

Company number
2670609

COMPANIES ACTS 1985 AND 1989

COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of

THE CHEESE COMPANY LIMITED

(as adopted by special resolution passed on August 1995)

Based on articles of association
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INDEX

Articles	Description	Page
1.	Preliminary	1
2.	Share Capital	7
3.	Issue of Shares and Warrants	19
4.	Transfer of Shares	21
5.	Pre-Emption on Transfer	23
6.	Bare Nominees and Encumbrances	26
7.	Compulsory Transfers - General	27
8.	Compulsory Transfers - Management Shareholders	27
9.	Acquisition of Control and Sale Preference	29
10.	Information concerning Shareholdings and Transfers	31
11.	Proceedings at General Meetings	32
12.	Alternate Directors	32
13.	Directors	33
14.	Notices	34
15.	Indemnity	34
16.	Restrictions on Powers of the Company and its Directors	35
17.	Special 'A' Ordinary Shares/Special Preference Shares	36

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NEW ARTICLES OF ASSOCIATION

of

THE CHEESE COMPANY LIMITED(as adopted by special resolution passed on August 1995)

1. PRELIMINARY

1.1 The regulations contained in Table A as prescribed by the regulations made under the Act in force at the date of the adoption of these Articles of Association (hereinafter referred to as "Table A") shall apply to the Company in so far as these Articles do not exclude or modify Table A. A reference herein to any regulation is to that regulation as set out in Table A.

1.2 In these Articles the following words and expressions shall have the meanings set out below:

the Act	the Companies Act 1985 including every statutory modification or re-enactment thereof for the time being in force
'A' Ordinary Shares	'A' ordinary convertible redeemable shares of £0.01 each in the capital of the Company having the rights set out in these Articles
'A' Preference Shares	redeemable 'A' preference shares of US\$0.00001 each in the capital of the Company having the rights set out in these Articles
Arrears	in relation to any share, all accruals, deficiencies and arrears of any dividend payable in respect of such share, whether or not earned or declared and irrespective of whether or not the Company has had at any time sufficient distributable profits to pay such dividends together with all interest and other amounts payable thereon

the Auditors	the auditors for the time being of the Company
'B' Preference Shares	redeemable 'B' preference shares of US\$0.00001 each in the capital of the Company having the rights set out in these Articles
Business Sale	the sale of all or a substantial part (the term "substantial" meaning in excess of 90% of the book value of the assets of the Company as determined by the Auditors at the time of the sale) of the assets, goodwill or undertaking of the Company other than in the ordinary course of business whether pursuant to one transaction or pursuant to a number of transactions entered into and completed before 31 March 1998
'C' Preference Dividend	the dividend payable under Article 2.2(a)(i)
'C' Preference Shares	redeemable 'C' preference shares of US\$0.00001 each in the capital of the Company having the rights set out in these Articles
'C' Redemption Price	in relation to each 'C' Preference Share, £1 plus US\$0.00001
the Directors	the Board of Directors for the time being of the Company
the Dividend Date	the date when the Preference Dividend is due for payment in accordance with the terms of these Articles
Employee Trustees	the trustee or trustees of The Cheese Company Employee Share Trust and whenever any Preference Share, 'A' Ordinary Share, Ordinary Share, 'A' Preference Share, 'B' Preference Share or 'C' Preference Share is held by any trustee or trustees on trust for the benefit of any employees of the company and/or any subsidiary (and provided that such trust subsists for the purposes of an employees' shares scheme within the meaning of the Act), those trustees as such
The Cheese Company Employee Share Trust	the trust established by the Company by a deed dated on or around 30 April, 1993 made between the Company and The Cheese Company Employee Share Trustee Limited (formerly known as Express Foods Employee Share Trustee Limited), as amended from time to time
Family Trusts	as regards any particular individual member or former individual member or any settlor who is or was a director or employee of the Company, trusts (whether arising under a settlement, declaration of trust or other instrument by whomsoever or wheresoever made or under a testamentary

disposition or on an intestacy) under which no immediate beneficial interest in any of the shares in question in the Company is for the time being or may in future be vested in any person other than that individual member or settlor and/or Privileged Relations of that member; and so that for this purpose a person shall be considered to be beneficially interested in a share if such share or the income thereof is or may become liable to be transferred or paid or applied or appointed to or for the benefit of such person or any voting or other rights attaching thereto are or may become liable to be exercisable by or as directed by such person pursuant to the terms of the relevant trusts or in consequence of an exercise of a power or discretion conferred thereby on any person or persons

interest

shall mean an interest in shares which would be taken into account in deciding whether a notification to the Company would be required under Part VI of the Act (as if the Company were a public company and regardless of whether the interest is of the size which would require such notification) and shall for all purposes include:

- (a) the interests referred to in Section 209(1)(a), (b) and (e) of the Act and Regulation 2(d) of the Public Companies (Disclosure of Interests in Shares) (Exclusions) Regulations 1982;
- (b) save for the interests referred to in Regulations 2(a), (b) and (c) of the Public Companies (Disclosure of Interests in Shares) (Exclusions) Regulations 1982 and save as otherwise determined by the Company in general meeting from time to time, the other interests referred to in the Regulations referred to in Section 134(5) of the Companies Act, 1989,

and in each case excepting those of a bare trustee under the laws of England or of a simple trustee under the laws of Scotland

Liquid Price

with reference to the value of a share offered for on a Sale, the aggregate of:

- (a) the price offered for cash on the date of the Sale for such share; and
- (b) an amount equal to the cash proceeds which could be realised on a disposal of any non-cash consideration offered to be issued or delivered for such share immediately after a Sale, whether or not such consideration is actually sold for cash, provided that such amount shall only be aggregated with the cash referred to in paragraph (a) above if an offer satisfactory to the Majority of the holders of the 'A' Preference Shares

acting reasonably for such consideration is available to them immediately prior to the date of the Sale; and

- (c) an amount equal to the value of any non-cash consideration offered to be issued or delivered to a shareholder who is a Relevant Member for such share to the extent that the Relevant Member accepts such non-cash consideration in lieu of cash

but provided that no part of the consideration shall be counted more than once under paragraphs (a), (b) and (c) above

Listing	a successful application being made to the Council of The London Stock Exchange for all or any of the Ordinary Share Capital to be admitted to the Official List and the announcement of such admission in accordance with paragraph 7.1 of the rules of the London Stock Exchange
Majority	as regards members of a class or classes of shares, a majority by reference to the number of shares of such class or classes held and not by reference to the number of members holding shares of such class or classes, save that the expression "the holders of the Majority of the 'A' Preference Shares" or like expression shall have the same meaning as "Majority Investors"
a Member of the same Group	as regards any company, a company which is for the time being a wholly owned subsidiary of that company or a holding company of that company or any company which is a subsidiary of such holding company
the Ordinary Share Capital	collectively, the 'A' Preference Shares, the 'A' Ordinary Shares, the 'B' Preference Shares and the Ordinary Shares and for all of the purposes of these Articles and otherwise each of the 'A' Preference Shares, the 'A' Ordinary Shares, the 'B' Preference Shares and the Ordinary Shares shall be treated as separate classes
Ordinary Shares	ordinary shares of £0.01 each in the capital of the Company having the rights set out in these Articles
Permitted Transfer	a transfer of shares authorised by Articles 4.1, 4.2, and 4.6
Permitted Transferee	a person, firm, company or unincorporated association to whom or which shares have been transferred pursuant to a Permitted Transfer
Preference Shares	cumulative redeemable preference shares of £1 each in the capital of the Company having the rights set out in these

	Articles Privileged Relation in relation to an individual member, the husband or wife of such member and ascendants and descendants in direct line of such member
Redemption Date	whichever shall be applicable of: <ul style="list-style-type: none">(a) the times and dates specified in Article 2.2(d)(i); or(b) the date specified in a notice under Article 2.2(d)(iii)
Relevant Executive	a director or employee of, or a consultant to, the Company or any subsidiary of the Company (such persons including for the avoidance of doubt Simon Oliver, Roger Davenport, Bob Trott, Andrew Leigh and Jim Murphy)
Relevant Member	a member who or which is: <ul style="list-style-type: none">(a) a Relevant Executive; or(b) "connected to" the Relevant Executive referred to in paragraph (a) above by reason of being:<ul style="list-style-type: none">(i) a Family Trust of that Relevant Executive; or(ii) a company of which that Relevant Executive and/or his other Relevant Members are the sole shareholders; or(iii) a member who shall have acquired shares directly or indirectly from any of the persons in any of the categories above; or(iv) a member who shall have subscribed shares directly or indirectly by reason of its relationship with any of the persons in any of the categories above
the Relevant Shares	(so far as the same remain for the time being held by the trustees of any Family Trusts or other Relevant Member or by any Transferee Company) the shares originally acquired or subscribed for by such trustees or other Relevant Member or Transferee Company and any additional shares issued to such trustees or other Relevant Member or Transferee Company or acquired by such trustees or other Relevant Member or Transferee Company in exercise of any right or option granted or arising by virtue of the holding of such shares as aforesaid or any of them or the membership thereby conferred
Sale	the acquisition of any part of the Ordinary Share Capital by any person whether by general offer to all shareholders, acquisition agreement or otherwise resulting in that person

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| | together with any person acting in concert (within the meaning given in the City Code on Takeovers and Mergers as in force at the date of the adoption of these Articles) with such person holding or being interested in more than 50% of the Ordinary Share Capital |
| Service Agreement | means in relation to any person any written or other contract of employment or for services with the Company or any of its subsidiaries |
| Subscription Agreement | the subscription and shareholders agreement dated 2 November 1992 between the Company, Electra Private Equity Partners and others (as amended from time to time) |
| Subscription Price | in relation to any share, the amount paid up or credited as paid up thereon (including the full amount of any premium at which such share was issued whether or not such premium is applied for any purpose thereafter) |
| Transferee Company | a company for the time being holding shares in consequence, directly or indirectly, of a transfer or series of transfers of shares between Members of the same Group (the relevant Transferor Company in the case of a series of such transfers being the first transferor in such series) |
| Transferor Company | a company (other than a Transferee Company) which has transferred or proposes to transfer shares to a Member of the same Group |
| Transfer Notice | a notice in accordance with Article 5 that a member desires to transfer his shares |
| US Preference Shares | means the 'A' Preference Shares, the 'B' Preference Shares and the 'C' Preference Shares. |
- 1.3 The capitalised terms, EPEP Director, EPEP Funds, Electra, Investors, Investor Director, Majority Investors, Loan Notes, Special Loan Notes, Special Loan Instrument, Mezzanine Instrument, the Bank, the Banks' Facility, Inter-Creditor Agreement, Financial Institution, Deed of Adherence and Syndicate Agreement in these Articles shall have the respective meanings attributed to them in the Subscription Agreement except that the words "'A' Ordinary Shares" in the definitions of "Majority Investor" and "Investor Director" shall be replaced with the words "'A' Preference Shares".
- 1.4 Section 839 of the Income and Corporation Taxes Act 1988 shall apply to determine whether a person is connected with another for the purposes of these Articles.
- 1.5 All the terms of these Articles, and in particular (without limitation) the terms regarding transfer of shares, shall be subject to the terms of the Subscription Agreement
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2. SHARE CAPITAL

2.1 Authorised Share Capital

The share capital of the Company as at the date of the adoption of these Articles is £32,102,712 and US\$472.212 divided into 31,950,000 Preference Shares, 12,000,000 'A' Ordinary Shares, 3,271,200 Ordinary Shares, 12,000,000 'A' Preference Shares, 3,271,200 'B' Preference Shares, and 31,950,000 'C' Preference Shares.

