid after it has become due and payable the person from whom it is due and payable shall pay interest on the amount unpaid from the day it became due and payable until it is paid at the rate fixed by the terms of allotment of the share or in the notice of the call or, if no rate is fixed, at the appropriate rate (as defined by the Act) but the directors may waive payment of the interest wholly or in part.
17. An amount payable in respect of a share on allotment or at any fixed rate, whether in respect of nominal value or premium or as an instalment of a call, shall be deemed to be a call and if it is not paid the provisions of the articles shall apply as if that amount had become due and payable by virtue of a call.
18. Subject to the terms of allotment, the directors may make arrangements on the issue of shares for a difference between the holders in the amounts and times of payment of calls on their shares.

19. If a call remains unpaid after it has become due and payable the directors may give to the person from whom it is due not less than fourteen clear days' notice requiring payment of the amount unpaid together with any interest which may have accrued and all expenses that may have been incurred by the company by reason of such non-payment. The notice shall name the place where payment is to be made and shall state that if the notice is not complied with the shares in respect of which the call was made will be liable to be forfeited.
20. If the notice is not complied with any share in respect of which it was given may, before the payment required by the notice has been made, be forfeited by a resolution of the directors and the forfeiture shall include all dividends or other moneys payable in respect of the forfeited shares and not paid before the forfeiture.
21. Subject to the provisions of the Act, a forfeited share may be sold, re-allotted or otherwise disposed of on similar terms as if the forfeited share was part of a new issue of shares not comprised in the share capital with which the company is incorporated. Where for the purposes of its disposal a forfeited share is to be transferred to any person the directors may authorise some person to execute an instrument of transfer of the share to that person.
22. A person any of whose shares have been forfeited shall cease to be a member in respect of them and shall surrender to the company for cancellation the certificate for the shares forfeited but shall remain liable to the company for all moneys which at the date of forfeiture were presently payable by him to the company in respect of those shares with interest at the rate at which interest was payable on those moneys before the forfeiture or, if no interest was so payable, at the appropriate rate (as defined in the Act) from the date of forfeiture until payment but the directors may waive payment wholly or in part or enforce payment without any allowance for the value of the shares at the time of forfeiture or for any consideration received on their disposal.
23. A statutory declaration by a director or the secretary that a share has been forfeited on a specified date shall be conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share and the declaration

shall (subject to the execution of an instrument of transfer if necessary) constitute a good title to the share and the person to whom the share is disposed of shall not be bound to see to the application of the consideration, if any, nor shall his title to the share be affected by any irregularity of the proceedings in reference to the forfeiture or disposal of the share.

#### TRANSFER AND TRANSMISSION OF SHARES

24. (A) For the purposes of this Article:-

"Relative" in relation to a member means the spouse of the member and the member's children and grandchildren (including adopted children and adopted grandchildren);

"Fair Value" means the value of the Offered Shares agreed or determined in accordance with paragraph (E) of this Article;

"Family Trust" in relation to a 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 Relative of that member;

"Settlor" in relation to a Family Trust means the settlor of such trust and includes a testator or an intestate in relation to a Family Trust arising on death under a testamentary disposition or the law of intestacy;

"Relevant Shares" in relation to paragraph (B) of this Article means the shares transferred to (and still held by) the Family Trust pursuant to the provisions of sub-paragraph (b) thereof and any additional shares issued or transferred thereto, directly or indirectly, by virtue of the holding of such shares or any of them.

(B) A member or other person entitled to transfer may transfer any of the shares registered in his name or which he is entitled to transfer:-

(a) in the case of shares beneficially owned by an individual member to:-

- (i) a Relative; or
- (ii) the trustees of a Family Trust (provided that the foregoing power may be exercised by the personal representatives of a deceased member subject to Article 25(B)(ii));

(b) in the case of the trustees of a Family Trust to:-

- (i) the Settlor;
- (ii) a Relative of the Settlor or the Family Trust beneficiaries;
- (iii) any beneficiary of that Family Trust; or
- (iv) new trustees of that Family Trust;

Provided that if any shares held by the trustees of a Family Trust cease to be held upon a Family Trust other than by virtue of a transfer permitted under this sub-paragraph (b), the trustees shall forthwith give a Transfer Notice under paragraph (D) of this Article in respect of the Relevant Shares and if such Transfer Notice is not given within 28 days of the shares ceasing to be held as aforesaid a Transfer Notice shall on the expiry of such period be deemed to have been given in respect of the Relevant Shares and such Transfer Notice or deemed Transfer Notice shall not be revocable notwithstanding the provisions of paragraph (D) of this Article;

(c) in the case of a partnership to:-

- (i) any partner of the partnership, or
- (ii) a Relative of any partner of the partnership;

(C) Save as aforesaid, no shares shall be transferred except in accordance with the

following provisions of this Article and Article 25.

