



THE COMPANIES ACT 1985

COMPANY LIMITED BY SHARES

NEW

ARTICLES OF ASSOCIATION

of

HARRISONS (CLYDE) LIMITED

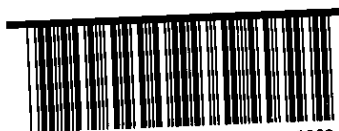


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THE COMPANIES ACT 1985
COMPANY LIMITED BY SHARES
NEW
ARTICLES OF ASSOCIATION
OF
HARRISONS (CLYDE) LIMITED

(adopted by Special Resolution on)

PRELIMINARY

- 1 In these articles:
- 1.1 "Table A" means Table A in the Companies (Tables A-F) Regulations 1985 as amended by the Companies (Tables A-F) (Amendment) Regulations 1985.
- 1.2 "the Act" means the Companies Act 1985 and every statutory modification or re-enactment thereof for the time being in force.
- 1.3 "Base Capitalisation" means (i) in relation to a Sale or Flotation during the Base Year, £3,778,403 (ii) in relation to a Sale or Flotation occurring during a financial year of the Company prior to the Base Year, £3,778,403 reduced on a compound basis by 7.5% for each financial year or part thereof (pro rata for each day over 365 days in the year) of the Company preceding the Base Year back to and including the financial year in which such Flotation or Sale occurs and (iii) in relation to a Sale or Flotation occurring during any financial year of the Company after the Base Year, £3,778,403 increased on a compound basis by 7.5% for each financial year or part thereof (pro rata for each day over 365 days in the year) of the Company succeeding up to and including the financial year in which such Flotation or Sale occurs.
- 1.4 "Base Year" means the financial year to 31st December 2005.
- 1.5 "Capitalisation" means (a) on a Flotation, the valuation placed upon the whole of the issued share capital of the Company as shown in a prospectus or listing particulars or other issuing documents published in connection with such Flotation less the gross amount of any new money raised by the Company from the subscription for new shares issued by the Company at the time of and in connection with such Flotation and also deducting from such valuation any Permitted Deductions which may not have been deducted in arriving at such valuation and (b) on Sale, the aggregate price paid for the equity share capital of the Company plus the cash value of any other sum (in cash or otherwise) received or receivable by the

shareholders which can reasonably be regarded as an addition to the price paid (whether or not paid at the time of the Sale) after deducting any Permitted Deductions which may not have been deducted in arriving at the price;

- 1.6 The word "emoluments" shall include all salary and all items set out in paragraph 1(4) of Schedule 6 of the Act.
- 1.7 "Deed of Adherence and Substitution" shall mean the agreement amongst Stirling Shipping Company Limited, Iain Victor Robinson Harrison and others, 3i Group plc and the Company in relation to the Investment Agreement and dated of even date with the adoption of these Articles.
- 1.8 "Equity Shares" means all the A Ordinary Shares and ordinary shares in the Company.
- 1.9 "Flotation" means the listing or dealing permission (as the case may be) which becomes effective on the Flotation Date;
- 1.10 "Flotation Date" means the date upon which either (a) a listing of any equity share capital of the Company on the Official List of The London Stock Exchange Limited becomes effective or (b) 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) or any other recognised investment exchange or market for dealing in securities in the United States of America or Western Europe or Scandinavia becomes effective;
- 1.11 "Harrison Directors" means Iain Victor Robinson Harrison whose address is Craighat, Killearn, Glasgow G63 9QL, Patrick Charles Lorne Harrison whose address is 10 Bowmont Gardens, Glasgow G12 and James Anthony Frank Cowderoy whose address is The Glassert, Lochard Road, Aberfoyle, Stirling FK8 3TJ
- 1.12 "Intermediate Capitalisation" means (i) in relation to a Sale or Flotation during the Base Year, £5,667,605, (ii) in relation to a Sale or Flotation occurring during a financial year of the Company prior to the Base Year, £5,667,605 reduced on a compound basis by 7.5% for each financial year or part thereof (pro rata for each day over 365 days in the year) of the Subsidiary preceding the Base Year back to and including the financial year in which such Flotation or Sale occurs and (iii) in relation to a Sale or Flotation occurring during any financial year of the Company after the Base Year, £5,667,605 increased on a compound basis by 7.5% for each financial year or part thereof (pro rata for each day over 365 days in the year) of the Company succeeding up to and including the financial year in which such Flotation or Sale occurs.
- 1.13 "the Investment Agreement" means the agreement for loan and share subscription entered into among Stirling Shipping Company Limited, Stirling Offshore Limited, the Guarantors (as therein defined), the Harrison Directors and others including 3i Group plc and executed by Stirling Shipping Company Limited on 8 January 1996.
- 1.14 "Maximum Capitalisation" means (i) in relation to a Sale or Flotation during the Base Year, £8,816,274, (ii) in relation to a Sale or Flotation occurring during a financial year of the Subsidiary prior to the Base Year, £8,816,274 reduced on a compound basis by 7.5% for each financial year or part thereof (pro rata for each day over 365 days in the year) of the Company preceding the Base Year back to and including the financial year in which such Flotation or Sale occurs and (iii) in relation to a Sale or Flotation occurring during any financial year of the Subsidiary after the Base Year, £8,816,274 increased on a compound basis by 7.5% for each financial year or part thereof (pro rata for each day over 365 days in