2.2 US Preference Shares

The US Preference Shares shall entitle the holders thereof to the following rights:

(a) as regards dividend:

- (i) the Company shall, in priority to payment of any dividend to all other shareholders, pay to the holders of the 'C' Preference Shares (in proportion to the number of 'C' Preference Shares held by each of them) a fixed cumulative preferential dividend of £1,064,162 on 30 August 1995 and a fixed cumulative preferential dividend at the aggregate rate during such period set out in the table below (in each case net of any advance corporation tax payable by the Company) accruing on a daily basis on the 'C' Redemption Price for such shares and payable half yearly in arrears on 30 September and 1 April in each year during the periods referred to in the table below:
 - (A) 4.01% for the period from 31 August 1995 to 30 September 1995; and
 - (B) 9.54% per annum from 1 October 1995 and thereafter;
 - (ii) if any 'C' Preference Dividend (including any amount payable pursuant to this sub-paragraph (ii)), is for whatever reason not paid in full on the Dividend Date (the "'C' Default Date"), then the Company shall be liable to pay to the holders of the 'C' Preference Shares (in proportion to the number of 'C' Preference Shares held by each of them), in addition to the 'C' Preference Dividend payable, an amount (net of any advance corporation tax payable by the Company) equal to the aggregate of the unpaid 'C' Preference Dividend on the 'C' Default Date and interest thereon at a rate of the higher of 4% above the base rate of the Bank of Scotland at that time and 4% above the 'C' Preference Dividend rate at that time, such interest to be calculated daily from the 'C' Default Date until the date such 'C' Preference Dividend is paid;
 - (iii) after making all necessary provisions for payment in any financial year of the Company of the 'C' Preference Dividend (including Arrears in respect of the 'C' Preference Shares in respect of any period) and for redemption of the 'C' Preference Shares and the Preference Shares, the Company shall apply 99.9 per cent. of any profits which the Directors resolve thereafter to distribute in any such year to the holders of the 'A' Preference Shares and the 'B' Preference
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Shares pari passu and pro rata to the number of 'A' Preference Shares and 'B' Preference Shares held by each of them;

(b) as regards capital:

on a winding up or other repayment of capital:

- (i) the holder of each US Preference Share shall be entitled to receive in priority to all other shareholders repayment in full of the capital paid up on or credited as paid up on that US Preference Share (including Arrears in respect of the 'C' Preference Shares in respect of any period); and
- (ii) the holders of the 'A' Preference Shares and the 'B' Preference Shares shall be entitled to receive in priority to all other shareholders, pari passu and pro rata to the number of 'A' Preference Shares and 'B' Preference Shares held by each of them a further sum equal to 99.9 per cent. of the assets available for distribution (after payment of the sum referred to in paragraph (i) above) to members (or of the aggregate amount to be repaid as the case may be) divided by the number of 'A' Preference Shares and 'B' Preference Shares in issue at the date of the commencement of the winding up or the repayment of capital, as the case may be;

(c) as regards voting in general meetings:

- (i) the holders of the 'C' Preference Shares shall be entitled to receive notice of and to attend at general meetings of the Company but shall not be entitled to vote upon any resolution unless:
 - (A) there shall be any Arrears for more than two months on the date of the notice convening the meeting and such Arrears have not been paid by the date of the meeting; or
 - (B) the Company, on the Redemption Date under sub-paragraph (d)(i) below, shall have failed or been unable to redeem any of the 'C' Preference Shares; or
 - (C) the resolution is one which directly or indirectly varies, modifies, alters or abrogates any of the rights, privileges, limitations or restrictions attaching to the 'C' Preference Shares; or
 - (D) the resolution is for the winding up of the Company or for a reduction of the Company's share capital; or
 - (E) there shall have occurred a Material Breach provided that the holders of the 'C' Preference Shares shall cease to be entitled to vote upon any resolution upon such breach being remedied to the reasonable satisfaction of a Majority of the holders of the 'C' Preference Shares;
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for the purposes of these Articles a Material Breach shall be: if there is a breach of either the provisions of the Subscription Agreement or these Articles by the Company which has a material and adverse effect on members or a group of members of the Company and which, being a breach capable of remedy, has been notified to the Company by a Majority of the holders of the 'C' Preference Shares, in writing, stating in reasonable detail the nature of the breach and referring to the specific clause or clauses of the Subscription Agreement or Article or Articles of these Articles which have been breached, the Company shall endeavour within 30 days to remedy such breach. If such breach is not remedied to the reasonable satisfaction of such Majority within 30 days of that notification the breach shall be deemed to be a Material Breach. In the event of any breach of the provisions of either the Subscription Agreement or these Articles by the Company which has a material and adverse effect on members or a group of members of the Company and which is not capable of being remedied, a Material Breach shall be a breach which results in a material diminution in the value of a class of shares in the Company or a material loss, or cost, to the business of the Company, in any case attributable to the breach in question and which has been notified to the Company by a Majority of the holders of the 'C' Preference Shares in writing;

- (ii) when entitled to vote pursuant to sub-paragraph (i) above, every holder of 'C' Preference Shares who (being an individual) is present in person or by proxy or (being a corporation) is present by a duly authorised representative or by proxy, shall have one vote on a show of hands and on a poll every holder of 'C' Preference Shares so present shall have one vote for each 'C' Preference Share held by him;
 - (iii) the holders of 'A' Preference Shares and 'B' Preference Shares shall be entitled to receive notice of and to attend and vote at general meetings of the Company and each 'A' Preference Share and each 'B' Preference Share shall, on a poll, confer the right to 100 votes;
- (d) as regards redemption, the 'C' Preference Shares shall, subject to the Act, be redeemed on and subject to the following terms and conditions:
- (i) subject to the right of the Company to redeem 'C' Preference Shares pursuant to paragraph (iii) below, all the 'C' Preference Shares shall be redeemed, if any holder of the 'C' Preference Shares requests the Company to do so, at the 'C' Redemption Price for such shares by the Company pro rata to the number of 'C' Preference Shares held by each holder thereof on 30 September 1999 or, if earlier, on a Sale or Listing (or, in the case of a Listing, as soon as practicable but in any event within one month thereafter) or, unless otherwise agreed by a Majority of the holders of the 'C' Preference Shares, as soon as practicable after but in any event within 3 months after a Material Breach;
 - (ii) if the Company shall fail or be unable to redeem any of the 'C' Preference Shares on the Redemption Date then the rate of the 'C' Preference Dividend on all of the 'C' Preference Shares shall be increased with effect from the date on
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which such 'C' Preference Shares were due for redemption to 4% above the then current rate;

- (iii) the Company may at any time by giving not less than 14 days' notice in writing to the holders of 'C' Preference Shares and with the consent in writing of a Majority of the holders of the 'C' Preference Shares at that time redeem the whole or any part of the 'C' Preference Shares then outstanding pro rata to the number of 'C' Preference Shares held by each holder thereof;
 - (iv) on each Redemption Date, each registered holder of 'C' Preference Shares to be redeemed shall deliver to the Company at its registered office the share certificates for such 'C' Preference Shares and thereupon the Company shall pay to such holder (or, in the case of joint holders, to the holder whose name stands first in the register of members in respect of such shares) the amount due to him in respect of such redemption and shall issue a new share certificate in respect of any unredeemed 'C' Preference Shares comprised in the certificate delivered by him;
 - (v) the receipt of the registered holder (or, in the case of joint holders, the holder whose name stands first in the register of members) for the time being of any 'C' Preference Shares being redeemed for the monies payable on redemption of such shares shall constitute an absolute discharge to the Company in respect thereof.
- (e) as regards **conversion** provided that the date of the Sale or Listing shall be before 31 March 1998:
- (i) subject as hereinafter provided, a number of the 'A' Preference Shares in issue as at the date of a Sale or Listing ("the Conversion Date") shall be converted into, conversion to be effected immediately prior to but contingent on the Sale or Listing and be redesignated into, the number of 'B' Preference Shares (pro rata to the number of 'A' Preference Shares held by each holder thereof) as shall represent the percentage of the enlarged number of 'B' Preference Shares of the Company, after conversion of the 'A' Preference Shares, determined in accordance with the following provisions of this paragraph (e) and of paragraph (f) below;
 - (ii) any 'A' Preference Shares which are not converted on the Conversion Date into 'B' Preference Shares shall be redeemed in accordance with paragraph (g) below;
 - (iii) each holder of 'A' Preference Shares shall be entitled on the Conversion Date to all Arrears and any other sums owing to such holders on the 'A' Preference Shares up to and including the Conversion Date;
 - (iv) the 'B' Preference Shares arising on such conversion shall rank *pari passu* in all respects with the 'B' Preference Shares then in issue and fully paid up and shall entitle the holders to all dividends and other distributions declared made
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or paid by reference to any record date occurring on or after the Conversion Date on the 'B' Preference Shares;

