

Company No: 4825118

The Companies Act 1985
COMPANY LIMITED BY SHARES
WRITTEN RESOLUTION
of
PORTER BLACK (2003) LIMITED

passed on 10 October 2003



Pursuant to Regulation 53 of Table A as incorporated into the Articles of Association of the Company, we, the undersigned, being the sole member of the Company entitled to attend and vote at a general meeting of the Company, **HEREBY RESOLVE** to pass the following resolutions as ordinary resolutions in respect of resolutions 2, 3, 4 and 5 and as special resolutions in respect of resolution 1 and 6:-

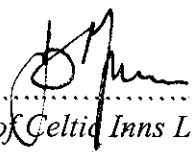
1. **THAT** the regulations contained in the document attached hereto and initialled by the Chairman of the Board of Directors for the purpose of identification be adopted as the Articles of Association of the Company in substitution for and to the exclusion of the existing Articles of Association of the Company.
2. **THAT** the 1 existing issued ordinary share of £1.00 be reclassified as a 'B' Ordinary Share of £1.00, having the rights and being subject to the restrictions set out in the Articles of Association adopted pursuant to resolution 1 above.
3. **THAT** the existing unissued ordinary shares of £1.00 each in the capital of the Company be reclassified as 490 'A' Ordinary Shares and 509 'B' Ordinary Shares each having the rights and being subject to the restrictions set out in the Articles of Association adopted pursuant to resolution 1 above.
4. **THAT** the authorised share capital of the Company be and is hereby increased from £1,000 to £351,000 by the creation of 350,000 Preference Shares of £1.00 each, each having the rights and being subject to the restrictions set out in the Articles of Association adopted pursuant to resolution 1 above.
5. **THAT** in substitution for all existing authorities to the extent unused, the directors be and they are hereby generally authorised pursuant to s 80 of the Companies Act 1985 to exercise any power of the Company to allot and grant rights to subscribe for or to convert securities into shares of the company up to a maximum nominal value equal to £350,999 provided that the authority hereby given shall expire five years after the passing of this resolution unless previously renewed or varied save that the directors may, notwithstanding such expiry allot any shares or grant any such rights under this authority in pursuance of any offer or agreement so to do made by the Company before the expiry of this authority.

6. **THAT** pursuant to Section 95(1) of the Companies Act 1985 the directors be authorised to allot equity securities (as defined in Section 94(2) of the Companies Act 1985) up to a maximum nominal value equal to £350,999 pursuant to the authority under section 80 of the Act conferred on the directors pursuant to resolution 5 above, as if section 89(1) of the Act did not apply to any such allotment, such power to expire on the date the earlier of five years after the passing of this resolution (unless previously revoked, varied or extended) save that the Company may at any time prior to the expiry of such authority make an offer or enter into an agreement which would or might require relevant securities to be allotted after the expiry of such authority, and the directors may allot relevant securities in pursuance of such an offer or agreement as if such authority had not expired.

Name

Celtic Inns Limited

Signature


.....
On behalf of Celtic Inns Limited

[Handwritten signature]

THE COMPANIES ACT 1985

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of

PORTER BLACK (2003) LIMITED

Registered Number: 04825118

adopted by written resolution dated 10th October 2003

THE COMPANIES ACT 1985
COMPANY LIMITED BY SHARES
ARTICLES OF ASSOCIATION
of
PORTER BLACK (2003) LIMITED

Company Number: 04825118

Adopted by written resolution on: 10th October 2003

1. Preliminary

1.1 In these Articles the undernoted expressions shall have the meanings set opposite them below:

A Ordinary Shares means as defined in Article 2.1;

the Act shall mean the Companies Act 1985 including any statutory modification or re-enactment for the time being in force;

Asset Sale means a sale of substantially all of the assets of the Company or of any subsidiary whether in one single transaction or a series of transactions;

B Ordinary Shares means as defined in Article 2.1;

BoS means the Governor and Company of Bank of Scotland, a company constituted by Act of Parliament and having its head office at The Mound, Edinburgh, EH1 1YZ and in the event that BoS assigns its rights under the BoS facility any such assignees;

BoS Facility means the facility agreements entered into between the Company and BoS on or about the date of adoption of these articles and as amended or replaced from time to time together with any associated security documents;