- (D) Except where the transfer is made pursuant to paragraph (B) of this Article, the person proposing to transfer any shares (such person being hereinafter called "the Proposing Transferor" and the shares which he proposes to transfer being hereinafter called the "Offered Shares") shall give notice in writing (hereinafter called "the Transfer Notice") to the company that he desires to transfer the same and such notice shall specify the number and class of the Offered Shares (and where he has identified a prospective purchaser for such shares the name and address of such prospective purchaser and the price offered). A Transfer Notice shall also state whether the Proposing Transferor wishes to impose a Total Transfer Condition (meaning a condition that unless all or a stated number of the Offered Shares are sold pursuant to the following provisions of this Article none shall be so sold), but in the absence of such a statement the Transfer Notice shall be deemed not to contain a Total Transfer Condition. The Transfer Notice shall constitute the company the agent of the Proposing Transferor for the sale of the Offered Shares to any member of the company holding shares in the company at the Fair Value as hereinafter provided. The Transfer Notice shall not be revocable except with the agreement of the directors.
- (E) Any member who is considering whether to give a Transfer Notice to the company may seek in writing the agreement of the directors to a price per share as the Fair Value of the Offered Shares ("the Preliminary Notice"), and failing such agreement not later than 21 days after the giving of the Preliminary Notice (or such longer period as the directors and the member serving the Preliminary Notice may agree) the directors shall instruct a valuer in similar manner as hereinbefore provided for in relation to where a Transfer Notice has been served. The Fair Value as so agreed or determined shall be the Fair Value for the purposes of any Transfer Notice in respect of the Offered Shares provided a Transfer Notice is given within 30 days of such agreement or determination. If, not more than 30 days before nor more than 21 days after the date on which the

Transfer Notice was given, the Proposing Transferor and the directors shall have agreed a price per share as the Fair Value of the Offered Shares taking into account any proposed offer to purchase all or any of them and any recent transactions in shares of the company then any such agreed price shall be the Fair Value. Otherwise not later than 21 days after the giving of the Transfer Notice (or such longer period as the directors and the Proposing Transferor may agree) the directors shall instruct a valuer to be appointed with the consent of the Proposing Transferor, whom failing by a valuer to be appointed by the President of the Institute of Chartered Accountants in Scotland ("the Valuer") to determine and certify the sum per share considered by them to be the Fair Value of the Offered Shares as at the date of the Transfer Notice as between a willing vendor and a willing purchaser on an arm's length sale. The Valuer shall act hereunder as an expert and not as an arbiter and shall take into account inter alia any proposed offer to purchase all or any of the Offered Shares and any recent transactions in shares of the company and the Valuer's determination shall be final and binding on all concerned. The company shall procure that intimation of the Valuer's determination shall forthwith be made to the Proposing Transferor. The costs and expenses of any valuation shall be borne by the company.

- (F) (a) within 10 days of receipt by the directors of a Transfer Notice if a Fair Value has been agreed or determined pursuant to a Preliminary Notice as provided for in paragraph (E) above or, if the Fair Value is determined by the Valuer pursuant to the Transfer Notice, on the expiry of 10 days after intimation of such determination to the Proposing Transferor as the case may be, they shall, by notice in writing inform every holder of shares (other than the Proposing Transferor and any member who has been deemed to have given a current Transfer Notice in respect of his holding of shares) of the number of the Offered Shares and of the Fair Value thereof and (if this be the case) that a Total Transfer Condition has been imposed and invite each such holder of shares to apply in writing to the directors within 21 days of the date of that notice having been given for

up to the pro rata proportion of the Offered Shares as the number of existing shares held by such holder bears to the total number of existing shares issued as he shall specify in such application; If the holder of shares to whom notice has been so given do not apply for all of the Offered Shares the directors shall within 10 days of the expiry of the said offer by notice in writing inform those holders of shares who did apply for their full entitlement of the number of Offered Shares not applied for and invite such holders of shares to apply in writing to the directors within 21 days of the date of that notice having been given for such maximum number of the Offered Shares not applied for as he shall specify in such application.

- (b) if the holders of shares to whom notice has been given under sub-paragraph (a) above apply for all or some of the Offered Shares the directors shall allocate them to and amongst the applicants in accordance (as nearly as possible) with their applications but in the case of competition pro rata (as nearly as possible) according to the proportion of shares held by them and referred to in sub-paragraph (a) above; For the purpose of the foregoing any member may renounce an entitlement in favour of any party to whom such member would be entitled to transfer such shares pursuant to paragraph (B) of this Article if such shares were accepted and not so renounced;
- (c) the directors shall have a period of one month following the expiry of the offer period to holders of shares pursuant to paragraph (b) above to offer any of the Offered Shares not applied for pursuant to paragraphs (a) or (b) above to any party acceptable to the directors at not lower than the Fair Value;
- (d) if all or some of the Offered Shares are allocated as provided for in paragraphs (b) and (c) above, the directors shall forthwith give notice in

writing of such allocations to the Proposing Transferor and to the applicants;

- (e) If the Transfer Notice in question contained a Total Transfer Condition then no allocation of the Offered Shares made by the directors pursuant to this paragraph (F) shall be effective unless and until the relevant number of the Offered Shares shall have been allocated among the members (or any of them). If by the foregoing procedure the directors shall not allocate all the Offered Shares within the period(s) of the aforesaid offer(s) they shall forthwith give notice in writing of that fact to the Proposing Transferor and none of the Offered Shares will be sold to the members (except as mentioned below) pursuant to this Article.
- (f) If the Transfer Notice contained no Total Transfer Condition and if any Offered Shares comprised in a Transfer Notice do not fall to be allocated in accordance with paragraphs (b) and (c) above, the Proposing Transferor may, subject to paragraph (G) below, at any time within two months after notification is given to the Proposing Transferor that all of the Offered Shares have not been sold sell and transfer such Offered Shares to any person or persons by way of bona fide sale at a price not lower than the Fair Value agreed or determined in accordance with this Article (after deducting, where appropriate, any net dividend or other distribution declared, paid or made after the date of the Transfer Notice in respect of the Offered Shares and which has been or is to be retained by the Proposing Transferor).
- (G) In the event that the Proposing Transferor is permitted to sell any of the Offered Shares pursuant to paragraph (F)(f) above to any person or persons such right shall be subject to the right of the directors to decline to register such transfer or transfers, such consent not to be unreasonably withheld.