- (v) the Company shall, if aware of it in time to do so, give seven days prior written notice of the Conversion Date to each holder of 'A' Preference Shares and upon the Conversion Date each holder of 'A' Preference Shares shall deliver to the Company at its registered office the certificate for his 'A' Preference Shares and upon such delivery there shall be issued to him a certificate for the number of 'B' Preference Shares resulting from the conversion referred to in sub-paragraph (i) above together with a town clearing cheque for a sum equal to any Arrears and all other sums due as aforesaid;
 - (vi) so long as 'A' Preference Shares remain capable of being converted into and redesignated 'B' Preference Shares then, if any bonus issue, rights issue or other offer or invitation is made by the Company or on its behalf to the holders of 'B' Preference Shares or 'A' Preference Shares the Company shall make or, so far as it is able procure that there is made a like issue, offer or invitation at the same time to each holder of 'A' Preference Shares and 'B' Preference Shares (as the case may be) pro rata to his holding; and
 - (vii) for the purposes of these Articles the date of a Sale or Listing shall be:
 - (A) in the case of a Listing, the date of the Ordinary Share Capital referred to in the definition of Listing in Article 1.2 being so admitted; and
 - (B) the date of a Sale shall be the date of completion under the terms of a sale and purchase agreement such that a Sale has occurred or the date upon which a general offer made in writing to all the holders of Ordinary Share Capital (other than the offeror) made in accordance with Article 9.1 or otherwise becomes unconditional in all respects or upon the interest in excess of 50% referred to in the definition of a Sale (Article 1.2) being otherwise acquired;
 - (f) the percentage of the 'B' Preference Shares of the Company (as enlarged by the conversion of the 'A' Preference Shares) into which the relevant number of 'A' Preference Shares shall convert pursuant to the provisions of paragraph (e) above shall be as follows:
 - (i) the percentage shall be, if the Market Capitalisation of the Company (as defined in paragraph (ii) below) by reference to the date of the Sale or Listing is equal to or less than the amount shown in column 1 below, 78.43% if such total is equal to the amount shown in column 2 below, the percentage shall be 73.53%; if such total falls between the amounts shown in column 1 and column 2 below, the percentage shall be determined on a straight line pro rata basis between 78.43% and 73.53%; and if such total falls between the amounts shown in columns 2 and 3 below the percentage shall be determined on a straight line pro rata basis between 73.53% and 63.73%:
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Date of Sale or Listing	Column 1 £ million	Column 2 £ million	Column 3 £ million
01.04.95 to 30.09.95 (inc)	53.9	63.3	137.0
01.10.95 to 31.03.96 (inc)	57.6	69.5	145.3
01.04.96 to 30.09.96 (inc)	61.4	75.7	153.6
01.10.96 to 31.03.97 (inc)	68.3	83.3	163.5
01.04.97 to 30.09.97 (inc)	75.2	90.9	173.4
01.10.97 to 31.03.98 (inc)	82.1	98.5	183.3

Fractions of 'B' Preference Shares arising on conversion pursuant to this Article 2.4(e) and (f) ("Conversion") that are less than one half a share shall be ignored and fractions that are equal to or more than one half a share shall be rounded up to one share;

- (ii) the expression Market Capitalisation on a Sale or Listing shall mean:
- (A) in the event of a Listing, the aggregate value on Listing ("the Listing Value") of all the ordinary shares for which a quotation will exist upon Listing at the cash placing or cash offer for sale price after:
- (1) excluding from such share capital any new shares to be issued by the Company at the time of Listing (other than 'B' Preference Shares as a result of Conversion and 'B' Preference Shares or Ordinary Shares to be issued in connection with Listing to existing members by way of bonus issue);
 - (2) the Company has either paid all the Payments (as defined in paragraph (iv) below) or if it has not paid all the Payments, the Listing Value shall be the value adjusted to assume that all the Payments have been made except to the extent that the amounts represented by such Payments have been taken into account in determining the cash placing or cash offer for sale price (for the purposes of this adjustment in respect of Payments that have by law to be paid out of distributable profits assuming at all times that there were distributable profits to pay in full); and
 - (3) the Listing Value has been further adjusted as referred to in paragraph (v) below;
- (B) in the event of a Sale, the total value of the Ordinary Share Capital calculated by reference to the Liquid Price under the offer for each 'B' Preference Share pursuant to Article 9 assuming Conversion ("the Sale Value") after:
- (1) the Company has either paid all the Payments or if it has not paid all the Payments, the Sale Value shall be the value adjusted to assume that all the Payments have been made except to the extent that the amounts represented by such
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Payments have been taken into account in determining the Sale Value (for the purposes of this adjustment in respect of Payments that have by law to be paid out of distributable profits assuming at all times that there were distributable profits to pay in full); and

- (2) the Sale Value has been further adjusted as referred to in paragraph (v) below;

- (iii) and in the case of a Sale or Listing:

- (A) as certified in writing by the Majority Investors and the Board (and if no dispute this shall be final and binding); or, in default thereof,
- (B) as certified in the opinion of the Auditors in writing for this purpose (whose decision shall be final and binding and whose costs shall be paid by the Company)

and as soon as practicable, except with the consent of a Majority of the 'A' Preference Shares, the Board shall notify each of the shareholders of the date (or anticipated date) of the Sale or Listing and shall deliver copies of the certificate under paragraph (B)(1) or (2) above determining the Market Capitalisation to all of the shareholders of the Company together, in a case of holders of 'A' Preference Shares with a statement of the number of 'A' Preference Shares and the number of 'A' Preference Shares held by the relevant member which are to be or have been converted into 'B' Preference Shares and the number which are to be or have been redeemed;

- (iv) for the purposes of paragraph (ii) above of this Article 2.2(f), the Payments shall be:

- (A) the redemption of all the 'C' Preference Shares;
- (B) the payment of all the Arrears on all issued shares in the Company;
- (C) the repayment of the Loan Notes (whether or not at that time they are repayable) and the payment of all sums due (including interest) pursuant to the Loan Notes at the time of the Sale or Listing;
- (D) the repayment of the entire amount of the Banks' Facility and the payment of all sums (including interest) pursuant to its terms; and
- (E) the payment of all sums due to the holders of loan notes (other than the Loan Notes), loan stock or loan capital in the Company or bank debt owed by the Company;

- (v) in the event that prior to the date of a Sale or Listing:

- (A) any of:
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- (1) any 'C' Preference Dividend; or
 - (2) other Arrears due to the holders of the 'C' Preference Shares; or
 - (3) any payments due pursuant to the terms of the Loan Notes (assuming that all the Loan Notes are repayable on a Sale or Listing whether or not that is the case) or any other loan stock, loan notes or loan capital in the Company while held by the holders of the 'C' Preference Shares; or
 - (4) any Arrears on the 'A' Preference Shares;

are not paid on their date for payment as is set out in these Articles (as regards paragraphs (1), (2) and (4) above) and as set out in the requisite instruments or equivalent (as regards paragraph (3) above) (together "the Unpaid Receipts") (for the purposes of this adjustment in respect of sums that have by law to be paid out of distributable profits, assuming at all times that there were distributable profits to pay in full) then the Sale Value or the Listing Value (as appropriate) shall be further reduced by the figure that represents the Unpaid Receipts together with notional interest thereon compounded at 25% per annum, assuming quarterly breaks, from the date that each Unpaid Receipt was due as aforesaid to the date of the Sale or Listing (as appropriate);

(B) any of:

- (1) any 'C' Preference Share is redeemed prior to the date of a Sale or Listing (otherwise than pursuant to clause 14 of the Subscription Agreement and Article 4.1(e)(iv) of these Articles); or
 - (2) any payments are made pursuant to the terms of the Loan Notes (assuming that all the Loan Notes are repayable on a Sale or Listing whether or not that is the case) or any other loan stock, loan notes or loan capital in the Company while held by the holders of the 'C' Preference Shares prior to their required date of payment pursuant to their terms; or
 - (3) any dividend is paid to the holders of the 'A' Preference Shares; or
 - (4) any amounts referred to in either paragraph (A)(1) or (A)(3) paid prior to a Sale or Listing but after their due date together with any Arrears paid;
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then (such payments being together "the Advanced Receipts") the Sale Value or Listing Value (as appropriate) shall be increased by the figure that represents the Advanced Receipts together with notional interest thereon compounded at 25% per annum, assuming quarterly breaks, from the date that each Advanced Receipt was received as aforesaid to the date of the Sale or Listing (as appropriate);

(g) as regards **redemption**:

- (i) all the 'A' Preference Shares not converted into 'B' Preference Shares pursuant to paragraphs (d) and (e) above on a Sale or Listing before 31 March 1998 ("the Redeeming Shares") shall, subject to the Act, be redeemed in full on the Conversion Date or in the case of Listing as soon as practicable thereafter and in any event within one month thereafter;
- (ii) on the Conversion Date (each registered holder of the Redeeming Shares having already delivered to the Company at its registered office the share certificates for its holding of 'A' Preference Shares in accordance with paragraph (e) above) the Company shall pay to such holder (or, in the case of joint holders, to the holder whose name stands first in the register of members in respect of such shares) the amount due to him in respect of such redemption, provided that, if a registered holder has not delivered such share certificate by the Conversion Date, the Company shall not be obliged to make payment until the day which is seven business days after that delivery has taken place;
- (iii) as a condition of the redemption, there shall be paid on each Redeeming Share the Subscription Price for such share together with a sum equal to any Arrears in respect of such Redeeming Share calculated down to the Conversion Date; and
- (iv) the receipt of the registered holder (or, in the case of joint holders, the holder whose name stands first in the register of members) for the time being of any Redeeming Shares for the monies payable on redemption of such shares shall constitute an absolute discharge to the Company in respect thereof; and

(h) as regards **Directors**:

- (i) the holders of the Majority of the 'A' Preference Shares (excluding the EPEP Funds) held by all such Investors shall have the right to appoint and maintain in office such person (being a person approved by the Board, such approval not to be unreasonably withheld or delayed) as they may nominate to be a director to the Board and to remove any director so appointed and appoint another director in his place (such appointments and removals to be effected by notice in writing to the Company which will take effect on delivery at the registered office of the Company or at any meeting of the Board or committee thereof and shall take effect as if it were a unanimous resolution of the entire Board), provided that at no time will more than one director appointed under this paragraph hold office in the Company;

- (ii) each of the EPEP Funds, subject to paragraph (iii) below, shall have the right to appoint and maintain in office such person (being a person approved by the Board, such approval not to be unreasonably withheld or delayed) ("the EPEP Director") as each of them may nominate to be a director to the Board and to remove any director so appointed and appoint another director in his place (such appointments and removals to be effected by notice in writing to the Company which will take effect on delivery at the registered office of the Company or at any meeting of the Board or committee thereof and shall take effect as if it were a unanimous resolution of the entire Board);
- (iii) the right of each of the EPEP Funds to appoint a director to the Board are conferred jointly and severally on each of the EPEP Funds (unless specifically otherwise provided) and shall be exercised by Electra as manager of each of the EPEP Funds, and only one person at any one time shall be in office in the Company appointed as the EPEP Director and that such person shall be the EPEP Director appointed on behalf of each of the EPEP Funds; and
- (iv) any Investor who has either subscribed or has purchased 'A' Ordinary Shares, Preference Shares and Loan Notes, and the aggregate of the Subscription Price in respect of the shares and the nominal amount of the Mezzanine and issue price of the Special Loan Notes is equal to or exceeds £10 million and who has voted against the appointment of the individual appointed as an Investor Director pursuant to paragraph (h)(i) above (such Investor Director being in office), then such Investor shall, provided that such Investor holds an amount of shares or Loan Notes in respect of which the aggregate Subscription Price and nominal amount (or issue price, if lower) is equal to or in excess of £10 million, have the right to appoint and maintain in office such additional person (being a person approved by the Board, such approval not to be unreasonably withheld or delayed) as it may nominate to be a director to the Board and to remove any director so appointed and appoint another director in his place (such appointments and removals to be effected by notice in writing to the Company which will take effect on delivery at the registered office of the Company or at any meeting of the Board or committee thereof and shall take effect as if it were a unanimous resolution of the entire Board), provided that at no time will more than one director appointed under this paragraph hold office in the Company.