BoS Group shall mean BoS, any subsidiary or holding company of BoS or any other subsidiary of a holding company of BoS, or any body of persons which shall have acquired the whole or substantially the whole of the undertaking of any of these companies whatsoever and the expression "member of BoS Group" shall be construed accordingly;

Business Day means a day on which banks are open for normal business in England and Wales;

Board shall mean the board of directors of the Company;

Connected Persons shall have the meaning ascribed to it in Section 839 of the Income and Corporation Taxes Act 1988;

Celtic means Celtic Inns Limited;

Celtic Group means Celtic, any subsidiary or holding Company of Celtic or any other subsidiary of a holding company of Celtic and the expression "member of Celtic Group" shall be construed accordingly;

Celtic Management Agreement means the Agreement for the provision of management services to be entered into between the Company and Celtic, dated on or around the date hereof;

Celtic Option means the option in favour of Celtic to acquire the properties owned by the Company and / or the shares in the Company owned by BoS (or its successors in title), dated on or around the date hereof;

Equity Share Capital means all of the Ordinary Shares for the time being in issue and **Equity Shares** shall be construed accordingly;

Employee Trust means any trust which may be established from time to time for the benefit of the employees (which may include past employees) of the Company and which has been approved by the holders of a majority of the Preference Shares;

Family Trust shall mean in relation to any member a trust which does not permit any of the settled property or the income therefrom to be applied otherwise than for the benefit of that member and/or a Privileged Relation of that member and under which no power of control is capable of being exercised over the votes of any shares which are the subject of the trust by any person other than the trustees or such member or his Privileged Relations;

Good Leaver means an Employee Member who ceases to be a director or consultant or employee of the Company or any of its subsidiaries, and does not continue in that capacity in relation to any of them where such cessation occurs for one of the following reasons:-

- (i) death;
- (ii) illness or disablement;
- (iii) retirement at normal retirement age;
- (iv) unfair or wrongful dismissal; or
- (v) termination with written consent of Preference Shareholder;

Listing means the admission of any share capital of the Company to the Official List maintained by the Financial Services Authority acting in its capacity as the competent authority for the purposes of Part VI of the Financial Services and Markets Act 2000 in accordance with the Listing Rules and to trading on the London Stock Exchange becoming effective or the granting of permission for any of the share capital of the Company to be dealt in on any recognised investment exchange (as defined in that Act);

London Stock Exchange means London Stock Exchange plc;

Ordinary Shares means together the A Ordinary Shares and the B Ordinary Shares;

Privileged Relations shall mean in relation to a member the spouse or widow or widower of the member and the member's children and grandchildren (including step and adopted children and their issue) and step and adopted children of the member's children;

Property Price shall have the meaning ascribed to it in the Celtic Option;

RBS shall mean the Royal Bank of Scotland plc;

Relevant Directors shall mean the directors and former directors of the Company and its subsidiaries and their Connected Persons;

Sale Price shall mean:-

- (a) in the event of Listing, the aggregate rounded down to the nearest Pound Sterling of the market capitalisation of the then issued equity share capital of the Company (ignoring any new shares being issued for the purposes of raising new money in connection with Listing) calculated by reference to the price the brokers to the Company (acting as experts and not as arbitrators) certify, on the last practical date prior to Listing, to be the price at which they are to be offered for sale or subscription to the public or placed or, if Listing is effected by a placing and intermediaries offer, the anticipated price at which the shares are to be offered to intermediaries or, if Listing is effected by way of an introduction, the anticipated middle market price of such shares on the first day of dealings therein. The said certificate of the brokers to the Company shall be final and binding on the Company and its members;
- (b) in the event of Takeover, the aggregate rounded down to the nearest Pound Sterling of the value of all of the issued equity share capital of the Company based on the price (where all of the issued equity shares are to be acquired) or, in any other case, the average price per share paid or payable for the issued equity share capital by the person or persons acquiring control. Such price shall be deemed to include the net present value as at completion of the Takeover of any deferred consideration and the market value as at such completion of any contingent consideration (whether in cash or otherwise) received or receivable by members which having regard to the substance of the transaction as a whole can reasonably and properly be regarded as an addition to the price paid or payable. In the event of any dispute as to such total value the same shall be determined by the auditors of the Company (or if any member or members so require in writing, by a reputable London based merchant bank (and in the event of dispute between members as to which merchant bank shall be appointed, a merchant bank appointed by the President for the time being of the Institute of Chartered Accountants of England)) who shall (in any case) act as independent experts and not as arbitrators and whose decision shall in the absence of fraud or manifest error be final and binding on the Company and the members. In valuing deferred consideration, the auditors (or the appointed merchant bank as the case may be) shall, inter alia, take into account the level of any credit risk and the existence (or otherwise) of any guarantees to secure payment, and, in valuing any contingent consideration shall assess the likelihood of the contingent payment becoming payable and the timing thereof and shall apply such discount factors (if any) as they consider appropriate;
- (c) in the event of an Asset Sale, the aggregate of the proceeds of the Asset Sale and any proceeds of a sale of any asset of the Company preceding the Asset Sale to the extent that such proceeds have been utilised to reduce the total indebtedness to BoS under the BoS Facility and have not subsequently been used to replace the sold asset;