- (H) If in any case following notice having been given pursuant to paragraph (F)(d) the Proposing Transferor makes default in transferring the relevant shares, the company may receive the purchase money on his behalf and the directors may authorise some person (who shall be deemed to be the attorney of the Proposing Transferor for the purpose) to execute a transfer in favour of the Purchaser who shall thereupon be registered as the holder of the relevant shares. The receipt of the company for the purchase money shall be a good discharge to the Purchaser and after his name has been entered in the Register of Members in purported exercise of the aforesaid power, the validity of the proceedings shall not be questioned by any person.
25. (A) Upon the happening of any Relevant Event as defined in paragraph (C) of this article the member in question shall be deemed to have immediately given a Transfer Notice under Article 24(D) (which deemed Transfer Notice shall not under any circumstances be revocable and shall not be treated as having a Total Transfer Condition attached to it) in respect of all the shares as shall then be registered in the name of such member or which such member shall have contracted to acquire.
- (B) If the Relevant Event shall be either of the events described in subparagraphs (i) or (ii) of paragraph (C) (a) below and if any of the shares ("the Unsold Shares") for which the members are invited to apply pursuant to the Transfer Notice deemed to be given under paragraph (A) shall not be sold to members then the person who has become entitled to the Unsold Shares in consequence of the death or bankruptcy of the member shall be entitled either: -
- (i) to sell the Unsold Shares to any person in the same manner and subject to the same conditions mutatis mutandis as a Proposing Transferor could under Article 8(F)(f); or
  - (ii) to elect at any time to be registered himself as a holder of the

Unsold Shares (but so that such election shall not give rise to any obligation to serve a Transfer Notice in respect of the Unsold Shares).

(C) In this Article a "Relevant Event" means:-

(a) in relation to a member being an individual:

(i) such member becoming bankrupt; or

(ii) the expiry of six months after the death of such member without transfer(s) having taken place under Article 24(B)(a) and/or transfer notice(s) having been served under Article 24(D) in respect of in aggregate all the shares registered in the name of that individual or which he was entitled to transfer; or

(iii) the happening of any such event as is referred to in paragraph (b) of article 84;

(b) a member making any arrangement or composition with his creditors generally:

(c) in relation to a member being a body corporate:

(i) a receiver, manager or administrative receiver being appointed of such member or over all or any part of its undertaking or assets; or

(ii) a petition being presented for the making of an administration order; or

- (iii) such member entering into liquidation (other than a voluntary liquidation for the purpose of a bona fide scheme of solvent amalgamation or reconstruction); or
  - (iv) such member ceasing to be controlled (as defined by Section 840 of the Income and Corporation Taxes Act 1988) by the person(s) who controlled such member on the date on which it became a member of the company.
- (d) failure by a member to supply to the directors within 28 days of a request in writing by them such information and evidence as the directors may reasonably require for the purpose of determining whether, in relation to the shares held by that member, circumstances have occurred which give rise to, or would with the lapse of time, give rise to a deemed Transfer Notice being given under this or the preceding Article.

26.(A). For the purposes of each of the two preceding Articles:-

- (a) "transfer" shall extend to and include the undertaking or arrangement whereby the holder of a share holds the same upon trust for the benefit of or as nominee for any other person or whereby any interest in the share passes to any person;
- (b) any deemed Transfer Notice shall be deemed not to contain a Total Transfer Condition;
- (c) any obligation to transfer a share shall be deemed to be an obligation to transfer the entire legal and beneficial interest therein free from any lien, charge or other encumbrance.

- (B) The directors may, in their absolute discretion and without assigning any reason therefor, decline to register a transfer otherwise permitted under these articles unless:-
- (a) It is lodged at the *registered office* of the company or at such other place as the directors may appoint and is accompanied by the certificate for the shares to which it relates and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer;
  - (b) it is in respect of only one class of shares; and
  - (c) it is in favour of not more than four transferees; and
  - (d) such information and evidence, relative to the transfer and the transferee as is requested by the directors and which they reasonably think necessary or relevant for ensuring that the provisions of these articles have been complied with, accompanies the transfer when lodged at the registered office or is submitted within 28 days of request.
27. A transferor shall be deemed to remain the holder of any share transferred by any instrument of transfer until the name of the transferee is entered in the *Register of Members in respect thereof*.
28. The instrument of transfer of a share may be in usual form in any other form which the directors may approve and shall be executed by or on behalf of the transferor and, unless the share is fully paid, by or on behalf of the transferee.
29. The registration of transfers of shares or of transfers of any class of shares may be suspended at such times and for such periods (not exceeding thirty days in any year) as the directors may determine.
30. No fee shall be charged for the registration of any instrument of transfer or other document relating to or affecting the title to any share.

31. The company shall be entitled to retain any instrument of transfer which is registered, but any instrument of transfer which the directors refuse to register shall be returned to the person lodging it when notice of the refusal is given.