the year) of the Company succeeding up to and including the financial year in which such Flotation or Sale occurs.

- 1.15 "Notifiable Transaction" means a transaction where any of the percentage ratios set out in Chapter 10 of the Listing Rules issued by the London Stock Exchange Limited in December 1995 (other than the ratio set out in paragraph 10.5(d) which shall not be applicable) are 20% or more provided that all references to the listed company in the percentage ratios shall for the purposes hereof be taken to refer to the Company.
- 1.16 "Offer" means either (a) the making of an offer or offers to purchase all the equity share capital of the Company which if accepted in relation to such percentage of such share capital as, when aggregated with such share capital, if any, already held by the offeror or any person acting in concert with the offeror (as such term is defined in the July 1993 edition of the City Code on Takeovers and Mergers), will result in the offeror acquiring 90 per cent or more of the equity share capital of the Company; or (b) the entering into of one or more agreements which will result in any person acquiring 90 per cent or more of the equity share capital of the Company, which agreements become unconditional.
- 1.17 "Permitted Deductions" means (subject to the aftermentioned exclusions) the amounts remaining due by the Company or any of its subsidiaries on the Sale Date or the Flotation Date (as the case may be) under and in terms of any or all of:
- (i) the Deed of Adherence and Substitution;
 - (ii) these articles (by way of arrears or accruals of dividend);
 - (iii) any other agreement for the time being in force, including without prejudice to the generality, any guarantee, hire purchase, credit sale or leasing agreement (other than leases of real or heritable property);
- but excluding from such amounts:
- (i) intra group borrowings and guarantees in respect thereof, and
 - (ii) any other borrowings, debt or liability of the Company or any of its subsidiaries to which the holders of not less than 75% of the A Ordinary Shares have consented and have acknowledged, with specific reference to this article 1.19, may be excluded from Permitted Deductions.
- 1.18 "Relevant Directors" means the directors and former directors of the Company and its subsidiaries where such directors or former directors are interested in shares in the Company and their connected persons (as defined by section 839 Income and Corporation Taxes Act 1988) but excluding any Special Director (as hereinafter defined).
- 1.19 "Sale" means the transaction or transactions envisaged by an Offer.
- 1.20 "Sale Date" means the date upon which either (a) the offer or the agreement respectively referred to in the definition of "Offer" is or becomes unconditional in all respects or (b) if later, the date on which such offer or agreement is due to be completed in accordance with its terms.
- 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 5, 54, 73-80 (inclusive), 85, 86, 94-98 (inclusive) and 118 of Table A shall not apply to the Company.

SHARE CAPITAL

- 3 The share capital of the Company is £820,683 divided into 584,521 ordinary shares of £1 each and 236,162 A Ordinary Shares of £1 each ("A Ordinary Shares"). Save as expressly set out in these articles the ordinary shares and the B Ordinary Shares shall rank *pari passu* as if they constituted one class of share.

The rights attaching to the respective classes of shares shall be as follows:

3.1 Income

The profits of the Company available for distribution shall be applied as follows:

- 3.1.1 First 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 £0.1486 per annum or part thereof on each share accruing from the date of issue of the A Ordinary Shares and payable half yearly on 30 June and 31 December, the first such payment to be made on 30 June 2001.
- 3.1.2 Second in paying to the holders of the A Ordinary Shares as a class in respect of each financial year of the Company commencing on or current at 1 January 2001 a cumulative preferential net cash dividend (hereinafter in these articles referred to as "the Participating Dividend") of a sum which, when added to the total of the Fixed Dividend payable in respect of that year is equal to the Relevant Amount (as hereinafter defined) for the relevant financial year. The Participating Dividend (if any) shall be paid not later than four months after the end of each successive accounting reference period of the company or not later than fourteen days after the audit report on the accounts of the Company for such period is signed by the Company's Auditors, whichever is earlier.