settlor shall mean a testator or an intestate in relation to a Family Trust arising respectively under a testamentary disposition or an intestacy of a deceased member;

the Statutes shall mean the Act and any other statutory provisions from time to time affecting companies and applicable to the Company;

the Subscription and Shareholders Agreement shall mean the agreement between the Company, the Directors, Celtic Inns Limited and BoS executed by the Company of even date with the adoption of these Articles;

Takeover means any person or any person and any one or more persons acting in concert (as such term is defined in The City Code on Take-overs and Mergers) with such person, acquiring shares or interests in shares, where such shares and/or interests confer in the aggregate more than 50% of the total voting rights conferred by all of the shares in the capital of the Company for the relevant time being in issue and conferring the right to vote at all general meetings

Transaction Costs shall mean any professional costs incurred solely and reasonably by the Company (net of VAT) in connection with an Asset Sale, Takeover or Listing;

- 1.2 The Regulations contained in Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 as amended by the Companies (Tables A to F) (Amendment) Regulations 1985 (such Table being hereinafter called "Table A") shall apply to the Company save in so far as they are excluded or varied hereby and such Regulations (save as so excluded or varied) and the Articles hereinafter contained shall be the regulations of the Company.
- 1.3 Regulations 50, 54, 73-80 (inclusive), 85, 86, 94-98 (inclusive) and 118 of Table A shall not apply to the Company. Regulation 88 of Table A shall be amended by the deletion of the words "In the case of an equality of votes, the chairman shall have a second or casting vote." Regulation 6 of Table A shall be amended by the deletion of the words "shall be sealed with the seal" where they appear on the sixth line thereof.

2. Share Capital

- 2.1 The Share Capital of the Company is £351,000 divided into 490 A ordinary shares of £1.00 each (hereinafter referred to as "A Ordinary Shares"), 510 B Ordinary Shares (hereinafter referred to as "B Ordinary Shares") and 350,000 cumulative redeemable preference share(s) of £1 (hereinafter referred to as "the Preference Share(s)").

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

2.2.1 Income

No dividend shall be paid without the consent of the holders of a majority in nominal value of each class of Ordinary Shares.

2.2.2 Capital

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

- 2.2.2.1 First, in paying to the holder of the Preference Shares £350,000;

- 2.2.2.2 Second, in paying to the holders of the Ordinary Shares (*pari passu* as if the same constituted one class of shares) the amount respectively subscribed for each share held by them together with a sum equal to any arrears and accruals of the dividends on such shares calculated down to the date of the return on capital;

- 2.2.2.3 Third, the balance of such assets shall be distributed among the holders of the Ordinary Shares *pari passu* as if the same constituted one class of share and that *pro rata* according to the number of fully paid shares held by them respectively.

2.2.3 Redemption of the Preference Shares

- 2.2.3.1 Subject to the provisions of the Act the Preference Shares shall be redeemed by the Company on the first Business Date following the tenth anniversary of the date of adoption of these articles.