#### ALTERATION OF SHARE CAPITAL

32. The company may by special resolution -
- (a) increase its share capital by new shares of such amount as the resolution prescribes;
  - (b) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
  - (c) subject to the provisions of the Act, sub-divide its shares, or any of them, into shares of smaller amount and the resolution may determine that, as between the shares resulting from the sub-division, any of them may have any preference or advantage as compared with the others; and
  - (d) cancel shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person and diminish the amount of its share capital by the amount of the shares so cancelled.
33. Whenever as a result of a consolidation of shares any member would become entitled to fractions of a share, the directors may, on behalf of those members, sell the shares representing the fractions for the best price reasonably obtainable to any person (including, subject to the provisions of the Act, the company) and distribute the net proceeds of sale in due proportion among those members, and the directors may authorise some persons to execute an instrument of transfer of the shares to, or in accordance with the directions of, the purchaser. The transferee shall not be bound to see to the application of the purchase money nor shall his title to the shares be affected by any irregularity in or invalidity of the proceedings in reference to the sale.
34. Subject to the provisions of the Act, the company may by special resolution reduce in share capital, any capital redemption reserve and any share premium account in any way.

### PURCHASE OF OWN SHARES

35. Subject to the provisions of the Act, the company may purchase its own shares (including any redeemable shares) and, if it is a private company, make a payment in respect of the redemption or purchase of its own shares otherwise than out of distributable profits of the company or the proceeds of a fresh issue of shares.

### GENERAL MEETINGS

36. All general meetings other than annual general meetings shall be called extraordinary general meetings.
37. The directors may call general meetings and, on the requisition of members pursuant to the provisions of the Act, shall forthwith proceed to convene an extraordinary general meeting for a date not later than eight weeks after receipt of the requisition. If there are not within the United Kingdom sufficient directors to call a general meeting, any director or any member of the company may call a general meeting.

### NOTICE OF GENERAL MEETINGS

38. An annual general meeting and an extraordinary general meeting called for the passing of a special resolution or a resolution appointing a person as a director shall be called by at least twenty-one clear days' notice. All other extraordinary meetings shall be called by at least fourteen clear days' notice but a general meeting may be called by shorter notice if it is so agreed:
- (a) in the case of an annual general meeting, by all the members entitled to attend and vote thereat; and
  - (b) in the case of any other meeting by a majority in number of the members having a right to attend and vote being a majority together holding not less than ninety-five per cent. in nominal value of the shares giving that right.

The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and, in the case of an annual general

meeting, shall specify the meeting as such.

Subject to the provisions of the articles and to any restrictions imposed on any shares, the notice shall be given to all the members, to all persons entitled to a share in consequence of the death or bankruptcy of a member and to the directors and auditors.

39. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

#### PROCEEDINGS AT GENERAL MEETINGS

40. No business shall be transacted at any meeting unless a quorum is present. Four persons entitled to vote upon the business to be transacted, each being a member or a proxy for a member or a duly authorised representative of a corporation, shall be a quorum.
41. If such a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the directors may determine.
42. The chairman, if any, of the board of directors or in his absence some other director nominated by the directors shall preside as chairman of the meeting, but if neither the chairman nor such other director (if any) be present within fifteen minutes after the time appointed for holding the meeting and willing to act, the directors present shall elect one of their number to be chairman and, if there is only one director present and willing to act, he shall be chairman.
43. If no director is willing to act as chairman, or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present and entitled to vote shall choose one of their number to be chairman.
44. A director shall, notwithstanding that he is not a member, be entitled to attend and speak at any general meeting and at any separate meeting of the holders of any class of shares in the company.
45. The chairman may, with the consent of a meeting at which a quorum is present

(and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for fourteen days or more, at least seven clear days' notice shall be given specifying the time and place of the adjourned meeting and the general nature of the business to be transacted. Otherwise it shall not be necessary to give any such notice.

46. A resolution put to the vote of a meeting shall be decided on a show of hands unless before, or on the declaration of the result of, the show of hands a poll is duly demanded. Subject to the provisions of the Act, a poll may be demanded-
- (a) by the chairman, or
  - (b) by at least two members having the right to vote at the meeting; or
  - (c) by a member or members representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting or;
  - (d) by a member or members holding shares conferring a right to vote at the meeting being shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the shares conferring that right;

and a demand by a person as proxy for a member shall be the same as a demand by the member.

47. Unless a poll is duly demanded a declaration by the chairman that a resolution has been carried or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
48. The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the chairman and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.
49. A poll shall be taken as the chairman directs and he may appoint scrutineers



- (who need not be members) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
50. 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.
  51. A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or at such time and place as the chairman directs not being more than thirty days after the poll is demanded. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand has not been made.
  52. No notice need be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.
  53. All business shall be deemed special that is transacted at an extraordinary general meeting, with the exception of declaring a dividend, the consideration of the accounts, balance sheets, and the reports of the directors and auditors, and the appointment of, and the fixing of the remuneration of, the auditors.
  54. Provided all the directors agree a member may participate in a meeting of the company by means of conference telephone or similar communications equipment whereby all the members participating in the meeting can hear each other and the members participating in a meeting in this manner shall be deemed to be present in person at such a meeting.
  55. A resolution in writing which has been signed by or on behalf of all of the members who would have been entitled to vote upon it if it had been proposed at a general meeting at which they were present (which signature may be evidenced by letter, telex, cable, electronic mail, facsimile or otherwise as the directors may from time to time resolve to permit) shall be as effective as a

resolution passed at a meeting of members duly convened and held and may consist of several documents in the same terms each signed by or on behalf of one or more members.