2.3 Preference Shares

The Preference Shares shall entitle the holders thereof to the following rights:

- (a) as regards **capital**:
after payment of the amounts payable under Article 2.2(b) on a return of assets on a liquidation, reduction of capital or otherwise, the holders of Preference Shares shall be entitled (in proportion to the number of Preference Shares held by each of them), in priority to the holders of 'A' Ordinary Shares and Ordinary Shares, to be paid out of the surplus assets of the Company remaining after payment of its liabilities £1 in aggregate for all the Preference Shares then in issue;

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- (b) as regards general meetings, the holders of the Preference Shares shall be entitled to receive notice of and to attend at general meetings of the Company but shall not be entitled to vote upon any resolution.
- (c) as regards **redemption**, the Preference Shares shall, following redemption of the 'C' Preference Shares then in issue and subject to the Act, be redeemed on and subject to the following terms and conditions:
- (i) subject to the right of the Company to redeem Preference Shares pursuant to paragraph (ii) below, all the Preference Shares shall be redeemed at £1 for all such shares by the Company pro rata to the number of Preference Shares held by each holder thereof on 30 September 1999 or, if earlier, on a Sale or Listing (or, in the case of a Listing, as soon as practicable but in any event within one month thereafter);
 - (ii) the Company may at any time by giving not less than 14 days notice in writing to the holders of Preference Shares and with the consent in writing of a Majority of the holders of the Preference Shares at that time redeem the whole or any part of the Preference Shares then outstanding pro rata to the number of Preference Shares held by each holder thereof;
 - (iii) on each Redemption Date, each registered holder of Preference Shares to be redeemed shall deliver to the Company at its registered office the share certificates for such Preference Shares and thereupon the Company shall pay to such holder (or, in the case of joint holders, to the holder whose name stands first in the register of members in respect of such shares) the amount due to him in respect of such redemption and shall issue a new share certificate in respect of any unredeemed Preference Shares comprised in the certificate delivered by him;
 - (iv) the receipt of the registered holder (or, in the case of joint holders, the holder whose name stands first in the register of members) for the time being of any Preference Shares being redeemed for the monies payable on redemption of such shares shall constitute an absolute discharge to the Company in respect thereof.

2.4 'A' Ordinary Shares and Ordinary Shares

The 'A' Ordinary Shares and Ordinary Shares shall entitle the holders thereof to the following rights:

- (a) as regards **dividend**:

after payment of the amounts distributable in any financial year of the Company under Article 2.2(a)(iii), the Company shall apply the balance of any profits which the Directors resolve to distribute in any such year to the holders of the 'A' Ordinary Shares and the Ordinary Shares *pari passu* and pro rata to the number of such shares held by each of them;

(b) as regards capital:

after payment of the amounts payable under Article 2.2(b) on a return of assets on a liquidation, reduction of capital or otherwise, the holders of the 'A' Ordinary Shares and Ordinary Shares shall, subject to the rights of the holders of the Preference Shares, be entitled to share, *pari passu* and *pro rata* to their holdings, in any surplus assets of the Company;

(c) as regards voting in general meetings:

subject to Article 8.2, the holders of the 'A' Ordinary Shares and Ordinary Shares shall be entitled to receive notice of and to attend and vote at general meetings of the Company; on a show of hands every holder of 'A' Ordinary Shares and every holder of Ordinary Shares who (being an individual) is present in person or by proxy or (being a corporation) is present by a duly authorised representative or by proxy shall have one vote and on a poll every holder of 'A' Ordinary Shares so present shall have one vote for each 'A' Ordinary Share held by him and every holder of Ordinary Shares so present shall have one vote for each Ordinary Share held by him;

(d) as regards redemption:

- (i) the 'A' Ordinary Shares may, subject to the Act, be redeemed at a redemption price of £1 for all such shares to be redeemed at the same time as any 'A' Preference Shares are redeemed out of the distributable profits of the Company;
- (ii) if any 'A' Ordinary Shares are to be redeemed, the Company shall give the holders not less than 28 days' written notice of the number to be redeemed, and that notice shall specify the place and date of redemption. Upon redemption the holders of the 'A' Ordinary Shares redeemed will be paid, for value on the date of redemption, the redemption proceeds, against delivery by them of the relevant share certificates to the Company for cancellation.

2.5 Unless the Company is prohibited by law and subject to the terms of the Banks' Facility, the 'C' Preference Dividend shall (subject to Article 2.2(a)(i)) (notwithstanding Regulations 102 to 108 inclusive or any 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.

2.6 The Company shall so far as it is able (and subject to the terms of the Banks' Facility) procure that each of its subsidiaries which has profits available for distribution shall from time to time declare and pay to the Company such dividends to the extent possible as are necessary to permit lawful and prompt payment by the Company of the 'C' Preference Dividend and any Arrears in respect of the 'C' Preference Shares, and the lawful and prompt redemption of the 'C' Preference Shares, the 'A' Preference Shares, the Preference Shares and 'A' Ordinary Shares in accordance with these Articles.

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- 2.7 Subject to the Act and to obtaining any consent that may be required by the terms of these Articles (and subject to the terms of the Banks' Facility), and provided it is a private company, the Company shall be authorised to make a payment in respect of the redemption or purchase of any of its own shares otherwise than out of distributable profits of the Company or the proceeds of a fresh issue of shares and may, by special resolution, reduce its share capital and any capital redemption reserve or share premium account.
- 2.8 All payments of dividends and redemption of shares shall be subject to the terms of the Banks' Facility and the Inter-Creditor Agreement.

3. ISSUE OF SHARES AND WARRANTS

- 3.1 Subject to the provisions of the Act and Article 16 and the provisions of the Banks' Facility, all unissued shares shall be at the disposal of the Directors and they may allot, grant rights, options or warrants to subscribe or otherwise dispose of them to such persons, at such times, and on such terms as they think proper.
- 3.2 The Company may issue a share warrant with respect to any fully paid share in accordance with the terms of issue of the share or at the request in writing of the holder. Any such request shall be in such form as the Directors may require and the Directors may refuse any such request. Before the issue of a share warrant on the application of a shareholder, the certificate (if any) for the shares intended to be included in it shall be delivered up to the Directors and the applicant shall pay to the Company the amount of any stamp duty chargeable on such warrant.
- 3.3 Every share warrant shall be executed on behalf of the Company in the same way as a share certificate, shall specify the number and class of shares to which it relates and shall state that the bearer is entitled to the shares to which it relates.
- 3.4 Subject to the provisions of the Act and of these Articles the bearer of a share warrant shall be deemed to be a member of the Company and shall be entitled to the same rights and privileges as if his name were included in the register of members as the holder of the shares included in the warrant.
- 3.5 The Directors may provide by coupons or otherwise for the payment of dividends or other moneys on the shares included in a share warrant. Except in a case where an address has been notified to the Company under Article 3.11 below, the Company shall advertise the dividend or other payment in such manner as the Directors consider appropriate.
- 3.6 Except as required by law, the Company, notwithstanding any notice or knowledge it may receive or have, shall not be bound by or recognise any interest in respect of the shares included in a share warrant, except the right of the bearer to the shares included in the share warrant and of the bearer of any coupon to the dividend payable in respect of it.
- 3.7 The shares included in any share warrant shall be transferred by the delivery of the warrant without any written transfer and without registration and none of the other provisions of these articles relating to the transfer of, and to the lien of the Company on, shares shall apply to any such transfer.
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- 3.8 If a share warrant or coupon 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 warrant or coupon.
- 3.9 Upon surrender to the Company of his share warrant for cancellation with all unpaid coupons (if any), accompanied by such evidence of his identity as the Directors may require, the bearer of a share warrant shall be entitled to have his name entered as a member in the register of members in respect of the shares included in the warrant. The Company shall not be responsible for any loss incurred by any person by reason of the Company entering in the register of members, upon the surrender of a warrant, the name of any person who is not the true and lawful owner of that warrant.
- 3.10 The bearer of a share warrant shall not be entitled, in respect of the shares to which the warrant relates:
- (a) except as provided in Article 3.11 below, to notice of any general meeting or of any separate general meeting of the holders of any class of shares in the Company; or
 - (b) to attend or to vote at any general meeting or at any such separate general meeting or to exercise any other right conferred by membership in relation to meetings of the Company unless:
 - (i) not less than 48 hours before the time appointed for the meeting he deposits the share warrant at the office, or at such other place as is specified in accordance with the articles for the deposit of instruments of proxy, together with a statement in writing of his name and address, but not more than one name shall be received as that of the bearer of a share warrant; and
 - (ii) the share warrant remains so deposited until after the meeting (or any adjourned meeting) has been held.

The Company shall deliver to the person so depositing a share warrant a certificate stating his name and address and the shares represented by the share warrant so deposited by him and that certificate shall entitle him to attend and to vote at any general meeting or separate general meeting in the same way as if he were the registered holder of the shares specified in the certificate. Upon delivery up of that certificate to the Company, the share warrant in respect of which it was issued shall be returned.

- 3.11 The bearer of a share warrant may from time to time notify the Company of an address in the United Kingdom at which, during the period of six months following any such notification, notice of any general meeting or separate general meeting of the holders of any class of shares in the Company and any other notice (including notice of any dividend or other moneys becoming payable in respect of the shares included in the warrant) may be given to him and if he does so he shall be entitled to have notices given to him at that address.

The Directors may from time to time require any person who gives, or has given, an address in the United Kingdom at which notices may be served on him, to produce his share warrant and

to satisfy them that he is, or still is, the bearer of the share warrant in respect of which he gives or gave the address.

- 3.12 Except as stated above the bearer of a share warrant shall not be entitled to exercise any of the rights or privileges of a member without producing the warrant and stating his name and address.