- 2.2.3.2 The Company shall (unless the holder of the Preference Shares gives notice in writing to the Company to the contrary), before any Listing or any of its share capital shall be subject to any other marketing arrangement, redeem in accordance with the provisions of this Article 2.2.3, or procure the purchase by a third party of, the Preference Shares then in issue. Any such redemption or purchase shall be at a price of £350,000.

If on any of the dates set out in Articles 2.2.3.1 and 2.2.3.2, the Company cannot comply with the provisions of the Statutes and for the provisions contained herein relating to the redemption to be made on such dates, redemption shall take place on such later date on which the Company shall first be able to comply.

2.2.3.3 The Preference Shares to be redeemed in accordance with the foregoing provisions of this Article 2.2.3 shall be redeemed by the Company at the Registered Office of the Company.

2.2.3.4 At the time specified in Articles 2.2.3.1 and 2.2.3.2 above and at the place specified in Article 2.2.3.3 above, the registered holder of the Preference Shares shall be bound to surrender to the Company the certificate for the share which is redeemed in order that the same may be cancelled, and upon such surrender, the Company shall pay such registered holder the amount payable in respect of such redemption.

3. Class Rights

3.1 Whenever the capital of the Company is divided into different classes of shares the special rights attached to any class may be varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding up, with the consent in writing of the holders of 75% of the issued shares of that class.

3.2 Without prejudice to the generality of the preceding Article 3.1, the prior written consent of the holders of a majority of the Preference Shares shall be required to:-

3.2.1 the grant of any option or other right to subscribe for shares and by any alteration or increase or reduction or sub-division or consolidation of the authorised or issued capital of the Company or of any of its subsidiaries, or any variation of the rights attached to any of the shares for the time being in the capital of the Company or of any of its subsidiaries; or

3.2.2 save for the Celtic Option the disposal of the undertaking of the Company or of any of its subsidiaries or any substantial part thereof or by the disposal of any share in the capital of any subsidiary of the Company; or

3.2.3 the acquisition of any interest in any share in the capital of any company by the Company or any of its subsidiaries; or

3.2.4 the application by way of capitalisation of any sum in or towards paying up any debenture or debenture stock of the Company; or

3.2.5 any alteration of the restrictions on the powers of the directors of the Company and its subsidiaries to borrow give guarantees or create charges; or

3.2.6 the winding up of the Company; or

3.2.7 the redemption of any of the Company's shares (otherwise than pursuant to these articles) or by the entering into of a contract by the Company to purchase any of its shares; or

3.2.8 any alteration of the Company's memorandum or articles of association; or

3.2.9 any alteration of the Company's accounting reference date; or

3.2.10 the entering into of a written service agreement with any director or connected person (as defined by section 839 Income and Corporation Taxes Act 1988); or

- 3.2.11 by the calling of a meeting of the Company to effect or approve any matter which would by virtue of this article be a variation of the class rights of the Preference Shares.

4. Transfer of BoS and Celtic Shares

- 4.1 Notwithstanding any other provisions of these Articles a transfer of shares in the Company held by any member of BoS Group may be made between the member of BoS Group holding such shares and any other member of BoS Group without restriction as to price or otherwise and the directors shall register any such transfer. If any such transferee ceases to be a member of the BoS Group it shall forthwith transfer the relevant shares to a member of the BoS Group.
- 4.2 Notwithstanding any other provisions of these Articles, a transfer of shares in the Company held by any member of Celtic Group may be made between the member of Celtic Group holding such shares and any other member of Celtic Group, or to a person who is a shareholder of Celtic as at the date of the adoption of these Articles without restriction as to price or otherwise and the directors shall register any such transfer. If any such transferee ceases to be a member of the Celtic Group or shareholder of Celtic it shall forthwith transfer the relevant shares to a member of the Celtic Group or shareholder of Celtic.
- 4.3 The trustees of any Employee Benefit Trust may grant options over and/or transfer any Shares held by them in such capacity free of restriction to any beneficiary of such trust or to any replacement trustees.