#### VOTES OF MEMBERS

56. Subject to any rights or restrictions attached to any shares, 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, not being himself a member entitled to vote, shall have one vote and on a poll every member shall have one vote for every share of which he is the holder.
57. In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders; and seniority shall be determined by the order in which the names of the holders stand in the register of members.
58. A member in respect of whom an order has been made by any court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder may vote, whether on a show of hands or on a poll, by his receiver, curator bonis or other person authorised in that behalf appointed by that court, and any such receiver, curator bonis or other person may, on a poll, vote by proxy. Evidence to the satisfaction of the directors of the authority of the person claiming to exercise the right to vote shall be deposited at the officer, or at such other place as is specified in accordance with the articles for the deposit of instruments of proxy, not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in default the right to vote shall not be exercisable.
59. No member shall vote at any general meeting or at any separate meeting of the holders of any class of shares in the company, either in person or by proxy, in respect of any share held by him unless all moneys presently payable by him in respect of that share have been paid.
60. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered, and

every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the chairman whose decision shall be final and conclusive.

61. On a poll votes may be given either personally or by proxy.
62. An instrument appointing a proxy shall be in writing, executed by or on behalf of the appointor and shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the directors may approve)

"Loch Duart Limited

I/We, \_\_\_\_\_, of \_\_\_\_\_,  
 \_\_\_\_\_, being a member/members of the above-named company, hereby appoint  
 \_\_\_\_\_ of \_\_\_\_\_, or failing him,  
 \_\_\_\_\_ of \_\_\_\_\_, as my/our proxy to vote in my/our name[s]  
 and on \_\_\_\_\_ my/our behalf at the  
 annual/extraordinary general meeting of the company to be held on  
 \_\_\_\_\_ 19\_\_\_\_\_, and at any adjournment thereof.

Signed on \_\_\_\_\_ 19\_\_\_\_\_, "\_\_\_\_\_."

63. Where it is desired to afford members an opportunity of instructing the proxy how he shall act the instrument appointing a proxy shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the directors may approve)

"Loch Duart Limited"

I/We, \_\_\_\_\_, of \_\_\_\_\_,  
 \_\_\_\_\_, being a member/members of the above-named company, hereby appoint  
 \_\_\_\_\_ of \_\_\_\_\_, or  
 failing him, \_\_\_\_\_ of \_\_\_\_\_, as  
 my/our proxy to vote in my/our name[s] and on my/our behalf at the  
 annual/extraordinary general meeting of the company to be held on  
 \_\_\_\_\_ 19\_\_\_\_\_, and at any adjournment thereof.

This form is to be used in respect of the resolutions mentioned below as follows:

Resolution No. 1\* for \* against

Resolution No. 2\* for \* against.

\*Strike out whichever is not desired.

Unless otherwise instructed, the proxy may vote as he thinks fit or abstain from voting.

Signed this      day of              19      .“

64. The instrument appointing a proxy and any other authority under which it is executed or a copy of such authority certified notarially or in some other way approved by the directors may-
- (a) be deposited at the officer or at such other place within the United Kingdom as is specified in the notice convening the meeting or in any instrument of proxy sent out by the company in relation to the meeting not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
  - (b) in the case of a poll taken more than 48 hours after it is demanded, be deposited as aforesaid after the poll has been demanded and not less than 24 hours before the time appointed for the taking of the poll; or
  - (c) where the poll is not taken forthwith but is taken not more than 48 hours after it was demanded, be delivered at the meeting at which the poll was demanded to the chairman or to the secretary or to any director;
- and an instrument of proxy, which is not deposited or delivered on a manner so permitted shall be invalid.
65. A vote given or a poll demanded by proxy or by the duly authorised representative of a corporation shall be valid notwithstanding the previous determination of the authority of the person voting or demanding a poll unless notice of the determination was received by the company at the office or at such other place at which the instrument of proxy was duly deposited before the commencement of the meeting or adjourned meeting at which the vote is given or the poll demanded or (in the case of a poll taken otherwise than on the same day as the meeting or adjourned meeting) the time appointed for taking the poll.

### VOTES OF MEMBERS

66. Save as otherwise expressly provided every member holding Ordinary Shares and/or A Ordinary Shares shall be entitled to one vote for each share registered in his name.
67. Notwithstanding that the Act may provide for a lesser majority or may not provide for shareholder consent, the following matters require a resolution of members passed by a majority of not less than two-thirds of those entitled to vote, namely:-
- 67.1 The sale of any assets of a value in excess of £50,000.
  - 67.2 The sale of a controlling interest in the company.
  - 67.3 Any alteration to the share capital of the company to the extent that a seventy five per centum majority is not required from the shareholders or any class thereof.
  - 67.4 Any borrowing with or without security in excess of £50,000.

### DIRECTORS

68. The number of directors shall not be less than four, and the quorum for the transaction of business by the directors shall be four. The maximum number of directors shall be seven.
69. The first directors shall be appointed in writing by the subscribers of the Memorandum of Association.
70. The company may by ordinary resolution in general meeting appoint any person who is willing to act to be a director, either to fill a vacancy or as an additional director.
71. Provided all the directors agree a director may participate in a meeting of the board of directors or of a committee of the board by means of conference telephone or similar communications equipment whereby all the directors participating in the meeting can hear each other, and the directors participating in a meeting in this manner shall be deemed to be present in person at such meeting.
72. A resolution in writing which has been signed by all the directors entitled to

receive notice of a meeting of directors or of a committee of directors (which signature may be evidenced by letter, telex, cable, electronic mail, facsimile, or otherwise as the directors may from time to time resolve to permit) shall be as effective as a resolution duly passed at a meeting of the directors or (as the case may be) a committee of directors duly convened and held and may consist of several documents in the same terms each signed by one or more directors

#### POWERS OF DIRECTORS

73. Subject to the provisions of the Act, the memorandum and the articles and to any directions given by a special resolution, the business of the company shall be managed by the directors who may exercise all the powers of the company. No alteration of the memorandum or articles and no such direction shall invalidate any prior act of the directors which would have been valid if that alteration has not been made or that direction had not been given. The powers given by this regulation shall not be limited by any special power given to the directors by the articles and a meeting of directors at which a quorum is present may exercise all powers exercisable by the directors.
74. The directors may, by power of attorney or otherwise, appoint any person to be the agent of the company for such purposes and on such conditions as they determine, including authority for the agent to delegate all or any of his powers.