"the Relevant Amount" should be calculated in accordance with the following formula:

$$RA = \frac{15}{100} \times \frac{(100 - CT)}{100} \times AP$$

where:

"RA" is the Relevant Amount:

"CT" is the percentage rate of the UK corporation tax (but not, for the avoidance of doubt, the small companies rate) applying at the end of the relevant financial years (expressed as a number so that if the relevant rate were 30%, CT would be 30); and

"AP" is 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:

- 3.1.2.1 deducting any profits and adding back any losses arising from the sale of any vessels owned by the Company or by any of its subsidiaries;

- 3.1.2.2 adding back any amortisation of goodwill; and
- 3.1.2.3 adding back any amount in excess of £100,000 subject to Annual Review in the aggregate charged in respect of emoluments payable to Relevant Directors.
- 3.1.3 Third in paying to the holders of the A Ordinary Shares and to the holders of the ordinary shares other than Relevant Directors *pari passu* as if the same constituted one class of share 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 equal to the Excess Remuneration (as hereinafter defined) divided by the number of ordinary shares held by Relevant Directors 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 £100,000 subject to Annual Review in the aggregate payable in respect of the relevant financial year to Relevant Directors after deducting income tax at the basic rate on such excess sum. The Compensatory Dividend (if any) shall be paid on the due date for payment of the Participating Dividend.

- 3.1.4 No dividend shall be declared to the holders of ordinary shares in respect of any financial year of the Company unless and until:
 - 3.1.4.1 the Fixed Dividend has been paid in full in respect of that financial year and in respect of all previous financial years of the Company; and
 - 3.1.4.2 any Compensatory Dividend due has been paid in full.
- 3.1.5 No dividend shall be paid to the holders of ordinary shares in respect of any financial year of the Company unless and until:
 - 3.1.5.1 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; and
 - 3.1.5.2 any Compensatory Dividend due has been paid in full.
- 3.1.6 Without prejudice to the foregoing provisions of this Article 3, any remaining profits, which the Company may determine to distribute in respect of any financial year shall be applied:
 - 3.1.6.1 First 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 declared on each A Ordinary Share for such year;
 - 3.1.6.2 Second with the prior written consent of the holders of 75% of the A Ordinary Shares in distributing the balance of such profits amongst the holders of the A Ordinary Shares and the ordinary shares (*pari passu* as if the same constituted one class of share).
- 3.1.7 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.
- 3.1.8 Unless the Company has insufficient profits available for distribution and the Company is thereby prohibited from paying dividends by the Act the Fixed Dividend and the Participating Dividend and the Compensatory Dividend 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 then there shall be paid forthwith an interim dividend in respect of the Participating Dividend of a sum equal to the last Participating Dividend payable. 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.

3.1.9 The Company shall procure that each of its subsidiaries which has profits available for distribution shall from time to time and to the extent that it may lawfully do so declare and pay to the Company such dividends as are necessary to permit lawful and prompt payment by the Company of the Fixed Dividend and the Participating Dividend and the Compensatory Dividend.

3.1.10 Any dividend declared in accordance with the provisions of the Articles but not paid to any holder of ordinary shares shall bear interest (compounded quarterly) from the date of such declaration to the date of payment at a rate equal to 1% above the Bank's Base Rate from time to time applying and payable on payment of the dividend so declared.

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 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 Share and ordinary shares held by them respectively.

3.3 Optional Conversion

The holders of the A Ordinary Shares may at any time convert the whole of their A Ordinary Shares into a like number of 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 75% of the A Ordinary Shares and the conversion shall take effect immediately upon the date of delivery of such notice to the Company 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 subject only to the provisions of article 3.4.

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 75% of the A Ordinary Shares.