4. TRANSFER OF SHARES

- 4.1 Subject to the provisions of Regulation 24 any shares other than US Preference Shares may at any time be transferred:

- (a) to any person approved by the holders of the Majority of the 'A' Ordinary Shares and by the Directors (which approval may in either such case be granted unconditionally or subject to terms or conditions and in the latter case any share so transferred shall be held subject to such terms and conditions notified in writing to the transferee prior to registration of the transfer, provided that no such approval may waive any obligations to make an offer under Article 9.1); or
 - (b) by any individual member or by any company the shares of which are held by Family Trusts to trustees to be held upon Family Trusts related to such individual member; or
 - (c) by any member being a company (not being in relation to the shares concerned a holder thereof as a trustee of any Family Trusts) to a Member of the same Group as the Transferor Company; or
 - (d) by any person entitled to shares in consequence of the death or bankruptcy of an individual member to any person or trustee to whom such individual member, if not dead or bankrupt, would be permitted hereunder to transfer the same; or
 - (e) by a member which is an investment fund or is a member in the capacity of a custodian or nominee of an investment fund:
 - (i) to any nominee or custodian for such fund and vice versa;
 - (ii) to any unitholder, shareholder, partner, participant, fund manager or investment adviser (or an employee of such manager or investment adviser) in any such fund pursuant to such fund's structural documentation;
 - (iii) to any other investment fund managed or advised by the same fund manager or investment adviser of or to the transferor; or
 - (iv) for a period of three months after the date of the adoption of these Articles to any Financial Institution; or
 - (f) to a nominee or to a Member of the same Group of any of the persons referred to in sub-paragraphs (i), (ii) or (iii) of paragraph (e) above; or
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- (g) as permitted or required in accordance with the terms of clauses 8, 10 or 14 of the Subscription Agreement; or
 - (h) to Employee Trustees.
- 4.2 Where shares have been transferred under Article 4.1 or under paragraphs (a) or (b) of this Article to trustees of Family Trusts or shares are held by Family Trusts or have been subscribed by Family Trusts, or are held by a company the shares of which are held by Family Trusts, the trustees and their successors in office or such a company may (subject to the provisions of Article 4.1) transfer all or any of the Relevant Shares:
- (a) to the trustees for the time being of the Family Trust concerned on any change of trustees;
 - (b) to the trustees for the time being of any other trusts being Family Trusts in relation to the same individual member or former individual member or settlor (who is or was a director or employee of the Company) pursuant to the terms of such Family Trusts or pursuant to any discretion vested in the trustees thereof or any other person; or
 - (c) to the Relevant Member or former member or any Privileged Relation of the Relevant Member or deceased or former member who has thereby become entitled to the shares proposed to be transferred on the total or partial termination of or pursuant to the terms of the Family Trusts concerned or in consequence of the exercise of any such power or discretion as aforesaid.
- 4.3 If and whenever any of the Relevant Shares in relation to a Family Trust come to be held otherwise than upon such Family Trust or by a company the shares of which are held by such Family Trust, except in circumstances where a transfer thereof is authorised pursuant to Article 4.2 to be and is to be made to the person or persons entitled thereto, it shall be the duty of the trustees or the company holding such shares to notify the Directors in writing that such event has occurred and the trustees or company shall be bound, if and when required in writing by the Directors so to do, to give a Transfer Notice in respect of the shares concerned.
- 4.4 If a Transferee Company ceases to be a Member of the same Group as the Transferor Company from which (whether directly or by a series of transfers under Article 4.1(c)) the Relevant Shares derived it shall be the duty of the Transferee Company to notify the Directors in writing that such event has occurred and (unless the Relevant Shares are thereupon transferred to the Transferor Company or a Member of the same Group as the Transferor Company, any such transfer being deemed to be authorised under the foregoing provisions of this Article) the Transferee Company shall be bound, if and when required in writing by the Directors so to do, to give a Transfer Notice in respect of the Relevant Shares.
- 4.5 The Directors shall, unless the proposed transferee is already a party to the Subscription Agreement or the transfer is made pursuant to an Offer (as defined in Article 9.1), or pursuant to a Sale or Listing refuse to register the proposed transferee until he or it has validly executed a Deed of Adherence or a Syndicate Agreement if required by the Subscription Agreement and an original copy of such deed or agreement has been delivered to the Company.
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- 4.6 Where shares have been transferred under Article 4.1 or under paragraphs (a) or (b) of this article to Employee Trustees or shares are held by Employee Trustees or have been subscribed by Employee Trustees, the Employee Trustees and their successors in office may transfer all or any of the shares held by the Employee Trustees:
- (a) to the trustees for the time being of The Cheese Company Employee Share Trust, on any change of trustees;
 - (b) to the trustees for the time being of any other trust being a trust established by the Company for the benefit of employees of the Company and or any of its subsidiaries; or
 - (c) to the beneficial owner of any of the shares in accordance with the terms of the Trust Deed constituting The Cheese Company Employee Share Trust.
- 4.7 Nothing in these Articles shall prohibit the acquiring of an interest in any shares of the Company by any person if a transfer of the shares to that person would have been a Permitted Transfer.

5. PRE-EMPTION ON TRANSFER

- 5.1 Except in the case of a Permitted Transfer, the right to transfer shares or to grant or dispose of any interest in shares in the Company shall be subject to the following restrictions and provisions. References in this Article 5 to transferring shares or Sale Shares shall include the transfer of any interest in and the grant of contractual rights or options over or in respect of shares in the Company, provided that the provisions of this Article 5 shall not apply to an interest in any shares held by the Employee Trustee if the interest is acquired or disposed of in accordance with or pursuant to the Trust Deed constituting The Cheese Company Employee Share Trust, or to the acquisition of an interest permitted by Article 4.7.
- 5.2 Any person ("the Proposing Transferor") proposing to transfer any shares in the capital of the Company ("the Sale Shares") shall be required before effecting, or purporting to effect the transfer, to give a notice in writing to the Company that he desires to transfer the Sale Shares and shall state in such Transfer Notice the identity of the person (if known) to whom the Proposing Transferor desires to transfer the beneficial interest in the Sale Shares. The Transfer Notice shall constitute the Company his agent for the sale of the Sale Shares (together with all rights then attached thereto) at the Prescribed Price (as determined in accordance with Articles 5.3 and/or 5.4) during the Prescribed Period (as defined in Article 5.5) to any member or to any other person selected or approved by the Directors on the basis set out in the following provisions of these Articles and shall not be revocable except with the consent of the Directors and the holders of the Majority of the 'A' Preference Shares.
- 5.3 The Prescribed Price (subject to the deduction therefrom, where the Prescribed Price has been agreed with the Directors, of any dividend or other distribution declared or made after such agreement and prior to the date on which the Transfer Notice was given ("the Notice Date")) shall be the higher of:
- (a) the price per Sale Share agreed not more than one month before the Notice Date between the Proposing Transferor and the Directors; and
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- (b) the price per Sale Share contained in a bona fide offer received from a third party by the Proposing Transferor not more than one month before the Notice Date and which remains open for acceptance in respect of the Sale Shares until at least seven days after the last date for compliance with the pre-emption provisions contained in this Article 5 (but subject to the right of the Directors to satisfy themselves that such offer is bona fide, is for the consideration stated in the offer without any deduction, rebate or allowance whatsoever to the purchaser and is so open for acceptance);

provided that, if in respect of the relevant proposed transfer Article 9 is applicable, the Prescribed Price shall be determined in accordance with Article 9.

- 5.4 If, prior to the giving of the Transfer Notice, the Prescribed Price shall not have been agreed or determined in accordance with Article 5.3, upon the giving of the Transfer Notice the Directors shall refer the matter to the Auditors and the Auditors shall determine and certify the price per Sale Share considered by them to be the fair value thereof as at the Notice Date and the price per Sale Share so determined and certified shall be the Prescribed Price. The Auditors shall act hereunder at the cost and expense of the Company (except if the Prescribed Price certified by them is less than the price suggested by the Directors, in which case they shall act at the cost and expense of the Proposing Transferor) as experts and not as arbitrators and their determination as set out in their certificate shall be final and binding on all persons concerned and, in the absence of fraud, they shall be under no liability to any such persons by reason of their determination or certificate or by anything done or omitted to be done by them for the purpose thereof or in connection therewith.
 - 5.5 If the Prescribed Price was agreed as provided in Article 5.3, the Prescribed Period shall commence on the Notice Date and expire 12 weeks thereafter. If the Prescribed Price is to be determined in accordance with Article 5.4, the Prescribed Period shall commence on the Notice Date and shall expire two months after the date on which the Auditors shall have notified the Directors of their determination of the Prescribed Price. Pending such determination the Directors shall defer the making of the offer mentioned in Article 5.6.
 - 5.6 On receipt by the Company of a Transfer Notice the Directors shall as soon as practicable give notice to all the holders of shares in the Company (other than the Proposing Transferor) of the number and description of the Sale Shares and the Prescribed Price and any restrictions on transfer imposed by the Subscription Agreement. The notice shall invite each of the holders to state in writing to the Company within 28 days whether he is willing to purchase any, and if so, what maximum number ("Maximum"), of the Sale Shares. The Directors shall at the same time give a copy of the notice to the Proposing Transferor.

A Person who expresses a willingness to purchase Sale Shares is referred to below as a "Purchaser".
 - 5.7 At the expiration of the 28 day period the Directors shall allocate the Sale Shares to or amongst the Purchasers and such allocation shall be made so far as practicable as follows:
 - (a) if the Sale Shares are Ordinary Shares they shall be allocated in the following order among Purchasers:
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- (i) to the Ordinary Shareholders;
- (ii) to the 'A' Ordinary Shareholders;
- (iii) to the Preference Shareholders;

if the Sale Shares are 'A' Ordinary Shares they shall be allocated in the following order among Purchasers:

- (i) to the 'A' Ordinary Shareholders;
- (ii) to the Preference Shareholders;
- (iii) to the Ordinary Shareholders;

if the Sale Shares are Preference Shares, they shall be allocated in the following order among Purchasers:

- (i) to the Preference Shareholders;
- (ii) to the 'A' Ordinary Shareholders;
- (iii) to the Ordinary Shareholders;

- (b) each allocation between the holders of any class shall in the case of competition be made pro rata to the nominal amount of shares of that class held by him but shall not exceed the Maximum which such holder shall have expressed a willingness to purchase;
- (c) Sale Shares shall only be allocated to Purchasers who are holders of a class of shares different to the Sale Shares to the extent that any remain unallocated after satisfaction of the Maximum of holders of the class(es) of shares entitled to a prior allocation; and
- (d) if the Transfer Notice shall state that the Proposing Transferor is not willing to transfer part only of the Sale Shares (which the Proposing Transferor shall not be entitled to do if he is required by virtue of any provision of these Articles other than this Article 5 to give a Transfer Notice), no allocation will be made unless all the Sale Shares are allocated.

5.8 On the allocation being made, the Directors shall give notice of the allocation in writing to the Proposing Transferor and each holder who has stated his willingness to purchase and, on the seventh day after such details are given, the holders to whom the allocation has been made shall be bound to pay the aggregate Prescribed Price for, and to accept a transfer of, the Sale Shares allocated to them respectively and the Proposing Transferor shall be bound, on payment of the aggregate Prescribed Price, to transfer the Sale Shares to the respective Purchasers.

5.9 Any shares not allocated to any of the members pursuant to the foregoing provisions of these Articles may be offered by the Directors to such persons as they may think fit for purchase at the Prescribed Price.