#### DELEGATION OF DIRECTORS' POWERS

75. The directors may delegate any of their powers to any committee consisting of one or more directors. They may also delegate to any director such of their powers as they consider desirable to be exercised by him. Any such delegation may be made subject to any conditions the directors may impose, and either collaterally with or to the exclusion of their own powers and may be revoked or altered. Subject to any such conditions, the proceedings of a committee with two or more members shall be governed by the articles regulating the proceedings of directors so far as they are capable of applying.

## APPOINTMENT AND RETIREMENT OF DIRECTORS

76. At the first annual general meeting all the directors shall retire from office, and at every subsequent annual general meeting one-third of the directors who are subject to retirement by rotation or, if their number is not three or a multiple of three, the number nearest one-third shall retire from office; but, if there is only one director who is subject to retirement by rotation, he shall retire.
77. Subject to the provisions of the Act, the directors to retire by rotation shall be those who have been longest in office since their last appointment or reappointment, but as between persons who became or were last reappointed directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.
78. If the company, at the meeting at which a director retires by rotation, does not fill the vacancy the retiring director shall, if willing to act, be deemed to have been reappointed unless at the meeting it is resolved not to fill the vacancy or unless a resolution for the reappointment of the director is put to the meeting and lost.
79. No person other than a director retiring by rotation shall be appointed or reappointed a director at any general meeting unless -
- (a) he is recommended by the directors; or
  - (b) not less than fourteen nor more than thirty-five clear days before the date appointed for the meeting, notice executed by a member qualified to vote at the meeting has been given to the company of the intention to propose that person for appointment or reappointment stating the particulars which would, if he were so appointed or reappointed, be required to be included on the company's register of directors together with notice executed by that person of his willingness to be appointed or reappointed.
80. Not less than seven nor more than twenty-eight clear days before the date appointed for holding a general meeting notice shall be given to all who are entitled to receive notice of the meeting of any person (other than a director retiring by rotation at the meeting) who is recommended by the directors for appointment or reappointment as a director at the meeting or in respect of whom

notice has been duly given to the company of the intention to propose him at the meeting for appointment or reappointment as a director. The notice shall give the particulars of that person which would, if he were so appointed or reappointed, be required to be included in the company's register of directors.

81. Subject to aforesaid, the company may by ordinary resolution appoint a person who is willing to act to be a director either to fill a vacancy or as an additional director and may also determine the rotation in which any additional directors are to retire.
82. 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, provided that the appointment does not cause the number of directors to exceed any number fixed by or in accordance with the articles as the maximum number of directors. A director so appointed shall hold office only until the next following annual general meeting and shall not be taken into account in determining the directors who are to retire by rotation at the meeting. If not reappointed at such annual general meeting, he shall vacate office at the conclusion thereof.
83. Subject as aforesaid, a director who retires at an annual general meeting may, if willing to act, be reappointed. If he is not reappointed, he shall retain office until the meeting appoints someone in his place, or if it does not do so, until the end of the meeting.

#### DISQUALIFICATION OF DIRECTORS

84. *The office of a director shall be vacated:*
  - (a) if he become bankrupt or insolvent or compound with his creditors;
  - (b) if he become of unsound mind or be found a lunatic;
  - (c) if he be convicted of any indictable offence within the meaning of Section 2 of the company directors Disqualification Act 1986 or if he becomes prohibited or disqualified from being a director by reason of any order made under that Act;
  - (d) if he absent himself from the meetings of the directors for a period of six months without special leave of absence from the other directors, and



they pass a resolution that he has, by reason of such absence, vacated office;

- (e) if he give notice in writing that he resigns his office;
- (f) if he, being an agent, employee or servant of the company, cease to be employed by the company.

But any act done in good faith by a director whose office is vacated as aforesaid shall be valid unless, prior to the doing of such act, written notice shall have been served upon the directors or an entry shall have been made in the directors' minute book stating that such director has ceased to be a director of the company.

#### REMUNERATION OF DIRECTORS

85. The directors shall be entitled to such remuneration as the company may by ordinary resolution determine and, unless the resolution provides otherwise, the remuneration shall be deemed to accrue from day to day.

#### DIRECTORS' EXPENSES

86. The directors may be paid all travelling, hotel, and other expenses properly incurred by them in connection with their attendance at meetings of directors or committees of directors or general meetings of directors or separate meetings of the holders of any class of shares or of debentures of the company or otherwise in connection with the discharge of their duties.

#### DIRECTORS' APPOINTMENTS AND INTERESTS

87. Subject to the provisions of the Act, the directors may appoint one or more of their number to the office of managing director or to any other executive office under the company and may enter into an agreement or arrangement with any director for his employment by the company or for the provisions by him of any service outside the scope of the ordinary duties of a director. Any such appointment, agreement or arrangement may be made upon such terms as the directors determine and they may remunerate any such director for his services as they think fit. Any appointment of a director to an executive office shall

terminate if he ceases to be a director but without prejudice to any claim to damages for breach of the contract of service between the director and the company.

88. 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-

- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the company or in which the company is otherwise interested;
- (b) may be a director or other officer of, or employed by, or 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 otherwise interested; and
- (c) shall not, by reason of his office, be accountable to the company for any benefit which he derives from any such office 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.