3.4 **Mandatory Conversion of the A Ordinary Shares**

The Company shall be entitled to convert certain of the A Ordinary Shares (or the ordinary shares into which the A Ordinary Shares have converted pursuant to article 3.3, as the case may be), as follows:

- 3.4.1 On a Flotation or a Sale of the Company, where the Capitalisation on such Flotation or Sale is at least the Base Capitalisation but not more than the Intermediate Capitalisation, the Company shall convert such number of A Ordinary Shares (or such number of ordinary shares into which the A Ordinary Shares have converted pursuant to article 3.3) as will result in the percentage of the equity share capital of the Company represented by the ordinary shares (other than those into which the A Ordinary Shares have converted pursuant to article 3.3) being the figure arrived at by the operation of the following formula:

$$x = A + ((B - C/D - C) \times 5)\%,$$

where x means the percentage of equity share capital of the Company represented by the aggregate of the ordinary shares (other than those into which the "A" Ordinary Shares have converted pursuant to Article 3.3) after such conversion;

A means the percentage of equity share capital of the Company represented by the aggregate of the ordinary shares (other than those into which the A Ordinary Shares have converted pursuant to article 3.3) before such conversion; and

B means the lesser of (a) the Capitalisation of the Company at the time of such Flotation or Sale and (b) Intermediate Capitalisation;

C means the Base Capitalisation; and

D means the Intermediate Capitalisation.

- 3.4.2 On a Flotation or a Sale of the Company, subject to the Capitalisation of such Flotation or Sale being more than the Intermediate Capitalisation, the Company shall be entitled to convert such number of A Ordinary Shares as would result in the percentage of the equity share capital of the Company represented by the aggregate of the ordinary shares (other than those into which the A Ordinary Shares have converted pursuant to article 3.3) being the figure arrived at by the operation of the following formula:

$$x = A + ((B - C/D - C) \times 5)\% + ((E - D/F - D) \times 5)\%$$

where x, A, B, C and D have the meanings assigned to them in article 3.4.1 above;

E means the Capitalisation of the Company at the time such Flotation or Sale; and

F means the Maximum Capitalisation.

- 3.4.3 For the avoidance of doubt, the Company shall not be entitled to convert any A Ordinary Shares (or ordinary shares into which the A Ordinary Shares have converted pursuant to article 3.3) if the Capitalisation is less than the Base Capitalisation and if the Capitalisation is in excess of the Maximum Capitalisation the Company shall only be entitled to convert such number of A Ordinary Shares (or ordinary shares into which the A Ordinary Shares

have converted pursuant to article 3.3) as would result in the equity share capital of the Company represented by the ordinary shares being a maximum of 81%.

- 3.4.4 Any conversion in terms of article 3.4.1 or article 3.4.2 shall be subject to an overriding condition that immediately prior to the conversion, the Company shall pay a dividend to the holders of the A Ordinary Shares (or ordinary shares into which the A Ordinary Shares have converted pursuant to article 3.3) of £1.8574 per share to be converted ("Conversion Dividend") and such amount shall be due immediately prior to the conversion. Such payment shall be made 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. In the event the Company does not pay the Conversion Dividend on any share when due (whether because the Company has insufficient profits available for distribution or otherwise) the Company shall not be entitled to convert that share as provided by articles 3.4.1 or 3.4.2. Any such conversion shall be made on the Flotation Date or the Sale Date (as the case may be).
- 3.4.5 Any A Ordinary Shares converted pursuant to this Article 3.4 shall be Deferred Shares of £1 each ("Deferred Shares"). The Deferred Shares shall confer on the holder thereof the following rights and restrictions:-
- (a) no rights to participate in the profits or the Company or any distribution of any kind in respect of the Deferred Shares;
 - (b) on a winding up or other return of capital the right to receive £1 per Deferred Share after £1,000,000 has been paid in respect of each Equity Share; and
 - (c) no right to vote nor to receive notice of or attend at general meetings of the Company in respect of the Deferred Shares.
- 3.4.6 The Company shall pay on each of the A Ordinary Shares (or ordinary shares into which the A Ordinary Shares have converted pursuant to article 3.3) a sum equal to any arrears or accruals of the dividends due on the A Ordinary Shares (or ordinary shares into which the A Ordinary Shares have converted pursuant to article 3.3) calculated to the Flotation Date or the Sale Date (as the case may be). 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 Flotation Date or the Sale Date (as the case may be) such profits to be calculated by the Company on a basis reasonably acceptable to the holders of the A Ordinary Shares.