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- 5.10 If a Proposing Transferor shall fail or refuse to transfer any Sale Shares to a Purchaser(s) hereunder the Directors may authorise some person to execute and deliver on his behalf the necessary transfer and the Company may receive the purchase money in trust for the Proposing Transferor and cause the Purchaser(s) to be registered as the holder(s) of such shares. The receipt by the Company for the purchase money shall constitute a good discharge to the Purchaser(s) (who shall not be bound to see to the application thereof) and after the Purchaser(s) has been registered in purported exercise of the aforesaid powers the validity of the proceedings shall not be questioned by any person. The Company shall not pay the purchase money to the Proposing Transferor until he shall have delivered his share certificate(s) or a suitable indemnity and the necessary transfers to the Company.
- 5.11 If the Company shall not within the Prescribed Period find a Purchaser(s) willing to purchase any or all of the Sale Shares and gives notice in writing thereof to the Proposing Transferor, or if the Company shall within the Prescribed Period give to the Proposing Transferor notice in writing that the Company has in the opinion of the Board no prospect of finding a Purchaser(s), the Proposing Transferor at any time during a period of 90 days after the end of the Prescribed Period shall be at liberty (subject only to the provisions of Regulation 24) to transfer those Sale Shares for which the Company has not within the Prescribed Period given notice that it has found (or has given notice that it has no prospect of finding) Purchasers to any person by way of a bona fide sale at any price not being less than the Prescribed Price (after deducting, where appropriate, any dividend or other distribution declared or made after the date of the Transfer Notice and to be retained by the Proposing Transferor) provided that:
- (a) if the Transfer Notice shall state that the Proposing Transferor is not willing to transfer part only of the Sale Shares he shall only be entitled to transfer all the unsold Sale Shares under this Article; and
 - (b) the Directors may require to be satisfied that the Sale Shares are being transferred under this Article pursuant to a bona fide sale for the consideration stated in the Transfer Notice without any deduction, rebate or allowance whatsoever to the Purchaser and if not so satisfied may refuse to register the instrument of transfer.
- 5.12 A transfer of any shares under an offer made in accordance with Article 9.1 shall not be restricted by this Article 5 which accordingly will not apply to the Offer under Article 9.1.
- 5.13 The provisions of Article 4 and this Article 5 shall not apply to the transfer of any US Preference Shares or of any interest in those shares, which shall only be transferred with the consent of the Directors and the holders of the Majority of the 'A' Preference Shares.
- 6. BARE NOMINEES AND ENCUMBRANCES**
- 6.1 For the avoidance of doubt and without limitation, no share (other than any share so held on the date following the date of the adoption of these Articles or issued or transferred within three months from the date following the date of the adoption of these Articles to a bare nominee of a Financial Institution) shall be held by any member as a bare nominee for and no interest in any share shall be sold to any person unless a transfer of such share to such person would rank as a Permitted Transfer. If the foregoing provision shall be infringed the holder of such share shall
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be bound to give a Transfer Notice in respect thereof and the Prescribed Price shall be fair value determined in accordance with Article 5.4.

- 6.2 No share in the Company may be encumbered in any way without the consent of the Company and the holders of the Majority of the 'A' Preference Shares.

7. COMPULSORY TRANSFERS - GENERAL

- 7.1 A person entitled to a share in consequence of the bankruptcy of a member shall be bound at any time, if and when required in writing by the Directors so to do, to give a Transfer Notice in respect of such share.
- 7.2 If a share remains registered in the name of a deceased member for longer than one year after the date of his death the Directors may require the legal personal representatives of such deceased member either to effect a transfer of such shares (including for such purpose an election to be registered in respect thereof) being a permitted Transfer or to show to the satisfaction of the Directors that a Permitted Transfer will be effected up to or promptly upon the completion of the administration of the estate of the deceased member or (failing compliance with either of the foregoing within one month or such longer period as the Directors may allow for the purpose) to give a Transfer Notice in respect of such share.
- 7.3 If a member which is a company either suffers or resolves for the appointment of a liquidator, administrator, receiver or administrative receiver over it or any material part of its assets, such member shall forthwith at the request of the Directors be required to give a Transfer Notice in respect of all of the shares held by such member and the Prescribed Price shall be fair value determined in accordance with Article 5.4.
- 7.4 If there is a change in control (as control is defined in section 840 of the Income and Corporation Taxes Act 1988) of any member who is a company (other than a Financial Institution or a nominee or custodian of a Financial Institution) or a Permitted Transferee of such a member, it and each of its Permitted Transferees shall be bound at any time, if and when required in writing by the Directors so to do, to give (or procure the giving in the case of a nominee) a Transfer Notice in respect of all the shares registered in its and their names and their respective nominees' names and the Prescribed Price shall be fair value determined in accordance with Article 5.4.

8. COMPULSORY TRANSFERS - MANAGEMENT SHAREHOLDERS

- 8.1 Subject to Article 8.4, in the case of a Relevant Executive ceasing to be a Relevant Executive at any time before the date of a Sale or Listing, then within 12 months after such cessation, the Directors may serve notice on all Relevant Members in respect of that Relevant Executive requiring all such Relevant Members to give a Transfer Notice (as defined in Article 5), but subject to Articles 8.2 and 8.5, in respect of all or some only of the Ordinary Shares held by such Relevant Members. If such Relevant Executive:
- (a) shall have ceased to be a Relevant Executive as a result of death or ill health or on retirement age, or on being made redundant by the Company or on being wrongfully dismissed by the Company, then the price per share shall be either the value agreed as

referred to in Article 5.3(a), or, if not agreed, fair value as determined in accordance with Article 5.4; or

- (b) shall have ceased to be a Relevant Executive in circumstances entitling the Company to give summary notice to the Relevant Executive in accordance with his service agreement or the terms of his service, for the aggregate price of £1; or
- (c) shall have ceased to be a Relevant Executive for any other reason than those reasons specified in paragraphs (a) and (b) above, then the price per share shall be the lower of fair value as determined in accordance with Article 5 and the Subscription Price for such shares.

- 8.2 In any circumstance falling within Article 8.1(a) above the Transfer Notice required to be served under the provisions of that Article shall not apply to that proportion (expressed as a percentage) of the Relevant Members' Ordinary Shares as the proportion of time elapsed at the time of cessation under Article 8.1(a) (calculated on a daily basis) since the adoption of these Articles bears to five years from the date of that adoption up to a maximum of 80% (pro rata in respect of each Relevant Member), except that any Ordinary Shares to which such Transfer Notice does not apply shall not, for so long as they are held by the Relevant Members or any Permitted Transferee (unless a Permitted Transferee by virtue of Article 4.1(a)) of the Relevant Members, carry the right to attend or vote at general meetings of the Company.
- 8.3 If the holders of the Majority of the 'A' Preference Shares so require (having first consulted with the Directors), or the Directors so decide with the consent of the Majority of the holders of the 'A' Preference Shares all or any part of the Sale Shares under a Transfer Notice given pursuant to Article 8 shall (in priority to the procedure in Article 5) be offered to one or more new or continuing Relevant Executives or subject to the Act shall be purchased by the Company for the purpose of subsequent issue, or by any member for subsequent transfer to a new or continuing Relevant Executive nominated in writing to the Company by the holders of the Majority of the 'A' Preference Shares, or otherwise in accordance with the Subscription Agreement.
- 8.4.1 This Article 8.4 applies if the Relevant Executive is Simon Oliver and Article 8.1 applies (or would but for this Article apply) to him and his Relevant Members.
- 8.4.2 If the consultancy services agreement referred to in the definition of the Service Agreements in the Subscription Agreement is terminated by the Company, the giving of such notice of which is in breach of that agreement, then paragraph (a) of Article 8.1 shall apply.
- 8.4.3 If that consultancy services agreement is terminated in circumstances involving a breach by Ashton Associates or Simon Oliver of that agreement entitling the Company to terminate the agreement by summary notice, then paragraph (b) of Article 8.1 shall apply.
- 8.4.4 If that consultancy agreement is terminated in any other circumstances, paragraph (c) of Article 8.1 shall apply.
- 8.4.5 If Article 8.1 applies in relation to Simon Oliver, the number of Ordinary Shares in respect of which the Relevant Members in respect of Mr Oliver may be required to give a Transfer Notice shall not exceed two-thirds of their respective holdings, and the percentage for the purposes of
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Article 8.2, if applicable, shall be the percentage of two-thirds of the Relevant Member's holding rather than of his whole holding.

8.5 The words "Ordinary Shares" in this Article shall be deemed to include 'B' Preference Shares.

9. ACQUISITION OF CONTROL AND SALE PREFERENCE

9.1 Subject to Article 9.4 and 9.3.2, no acquisition of and no sale or transfer of, or of any interest in, any shares ("Specified Shares") conferring the right to vote at general meetings of the Company which would result, if made, in a person or persons ("Acquiring Member"), whether alone or in concert (as such expression is defined in the City Code on Takeovers and Mergers) ("concert party") with any person(s), becoming interested in shares representing 25% or more of the Ordinary Share Capital or, in the case of such a person or persons being so interested, such person or persons subsequently becoming interested in shares representing a further 2% or more of the Ordinary Share Capital, unless the provisions of this Article are complied with. If the Acquiring Member is not a member of the Company, the member of the Company through which the interest of the Acquiring Member exists shall also be an Acquiring Member and be bound accordingly. That is:

- (a) the Acquiring Member shall give notice to the Company of the shares in the Company in which the Acquiring Member and the concert parties are interested and of any past or proposed acquisitions of interests in Ordinary Share Capital, including the dates thereof and the prices paid or to be paid and all other terms;
 - (b) subject to the following provisions of this Article, the Acquiring Member shall make an offer ("Offer") in writing at the Requisite Price (as defined below) to all other members holding Ordinary Share Capital on terms and in a manner approved by the Majority Investors, and if, assuming the Offer becomes unconditional, and so a Sale occurs, upon Conversion the 'A' Preference Shares to be converted will represent less than 80% of the 'B' Preference Shares immediately following Conversion, approved also by the Board;
 - (c) the Offer shall otherwise be (unless in the case of any particular member, as regards his holding, he agrees otherwise) on at least as favourable terms as the terms on which the Acquiring Member or a concert party shall have acquired an interest in any Ordinary Share Capital in the period of 12 months preceding the date of the Offer or is proposing to acquire an interest in shares at any other time after the notice referred to in (a) above;
 - (d) the Offer shall be open for acceptance by the holders of Ordinary Share Capital for at least 21 days from the date of the determination of the Requisite Price and shall be for all the Ordinary Share Capital of the Company (other than that held by the Acquiring Member) and, if a Sale results prior to 31 March 1998, shall comprise an offer at the Requisite Price for the 'B' Preference Shares assuming Conversion (and not 'A' Preference Shares if that would otherwise be the case); and
 - (e) any Offer shall not, unless otherwise agreed by the Directors and the holders of the Majority of the 'A' Preference Shares, have any conditions attached to acceptance of it (save for a condition that the Offer is conditional on an Acquiring Member or concert
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party receiving acceptances in respect of Ordinary Share Capital representing over 50% of the Ordinary Shares following Conversion, failing satisfaction of which the Acquiring Member shall not be entitled to make the acquisition which resulted in, or would otherwise result, in the requirement for the Offer to be made).