89. For the purposes of regulation 88 -

- (a) a general notice given 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; and
- (b) 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.

#### DIRECTORS' GRATUITIES AND PENSIONS

90. The directors may provide benefits, whether by the payment of gratuities or

pensions or by insurance or otherwise, for any director who has held but no longer holds any executive office or employment with the company or with any body corporate which is or has been a subsidiary of the company or a predecessor in business of the company or of any such subsidiary, and for any member of his family (including as spouse and a former spouse) or any person who is or was dependent on him, and may (as well before as after he ceases to hold such office or employment) contribute to any fund and pay premiums for the purchase or provision of any such benefit.

#### PROCEEDINGS OF DIRECTORS

91. Subject to the provisions of the articles, the directors may regulate their proceedings as they think fit. A director may, and the secretary at the request of a director shall, call a meeting of the directors. Questions arising at a meeting shall be decided by a majority of votes.
92. The quorum for the transaction of the business of the directors may be fixed by the directors and unless so fixed at any other number shall be four.
93. The continuing directors or a sole continuing director may act notwithstanding any vacancies in their number, but, if the number of directors is less than the number fixed as the quorum, the continuing directors or director may act only for the purpose of filling vacancies or of calling a general meeting.
94. The directors may appoint one of their number to be the chairman of the board of directors and may at any time remove from that office. Unless he is unwilling to do so the director so appointed shall preside at every meeting of directors at which he is present. But if there is no director holding that office, or if the director holding it is unwilling to preside or is not present within five minutes after the time appointed for the meeting, the directors present may appoint one of their number to be the chairman of the meeting.
95. All acts done by a meeting of directors, or of a committee of directors, or by a person acting as a director shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any director or that any of them were disqualified from holding office, or had vacated office, or were not entitled

to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a director and had been entitled to vote.

#### DIRECTORS' INTERESTS

96. A director may vote, at any meeting of the directors of any committee 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 provided he discloses his interest at such meeting prior to any vote and if he shall so disclose his interest and vote, his vote shall be counted. 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 such meeting.

Provided a director shall have disclosed his interest as aforesaid, he shall not be liable to account to the company for any profit arising out of any matter in which he has, directly or indirectly, any kind of interest whatsoever.

97. If a question arises at a meeting of directors or of a committee of directors as to the right of a director to vote, the question may, before the conclusion of the meeting, be referred to the chairman of the meeting and his ruling in relation to any director other than himself shall be final and conclusive.

#### SECRETARY

98. Subject to the provisions of the Act, the secretary shall be appointed by the directors for such term, at such remuneration and upon such conditions as they may think fit; and any secretary so appointed may be removed by them.

#### MINUTES

99. The directors shall cause minutes to be made in books kept for the purpose-
- (a) of all appointments of officers made by directors; and
  - (b) of all proceedings at meetings of the company, of the holders of any class of shares in the company, and of the directors, and of committees of

directors, including the names of the directors present at each such meeting.

#### DIVIDENDS

100. Subject to the provisions of the Act, the company may by ordinary resolution declare dividends in accordance with the respective rights of the members, but no dividend shall exceed the amount recommended by the directors.
101. Subject to the provisions of the Act, the directors may pay interim dividends if it appears to them that they are justified by the profits of the company available for distribution. If the share capital is divided into different classes, the directors may pay interim dividends on shares which confer deferred or non-preferred rights with regard to dividend as well as on shares which confer preferential rights with regard to dividend, but no interim dividend shall be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrear. The directors may also pay at intervals settled by them any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment. Provided the directors act in good faith they shall not incur any liability to the holders of shares conferring preferred rights for any Loss they may suffer by the lawful payment of an interim dividend on any shares having deferred or non-preferential rights.
102. Except as otherwise provided by the rights attached to shares, all dividends shall be declared and paid according to the amounts paid up on the shares on which the dividend is paid. All dividends shall be apportioned and paid proportionately to the amounts paid up on the shares during any portion or portions of the period in respect of which the dividend is paid; but, if any share is issued on terms providing that it shall rank for dividend as from a particular date, that share shall rank for dividend accordingly.
103. A general meeting declaring a dividend may, upon the recommendation of the directors, direct that it shall be satisfied wholly or partly by the distribution of assets and, where any difficulty arises in regard to the distribution, the directors may settle the same and in particular may issue fractional certificates and fix the

value for distribution of any assets and may determine that cash shall be paid to any member upon the footing of the value so fixed in order to adjust the rights of members and may vest any assets in trustees.

104. Any dividend or other moneys payable in respect of a share may be paid by cheque sent by post to the registered address of the person entitled or, if two or more persons are the holders of the share or are jointly entitled to it by reason of the death or bankruptcy of the holder, to the registered address of that one of those persons who is first named in the register of members or to such person and to such address as the person or persons entitled may in writing direct. Every cheque shall be made payable to the order of the person or persons entitled or to such other person as the person or persons entitled may in writing direct and payment of the cheque shall be a good discharge to the company. Any joint holder or other person jointly entitled to a share as aforesaid may give receipts for any dividend or other moneys payable in respect of the share.
105. No dividend or other moneys payable in respect of a share shall bear interest against the company unless otherwise provided by the rights attached to the share.
106. Any dividend which has remained unclaimed for twelve years from the date when it became due for payment shall, if the directors so resolve, be forfeited and cease to remain owing by the company.

#### ACCOUNTS

107. A member shall have the right at reasonable notice in working hours of inspecting any accounting records or other book or document of the company except as conferred by statute or authorised by the directors or by ordinary resolution of the company.