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 A Ordinary Shares shall be deemed to be varied:
- 4.1 by the grant of any option or other right to subscribe for unissued shares and by any alteration or increase or reduction or sub-division or consolidation of the authorised or issued capital of the Company or of any of its subsidiaries, 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; 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 where any such disposal would constitute a Notifiable Transaction; 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 where any such acquisition would constitute a Notifiable Transaction; or
 - 4.4 by the application by way of capitalisation of any sum in or towards paying up any debenture or debenture stock of the Company where this would constitute a Notifiable Transaction; 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; 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 (otherwise than as provided for in these articles); 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 entering into of a written service agreement with any director or connected person (as defined by section 839 Income and Corporation Taxes Act 1988) or the material variation of any such existing service agreement with any such person; or
 - 4.11 by any material amendment or variation of the terms of the Employee Trust; or
 - 4.12 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 Shares.

FURTHER ISSUE OF SHARES

- 5.1 Notwithstanding any other provisions of these articles the directors shall be bound to offer to any member of the 3i Group (as hereinafter defined) for the time being holding shares in the 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 as the aggregate nominal value of shares in the equity share capital of the Company for the time being held by such member of the 3i Group bears to the total issued equity share capital of the Company immediately before the issue of the shares. Any shares issued to a member of the 3i Group pursuant to such offer shall be issued upon no less favourable terms and conditions than those issued to any other person and so that such shares shall at the request of 3i be registered in the name or names of any one or more members of the 3i Group.
- 5.2 For the purposes of these articles the expressions "3i", shall mean 3i Group plc and "a member of the 3i Group" shall mean 3i Group plc, any subsidiary of 3i Group plc, and any company of which 3i Group plc is a subsidiary.

AUTHORITY TO ALLOT UNISSUED SHARES

- 6 Subject to the terms of article 4 hereof, the Directors are hereby authorised generally and unconditionally to exercise all of the powers of the Company to allot relevant securities (within the meaning of section 80(2) of the Act) provided that:
- (a) the maximum nominal amount of relevant securities to be allotted in pursuance of such authority shall be the unissued share capital of the Company from time to time; and
 - (b) this authority shall expire, unless sooner revoked or varied by the Company in general meeting, 5 years from the date of adoption of these articles save that the Company may before such expiry make an offer or agreement which would or might require relevant securities to be allotted after such expiry and the Directors may allot relevant securities in pursuance of such offer or agreement as if the power conferred hereby had not expired.

PURCHASE OF OWN SHARES

- 7 Subject to the provisions of the Act, the Company may in each financial year of the Company purchase up to such number of the Equity Shares as equals 2% of the total issued equity share capital of the Company at the time in question provided that the total number of Equity Shares so purchased shall not in aggregate exceed 20% of the issued equity share capital of the Company and the Company may make a payment in respect of the purchase of such shares otherwise than out of distributable profits of the Company or the proceeds of a fresh issue of shares.

LIEN

- 8 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

- 9 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

- 10 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.

11.1 For the purposes of these articles:

11.1.1 "Privileged Relation" in relation to a member means the spouse or widow or widower or brother or sister 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;

11.1.2 "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;

11.1.3 "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.

11.2.1 Notwithstanding any other provision in these articles any member may at any time make a Permitted Transfer or 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 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.

11.2.2 Where the consent of a holder of A Ordinary Shares is requested to a transfer to a Family Trust such consent shall be given when the holder is satisfied:

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

11.2.2.2 with the identity of the proposed trustees;

11.2.2.3 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

11.2.2.4 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.

11.2.3 Where a holder of A Ordinary Shares does not communicate his consent or refusal of consent to the Company within ten working days of the date on which his consent was requested in terms of article 11.2.1, such consent shall be deemed to have been given upon the expiry of said period.

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

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

11.3.2 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

11.3.3 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) and such shares have not been transferred back to the