9.2 The "Requisite Price" shall be not less than:

- (a) if the Acquiring Member or concert party shall have acquired an interest in any Ordinary Share Capital within the period of 12 months preceding the date of the Offer, the highest price per share paid by the Acquiring Member or concert party during that period, or, if higher, if the Acquiring Member has any arrangement or agreement or understanding ("arrangement") to acquire any Ordinary Share Capital in the future, at a price per share proposed to be paid under that arrangement; or
- (b) if paragraph (a) above does not apply and the Acquiring Member has an arrangement, at the price per share proposed to be paid under it as mentioned in (a).

9.3.1 If on the first closing date of the Offer a Sale has occurred and:

- (a) any holder of Ordinary Share Capital shall have failed to accept the Offer by the first closing date ("the Defaulting Shareholder"), each such Defaulting Shareholder shall be deemed to have accepted the Offer and the Acquiring Member shall be bound to purchase his Ordinary Share Capital and the Defaulting Shareholder shall be bound to sell it pursuant to the Offer and the Defaulting Shareholder hereby irrevocably appoints the Company as his agent to complete the sale; and
- (b) the Directors or the holders of the Majority of the 'A' Preference Shares as at the time immediately prior to Conversion may authorise some person to execute a form of acceptance on behalf of such Defaulting Shareholder in relation to the Offer and/or transfers in favour of the Acquiring Member (or such person as he may nominate) pursuant to the acceptance of the Offer; the consideration will be paid by the Acquiring Member to the Company and will be received by the Company on behalf of such Defaulting Shareholder. Upon the Company receiving such consideration and transfer, the Acquiring Member or such person as it may nominate shall be entered in the register of members of the Company. The certificates in respect of any shares so transferred, in the name of the Defaulting Shareholder shall be cancelled and a new certificate shall be issued in the name of the Acquiring Member or its nominee. The receipt by the Company of the consideration on behalf of and on trust for the Defaulting Shareholder shall constitute a good discharge to the Acquiring Member, who shall not be bound to see to the application thereof. The Company will only be bound to pay such consideration to a Defaulting Shareholder entitled thereto if he shall have delivered his share certificates or a suitable indemnity and, if required by the Company, the necessary transfer to the Company. Pending such payment, the Company shall hold the said consideration on behalf of any such Defaulting Shareholder in a separate bank account on trust for the Defaulting Shareholder.

9.3.2 The provisions of this Article 9 shall not apply in the case of any acquisition of an interest in Ordinary Share Capital pursuant to an offer to all holders of Ordinary Share Capital generally which is and to the extent such disapplication is approved in advance by the holders of the

Majority of the 'A' Preference Shares, the holders of the Majority of the 'B' Preference Shares and the Directors.

- 9.3.3 Any transfer pursuant to an offer referred to in this Article shall not be restricted by Article 5 which shall not apply thereto.
- 9.4 Article 9.1 shall not apply to any Acquiring Member who would otherwise be an Acquiring Member if that person or persons is the holder of 'A' Preference Shares at the date of the adoption of these Articles or a Permitted Transferee of such person or persons by virtue of Article 4.1(e) or (f).
- 9.5 The Directors may require to be satisfied that the shares acquired by the Acquiring Member in the period referred to in Article 9.1 or to be acquired under any arrangement were acquired or to be acquired bona fide on an arm's length basis for the consideration stated in the transfer or arrangement without any deduction rebate or allowance whatsoever to the purchaser and if not so satisfied may require a price to be agreed or determined in accordance with Articles 5.3 or 5.4.
- 9.6 If the Acquiring Member shall fail to offer for (or, if and to the extent that the offer is accepted, complete the purchase of) the shares held by other members in accordance with the terms of this Article 9 he (and any member with whom he is acting in concert as provided in Article 9.1) shall cease to have any rights to vote or to dividends or any other entitlements in respect of all the shares held by him and the Directors may refuse to register the transfer of the shares acquired by the Acquiring Member which would give rise to the obligations under Article 9.1 and may require the Acquiring Member to serve a Transfer Notice in accordance with Article 5 in respect of all or any of the shares held by him.
- 9.7 In the event of a Sale at an aggregate price (including redemption monies payable on redemption of the 'C' Preference Shares) which would result in the holders of the 'C' Preference Shares and the 'A' Preference Shares receiving less than the Subscription Price on such shares by way of sale and/or redemption and the amount of any Arrears and other amounts due or owing thereon, the total of any cash received in respect of the shares that are the subject of the Sale shall be reallocated between the holders of such shares so as to ensure the following order of application of the aggregate sale proceeds as follows:
- (a) first, in paying to the holders of any 'C' Preference Shares that are unredeemed and outstanding the Subscription Price on all such shares together with all Arrears and other amounts due or owing thereon; and
 - (b) secondly, in paying the balance pro rata to the holders of the 'A' Preference Shares and the holders of the 'B' Preference Shares.

10. INFORMATION CONCERNING SHAREHOLDINGS AND TRANSFERS

- 10.1 For the purpose of ensuring that a transfer of shares is a Permitted Transfer or that no circumstances have arisen whereby a Transfer Notice is or may be required to be given hereunder or to be satisfied that any proposed sale is bona fide and on the terms stated etc. the Directors may from time to time require any member or the legal personal representatives of any deceased member or any person named as transferee in any transfer lodged for registration to furnish to the Company such information and evidence as the Directors may think fit
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regarding any matter which they may deem relevant to such purpose. Failing such information or evidence being furnished to the satisfaction of the Directors within a reasonable time after such requirement being made, the Directors shall be entitled to refuse to register the transfer in question or (if no transfer is in question) to require by notice in writing that a Transfer Notice be given in accordance with Article 5 in respect of the shares concerned.

- 10.2 In a case where the Directors have duly required a Transfer Notice to be given in respect of any shares and such Transfer Notice is not duly given within a period of one month, or such longer period as the Directors may allow for the purpose, such Transfer Notice shall (except and to the extent that a Permitted Transfer of any of such shares shall have been made) be deemed to have been given on such date after the expiration of the said period as the Directors may by resolution determine and the foregoing provisions of these Articles shall take effect accordingly.
- 10.3 From (and including) the date on which the Directors have duly required a Transfer Notice(s), all holders of shares the subject of such Transfer Notice(s) shall not transfer or encumber any of their shares or any interest in their shares (other than pursuant to such Transfer Notice(s)) until all proceedings pursuant to such Transfer Notice(s) have been finalised in accordance with these Articles.

11. PROCEEDINGS AT GENERAL MEETINGS

- 11.1 A poll may be demanded at any general meeting by the chairman or by any member present in person or by proxy and entitled to vote. Regulation 46 shall be modified accordingly.
- 11.2 A resolution in writing executed or approved by telegram, telefax or telex by or on behalf of the holders of all the issued Ordinary Share Capital and, in a case where the holders of the 'C' Preference Shares (or any of them) is entitled to vote in respect of such holding, by such holder or holders, shall be as valid and effectual as if the same had been duly passed at a general meeting and may consist of several documents in the like form, each executed by or on behalf of one or more persons. In the case of a corporation, the resolution may be signed on its behalf by a Director or the Secretary thereof or by its duly appointed attorney or duly authorised representative. Regulation 53 shall be modified accordingly.

12. ALTERNATE DIRECTORS

- 12.1 Any Director (other than an alternate Director) may at any time by writing under his hand and served on the Company at its registered office, or delivered at a meeting of the Directors, appoint any other Director, or any other person approved by resolution of the Directors and willing to act, to be an alternate Director and may remove from office an alternate Director so appointed by him. The same person may be appointed as the alternate Director of more than one Director.
- 12.2 An alternate Director shall be entitled:
- (a) to receive notice of all meetings of Directors and of all meetings of committees of Directors of which his appointor is a member, save that it shall not be necessary to give notice of such meeting to an alternate Director who is absent from the United Kingdom;
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- (b) to attend, be counted in the quorum for and vote at any such meeting at which the Director appointing him is not personally present; and
- (c) generally at such meeting to perform all the functions of his appointor as a Director in his absence.

If an alternate Director is himself a Director or attends any such meeting as an alternate Director for more than one Director, then his voting rights shall be cumulative.

- 12.3 An alternate Director shall cease to be an alternate Director if his appointor ceases to be a Director; but, if a Director retires but is reappointed or deemed to have been reappointed at the meeting at which he retires, any appointment of an alternate Director made by him which was in force immediately prior to his retirement shall continue after his reappointment.
- 12.4 Any appointment or removal of an alternate Director shall be by notice to the Company signed by the Director making or revoking the appointment or in any other manner approved by the Directors.
- 12.5 An alternate Director shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the Director appointing him, except in relation to matters in which he acted (or failed to act) on the direction or at the request of his appointor.
- 12.6 Save as otherwise provided in these Articles, an alternate Director shall not have power to act as a Director nor shall he be deemed to be a Director for the purposes of these Articles. However, such an alternate Director shall owe the Company the same fiduciary duties and duty of care and skill in the performance of his office as are owed by a Director.
- 12.7 An alternate Director shall be entitled to contract and be interested in and benefit from contracts or arrangements or transactions and to be repaid expenses and to be indemnified to the same extent *mutatis mutandis* as if he were a Director but he shall not be entitled to receive from the Company in respect of his appointment as alternate Director any remuneration except only such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company from time to time direct.
- 12.8 Regulations 65 to 69 shall not apply.

13. DIRECTORS

- 13.1 The Directors shall not be subject to retirement by rotation. Regulations 73 to 75 and the last two sentences of Regulation 79 shall not apply and Regulations 76, 77, 78 and 80 shall be modified accordingly.
 - 13.2 Without prejudice to the first sentence of Regulation 89, a meeting of the Directors or of a committee of the Directors may consist of a conference between Directors who are not all in one place, but of whom each is able (directly or by telephonic communication) to speak to each of the others, and to be heard by each of the others simultaneously; and the word "meeting" in these Articles shall be construed accordingly.
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- 13.3 A resolution in writing signed or approved by telegram telefax or telex by all the Directors shall be as valid and effectual as if it had been passed at a meeting of Directors duly convened and held and may consist of several documents in the like form each signed by one or more Directors; but a resolution signed by an alternate Director need not also be signed by his appointor and, if it is signed by a Director who has appointed an alternate Director, it need not be signed by the alternate Director in that capacity. Regulation 93 shall not apply.
- 13.4 In the case of an equality of votes at a meeting of the Directors, the chairman of the Company shall not have a second or casting vote. Regulation 88 shall be modified accordingly.
- 13.5 The office of a Director shall be vacated if he shall be removed from office by notice in writing served upon him signed by all of his co-Directors without prejudice to any rights he may have under a service agreement.
- 13.6 The quorum for any Board meeting shall be at least the EPEP Director (if any) and the Investor Director (if any) and one other Director of the Company. If either or both of the EPEP Director and the Investor Director have been appointed and one or both of them is absent, a Board meeting shall be quorate provided he has or they have (as appropriate) consented in writing to the holding of such Board meeting in his or their absence. If notice has been given of a Board meeting and one or both of them is absent and, being absent, has not so consented nor indicated refusal of such consent, the proposed Board meeting may be reconvened for a date not less than five business days thereafter. If the EPEP Director and the Investor Director are absent at such reconvened meeting and each of them has not consented to the holding of such meeting in his absence then the meeting shall be quorate if at least two Directors are present.