#### CAPITALISATION OF PROFITS

108. The directors may with the authority of an ordinary resolution of the company-
  - (a) subject as hereinafter provided, resolve to capitalise any undividend profits of company not required for paying any preferential dividend

(whether or not they are available for distribution) or any sum standing to the credit of the company share premium account or capital redemption reserve;

- (b) appropriate the sum resolved to be capitalised to the members who would have been entitled to it if it were distributed by way of dividend and in the same proportions and apply such sum on their behalf either in or towards paying up amounts, if any, for the time being unpaid on any shares held by them respectively, or in paying up in full unissued shares or debentures of the company of a nominal amount equal to that sum, and allot the shares or debentures credited as fully paid to those members, or as they may direct, in those proportions, or partly in one and partly in the other: but the share premium account, the capital redemption reserve, and any profits which are not available for distribution may, for purposes of this regulation, only be applied in paying up unissued shares to allotted to members credited as fully paid;
- (c) make such provision by the issue of fractional certificates or by payment in cash otherwise as they determine in the case of shares or debentures become distributable under this regulation in fractions; and
- (d) authorise any person to enter on behalf of all the members concerned into agreement with the company providing for the allotment to them respectively, credited as fully paid, of any shares or debentures to which they are entitled u such capitalisation, any agreement made under such authority being binding in such members.

## NOTICES

- 109. Any notice to be given to or by any person pursuant to the articles shall be in writing except that a notice calling a meeting of the directors need not be in writing.
- 110. The company may give any notice to a member either personally or by sending post in a prepaid envelope addressed to the member at his registered address or by leaving it at that address. In the case of joint holders of a share, all notices

shall be given to the holder whose name stands first in the register of members in respect of the joint holding notice so given shall be sufficient notice to all the joint holders. A member whose registered address is not within the United Kingdom and who gives to the company an address within the United Kingdom at which notices may be given to him shall be entitled to have no given to him at that address, but otherwise no such member shall be entitled to receive notice from the company.

111. A member present, either in person or by proxy, at any meeting of the company the holders of any class of shares in the company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.
112. Every person who becomes entitled to a share shall be bound by any notice in respect of that share which, before his name is entered in the register of members, has been given to a person from whom he derives his title.
113. Proof that an envelope containing a notice was properly addressed, prepaid posted shall be conclusive evidence that the notice was given. A notice shall be deemed to be given at the expiration of 48 hours after the envelope containing it was posted.
114. A notice may be given by the company to the persons entitled to a share consequence of the death or bankruptcy of a member by sending or delivering it, in manner authorised by the articles for the giving of notice to a member, addressed to the name, or by the title of representatives of the deceased, or trustee of the bankrupt or by like description at the address, if any, within the United Kingdom supplied for that purpose by the persons claiming to be so entitled. Until such an address has been supplied, and may be given in any manner in which it might have been given if the death or bankruptcy had not occurred.

#### WINDING UP

115. If the company is wound up, the liquidator may, with the sanction of an extraordinary resolution of the company and any other sanction required by the



Act, divide among the members in specie the whole or any part of the assets of the company and may, for that purpose value any assets and determine how the division shall be carried out as between the members or different classes of members. The liquidator may, with the like sanction, vest the whole or any part of the assets in trustees upon such trusts for the benefit of the members as he with the like sanction determines, but no member shall be compelled to accept any assets upon which there is a liability.

#### INDEMNITY

116. (A) Every officer for the time being of the company including the directors, manager, secretary, solicitors and auditors, and their respective heirs, executors and administrators shall be indemnified and secured harmless out of the assets and profits of the company, from and against all actions, costs, charges, losses, damages and expenses, which they or any of them shall or may incur or sustain by or by reason of any act done, concurred in, or omitted by them or any of them, or by any agent, servant or employee of the company in or about the execution of their duty, or supposed duty, in their respective offices or trusts, except such (if any) as they shall incur or sustain by or through their own wilful neglect, default, breach of duty or breach of trust respectively, and none of such officers shall be answerable for the acts, receipts, neglects, defaults, or breaches of duty or trust of the other or others of them, or of any agents, servant or employee of the company, or for joining in any receipt for the sake of conformity, or for any bankers or other persons with whom moneys or effects belonging to the company shall or may be lodged or deposited or for insufficiency or deficiency of any security upon which any moneys of or belonging to the company shall be placed out or invested, or for any loss, misfortune or damage which may happen in the execution of their respective offices or trusts, or in relation thereto, unless the same shall happen by or through the wilful neglect or default of such officers or any of them. Every such officer shall likewise be indemnified out of the assets

of the company against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgement is given in his favour or in which he is acquitted or in connection with any application under Section 727 of the Companies Act 1985 in which relief is granted to him by the Court. This paragraph of this Article shall only have effect insofar as its provisions are not avoided by Section 310 of the said Act.

- (B) The company shall be entitled to purchase and maintain for the benefit of any officer or auditor of the company insurance in respect of any liability of the kind referred to in Section 310 of the said Act.

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Names, Addresses and Description of Subscribers

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SIMON THOMAS DAVID BROWN  
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EDINBURGH EH2 3LX  
Solicitor

JOHN NEILSON KERR  
48 Castle Street  
EDINBURGH EH2 3LX  
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Dated this 27<sup>th</sup> day of April 1999

Names, Address and Description of Witness to the above Signatures:-

NEIL KILLICK  
48 Castle Street  
EDINBURGH EH2 3LX  
Trainee Solicitor