- settlor or to the Family Trust of the settlor or to any Privileged Relation of the settlor within 28 days 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;
- 11.3.4 for the purpose 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.
- 12.1 Save in the case of a Permitted Transfer or 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 being deemed to have been given 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 in value which may be ascribed to the Sale Shares by virtue of the fact that they represent a minority interest and on the assumption that the Sale Shares are capable of transfer without restriction. The Transfer Notice may (save for shares sold pursuant to a deemed Transfer Notice) contain a provision that unless all the shares comprised therein are sold by the Company pursuant to this article none shall be sold (a "Total Transfer Condition") and any such provision shall be binding on the Company.
- 12.2 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 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.
- 12.3 Upon the price being fixed as aforesaid and provided the Vendor shall not give a valid notice of cancellation the Company shall forthwith offer the Sale Shares as follows:
- 12.3.1 in the case of A Ordinary Shares, to all holders of A Ordinary Shares (other than the Vendor) pro rata as nearly as may be in proportion to the existing members of A Ordinary Shares held by such members;
- 12.3.2 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
- 12.3.3 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 or it and if so the maximum thereof which he or it 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 any remaining "A" Ordinary and ordinary shares to such holders of shares of the same class as the Sale Shares 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 existing holders 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 periods 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 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. Offers shall continue to be made on the same terms which any member continues to state in writing his willingness to purchase all the shares offered to him.

- 12.4 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.
- 12.5 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 provided that if the Sale Shares were subject to a Total Transfer Condition such sale must be of all the Sale Shares and not part only.
- 12.6 The foregoing provisions of this article shall not apply to a transfer of shares to holders of Same Class Shares if the holders of 75% of the shares of such class so direct in writing or to a transfer of shares to holders of Different Class Shares, if the holders of (i) 100% of the ordinary shares and (ii) 75% of the 'A' Ordinary Shares (or the ordinary shares into which the 'A' Ordinary Shares have converted pursuant to article 3.3, as the case may be) so direct in writing and the directors shall be obliged to register any such transfer.
- 13 Notwithstanding any other provisions of these articles a transfer of any shares in the Company held by any member of the 3i Group may be made between the member in the 3i Group holding such shares and any other member in the 3i Group without restriction as to price or otherwise and any such transfer shall be registered by the directors, provided that should such member of the 3i Group to whom any share has been transferred cease to be a member of the 3i Group such share shall be forthwith transferred back to a member of the 3i Group.

LIMITATION ON TRANSFER OF CONTROL

- 14.1 No sale or transfer 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 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:
- 14.1.1 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); or
- 14.1.2 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.
- 14.2 For the purpose of this article:
- 14.2.1 the expression 'a Controlling Interest' shall mean an interest in shares (as defined in Schedule 13 Part 1 and section 324 of the Act) in a company conferring in the aggregate 50% or more of the total voting rights conferred by all the issued shares in that company;
- 14.2.2 the expression 'Original Members' shall mean persons who were members of the Company on the date of the adoption of these articles and the Family Trusts and Privileged Relations of such members;
- 14.2.3 the expressions 'transfer' and 'transferee' shall include respectively the renunciation of a renounceable letter of allotment and the renounee under any such letter of allotment; and
- 14.2.4 the expression 'the Specified Price' shall mean at the option of the holders of 75% of the 'A' Ordinary Shares either:
- 14.2.4.1 a price per share of £1.8574; or
- 14.2.4.2 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 Company plus 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.
- 14.3 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

- 15 Subject 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 have one vote for every £1 in nominal amount of shares in the capital of the Company of which he is the holder.

APPOINTMENT OF DIRECTORS

- 16 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. In addition, the holders of shares representing more than half of the shares which carry the right to attend and vote at general meetings of the Company may by notice to the Company together appoint a person who is willing to act to be a director either to fill a vacancy or as an additional director.

PROCEEDINGS OF DIRECTORS

- 17 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.
- 18.1 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:
- 18.1.1 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;
- 18.1.2 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;
- 18.1.3 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;
- 18.1.4 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
- 18.1.5 shall be entitled to vote and be counted in the quorum on any matter concerning the foregoing paragraphs of this article.
- 18.2 For the purposes of this article:

- 18.2.1 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;
- 18.2.2 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
- 18.2.3 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.

DIRECTORS' BORROWING POWERS

- 19 Subject as hereinafter provided the directors may exercise all the powers of the Company (whether express or implied):
 - 19.1 of borrowing or securing the payment of money;
 - 19.2 of guaranteeing the payment of money and the fulfilment of obligations and the performance of contracts; and
 - 19.3 of mortgaging or charging the property assets and uncalled capital of the Company and (subject to section 80 of the Act) of issuing debentures.

SPECIAL DIRECTOR

- 20 Notwithstanding any other provisions of these articles for so long as 3i is a shareholder, 3i shall be entitled to appoint as a director of the Company any 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. 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. Upon request by 3i the Company shall also procure that the Special Director be appointed a director to any subsidiary of the Company.

INDEMNITY

- 21 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 judgement 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 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.