14. NOTICES

Notices of all meetings shall be given to all Directors and to any alternate Directors appointed by them. Regulations 66 and 88 of Table A shall be modified accordingly. Notices shall be given to a member whose registered address is outside the United Kingdom. Regulation 112 shall be modified accordingly.

15. INDEMNITY

- 15.1 Without prejudice to any indemnity to which such officer may otherwise be entitled, every Director, Secretary or other officer of the Company shall be indemnified by the Company against all costs, charges, losses, expenses, and liabilities incurred by him in the execution and discharge of his duties or in relation thereto including any liability incurred by him in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by him as an officer or employee of the Company and in which judgment is given in his favour (or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part) or in which he is acquitted or in connection with any application under any statute for relief from liability in respect of any such act or omission in which relief is granted to him by the Court. Regulation 118 shall not apply.
- 15.2 The Company may purchase and maintain for any Director, Secretary or other officer of the Company insurance against any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the Company.
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16. RESTRICTIONS ON POWERS OF THE COMPANY AND ITS DIRECTORS

16.1 The Company shall not and shall procure that its subsidiaries shall not without the prior written consent of the holders of a Majority of the 'A' Preference Shares:

- (a) permit or cause to be proposed any alteration to its share capital (including any increase thereof) or the rights attaching to its shares;
 - (b) create, allot, issue or redeem any share or loan capital or grant or agree to grant any options for the issue of any share or loan capital, or establish any employee share option scheme (except as referred to in clause 3.9 of the Subscription Agreement and as required pursuant to these Articles or the Subscription Agreement);
 - (c) subscribe or otherwise acquire, or dispose of any shares in the capital of any other company;
 - (d) except for purchases and sales of goods in the ordinary course of business, acquire or dispose of the whole or part of the undertaking of any other person, firm or company or dispose of the whole or part of the undertaking of the Company in any case with a book or market value calculated on a debt free basis in excess of £100,000;
 - (e) permit or cause to be proposed any amendment to its Memorandum or these Articles;
 - (f) cease or propose to cease to carry on its business or be wound up save where it is insolvent or otherwise as may be required by law;
 - (g) apply or permit its Directors to apply or petition to the Court for an administration order to be made in respect of the Company (except in the case of insolvency of the Company or otherwise if the Directors would be in breach of their duties as Directors in law);
 - (h) appoint or make any change to:
 - (i) its auditors;
 - (ii) its accounting reference date; or
 - (iii) its bankers (excluding transfers pursuant to the Banks' Facility) and financial advisers;
 - (i) propose or pay any dividend or propose or make any other distribution (except the 'C' Preference Dividend);
 - (j) enter into any partnership or joint venture agreement (outside the ordinary course of business);
 - (k) incur any capital expenditure (including obligations under hire-purchase and leasing arrangements) exceeding the amount in the relevant capital expenditure budget referred
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to in clause 4.2 of the Subscription Agreement by £500,000 or (where no items were specified but a general provision made) in relation to any item exceeding £500,000 or in any other way exceed any permitted variance set out in such budget;

- (l) except for the security granted in respect of the Banks' Facility, the Mezzanine and cash security in favour of Bank of Scotland to support intervention bonds issued by Bank of Scotland and the charge in favour of Express Foods Group (International) Limited pursuant to the Sale Agreement (as each such term is defined in the Subscription Agreement), mortgage or charge or permit the creation of or suffer to subsist any mortgage or charge over the whole or any part of its assets other than to the extent permitted by the Banks' Facility and the Mezzanine Instrument;
- (m) agree the Prescribed Price or issue or fail to issue any notice (other than notices of meetings) (where the Company or Board has a right to issue and the Majority Investors (as defined in the Subscription Agreement) have requested in writing that the Company or Board so issue) pursuant to these Articles; or
- (n) make any payment otherwise than on an arm's length basis.

16.2 The Company shall not without the prior written consent of the holders of a Majority of the 'B' Preference Shares (such consent in the case of paragraph (c) below not to be unreasonably withheld or delayed):

- (a) amend these Articles (save for any amendments to Article 2.1 or the equivalent Article to reflect an increase in the authorised share capital of the Company); or
- (b) be voluntarily wound up save where it is insolvent or otherwise as may be required by law (except on or immediately following a Sale or Listing); or
- (c) undertake or complete a Business Sale.

16.3 The Company shall not allow the aggregate borrowings of it and any company that is a subsidiary of it (as such term is defined in the Act) to exceed the greater of £100 million and two times the Adjusted Net Worth (as defined in the Banks' Facility) without the approval of a resolution of the Board and with the written consent of the holders of the Majority of the 'A' Ordinary Shares.

17. SPECIAL 'A' ORDINARY SHARES/SPECIAL PREFERENCE SHARES

17.1 Any holder of 'A' Ordinary Shares may at any time re-designate such or all of his 'A' Ordinary Shares as Special 'A' Ordinary Shares of an equivalent par value (credited with the same premium (if any) which is credited to any such 'A' Ordinary Shares) by serving a notice in writing on the Company at its registered office or upon any Director if such re-designation is necessary to prevent any infringement or violation of such holder of 'A' Ordinary Shares of any law or regulation requiring that the amount of voting shares held by it does not exceed any limits imposed by such law or regulation. Save as otherwise specifically provided in Article 17.2 and in these Articles the 'A' Ordinary Shares and any Special 'A' Ordinary Shares shall rank *pari passu* in all respect and in such circumstances all references to 'A' Ordinary Shares and holders of 'A' Ordinary Shares in these Articles shall be deemed to include a

reference to Special 'A' Ordinary Shares and holders of Special 'A' Ordinary Shares respectively.

- 17.2 Special 'A' Ordinary Shares shall not entitle the holders of Special 'A' Ordinary Shares to exercise any votes at any General Meeting or class meeting of the Company.
- 17.3 A transferee of any Special 'A' Ordinary Shares may at any time following transfer re-designate any or all of his Special 'A' Ordinary Shares as 'A' Ordinary Shares of an equivalent par value (credited with the same premium (if any) which is credited to such Special 'A' Ordinary Shares) by serving a notice in writing on the Company at its registered office.
- 17.4 Save as otherwise specifically provided in these Articles the 'A' Ordinary Shares and any Special 'A' Ordinary Shares shall rank pari passu in all respects and shall not constitute two separate classes of shares.
- 17.5 Any holder of Preference Shares may at any time re-designate such or all of his Preference Shares as Special Preference Shares of an equivalent par value (credited with the same premium (if any) which is credited to any such Preference Shares) by serving a notice in writing on the Company at its registered office or upon any Director if such re-designation is necessary to prevent any infringement or violation by such holder of Preference Shares of any law or regulation requiring that the amount of voting shares held by it does not exceed any limits imposed by such law or regulation. Save as otherwise specifically provided in Article 17.6 and in these Articles the Preference Shares and any Special Preference Shares shall rank pari passu in all respects and in such circumstances all references to Preference Shares and holders of Preference Shares in these Articles shall be deemed to include a reference to Special Preference Shares and holders of Special Preference Shares.
- 17.6 Special Preference Shares shall not entitle the holders of Special Preference Shares to exercise any votes at any General Meeting or class meeting of the Company.
- 17.7 A transferee of any Special Preference Shares may at any time following transfer re-designate any or all of his Special Preference Shares into Preference Shares of an equivalent par value (credited with the same premium (if any) which is credited to such Special Preference Shares) by serving a notice in writing on the Company at its registered office.
- 17.8 Save as otherwise specifically provided in these Articles the Preference Shares and any Special Preference Shares shall rank pari passu in all respects and shall not constitute two separate classes of shares.
- 17.9 Any holder of 'A' Preference Shares may at any time re-designate such or all of his 'A' Preference Shares as Special 'A' Preference Shares of an equivalent par value (credited with the same premium (if any) which is credited to any such 'A' Preference Shares) by serving a notice in writing on the Company at its registered office or upon any Director if such re-designation is necessary to prevent any infringement or violation by such holder of 'A' Preference Shares of any law or regulation requiring that the amount of voting shares held by it does not exceed any limits imposed by such law or regulation. Save as otherwise specifically provided in Article 17.10 and in these Articles the 'A' Preference Shares and any Special 'A' Preference Shares shall rank pari passu in all respects and in such circumstances all references to 'A' Preference Shares and holders of 'A' Preference Shares in these Articles shall be deemed to
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include a reference to Special 'A' Preference Shares and holders of Special 'A' Preference Shares.

- 17.10 Special 'A' Preference Shares shall not entitle the holders of Special 'A' Preference Shares to exercise any votes at any General Meeting or class meeting of the Company.
- 17.11 A transferee of any Special 'A' Preference Shares may at any time following transfer re-designate any or all of his Special 'A' Preference Shares into 'A' Preference Shares of an equivalent par value (credited with the same premium (if any) which is credited to such Special 'A' Preference Shares) by serving a notice in writing on the Company at its registered office.
- 17.12 Save as otherwise specifically provided in these Articles the 'A' Preference Shares and any Special 'A' Preference Shares shall rank pari passu in all respects and shall not constitute two separate classes of shares.
- 17.13 Any holder of 'C' Preference Shares may at any time re-designate such or all of his 'C' Preference Shares as Special 'C' Preference Shares of an equivalent par value (credited with the same premium (if any) which is credited to any such 'C' Preference Shares) by serving a notice in writing on the Company at its registered office or upon any Director if such re-designation is necessary to prevent any infringement or violation by such holder of 'C' Preference Shares of any law or regulation requiring that the amount of voting shares held by it does not exceed any limits imposed by such law or regulation. Save as otherwise specifically provided in Article 17.14 and in these Articles the 'C' Preference Shares and any Special 'C' Preference Shares shall rank pari passu in all respects and in such circumstances all references to 'C' Preference Shares and holders of 'C' Preference Shares in these Articles shall be deemed to include a reference to Special 'C' Preference Shares and holders of Special 'C' Preference Shares.
- 17.14 Special 'C' Preference Shares shall not entitle the holders of Special 'C' Preference Shares to exercise any votes at any General Meeting or class meeting of the Company.
- 17.15 A transferee of any Special 'C' Preference Shares may at any time following transfer re-designate any or all of his Special 'C' Preference Shares into 'C' Preference Shares of an equivalent par value (credited with the same premium (if any) which is credited to such Special 'C' Preference Shares) by serving a notice in writing on the Company at its registered office.
- 17.16 Save as otherwise specifically provided in these Articles the 'C' Preference Shares and any Special 'C' Preference Shares shall rank pari passu in all respects and shall not constitute two separate classes of shares.
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