5. Transfer of Shares - General

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

6. Transfers to Privileged Relations and Family Trusts

- 6.1 Notwithstanding any other provision in these Articles any member may at any time transfer (or by will bequeath or otherwise dispose of on death) up to 50% of any shares held by him to a Privileged Relation, or to trustees to be held upon a Family Trust with the consent in writing of the holder of the Preference Shares (such consent not to be unreasonably withheld or delayed).
- 6.2 Where the consent of the holder of the Preference Shares is required to a transfer to a Family Trust such consent shall be given when the holders of such shares acting reasonably are satisfied:-
- 6.2.1 with the terms of the trust instrument and in particular with the powers of the trustees;
- 6.2.2 with the identity of the proposed trustees;
- 6.2.3 that the proposed transfer will not result in 50% or more in the aggregate of the Company's equity share capital (as defined in S.744 of the Act) being held by trustees of that and any other trusts; and
- 6.2.4 that no costs incurred in connection with the setting up or administration of the Family Trust in question are to be paid by the Company.

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

- 6.3.1 on any change of trustees such shares may be transferred to the new trustees of that Family Trust;
- 6.3.2 such shares may be transferred at any time to the settlor or to another Family Trust of the settlor or to any Privileged Relation of the settlor; and
- 6.3.3 if and whenever any such shares cease to be held upon a Family Trust (otherwise than in consequence of a transfer to the settlor or to another Family Trust of the settlor or to any Privileged Relation of the settlor) a Transfer Notice (as hereinafter defined) shall be deemed to have been given in respect of the relevant shares (as hereinafter defined) and such shares may not otherwise be transferred);
- 6.3.4 for the purposes of this Article 6.2 the expression 'relevant shares' means and includes the shares originally transferred to the trustees and any additional shares issued or transferred to the trustees by virtue of the holding of those shares or any of them

7. **Transfers by Employee Members**

7.1 If any person holding shares in the capital of the Company and being an employee or consultant or director of the Company or its subsidiaries, other than such a person who is a shareholder of Celtic as at the date hereof (an 'Employee Member') ceases to be an employee or consultant or director of the Company or its subsidiaries (and does not forthwith become or continue to be an employee or director of any of the Company or of the relevant subsidiaries) a Transfer Notice (as hereinafter defined) shall be deemed to have been served forthwith upon such cessation in respect of:-

- 7.1.1 all shares held by the Employee Member; and
- 7.1.2 all shares held by his Privileged Relations and/or Family Trusts at the time of such cessation.

Transfers under this Article 7.1 are in these Articles referred to as Compulsory Employee Transfers.

7.2 **Transfers on Termination of the Celtic Management Agreement**

On termination of the Celtic Management Agreement by the Company in circumstances where the Company is entitled to terminate the Celtic Management Agreement as a result of a material breach thereof by Celtic, a Transfer Notice shall be deemed to have been served forthwith upon such termination in respect of:-

- 7.2.1 all shares held by Celtic; and
- 7.2.2 all shares held by members of the Celtic Group at the time of such termination; and
- 7.2.3 all shares held by the shareholders of Celtic at the time of such termination.

Transfers under this Article 7.2 are in these Articles referred to as Celtic Management Agreement Transfers.

8. **Transfer Provisions**

- 8.1 Save as otherwise provided in these Articles every member who desires to transfer any shares (hereinafter called 'the Vendor') shall give to the Company notice in writing of such desire (hereinafter called a 'Transfer Notice'). Subject as hereinafter mentioned a Transfer Notice shall constitute the Company the Vendor's agent for the sale of the shares specified therein (hereinafter called 'the Sale Shares') in one or more lots at the discretion of the directors at the

Sale Price. Subject to Article 8.2 below, the Sale Price shall be the price agreed by the Vendor and the directors or if the Vendor and the directors are unable to agree a price within 28 days of the Transfer Notice being given or if the Transfer Notice is a deemed Transfer Notice the price which a chartered accountant (acting as an expert and not as an arbiter) nominated by agreement between the Vendor and the Company or in default of such agreement by the President for the time being of the Institute of Chartered Accountants of England and Wales shall by writing under his hand certify to be in his opinion a fair value thereof on a going concern basis as between a willing seller and a willing buyer and on the assumption that the Sale Shares are capable of transfer without restriction and ignoring any reduction in value which may be ascribed to the Sale Shares by virtue of the fact that they represent a minority or majority interest (as the case may be) (and giving due regard to any bona fide offer received in the preceding three months on an arms' length basis in respect of not less than 49% of the Ordinary Shares) with the result that the said chartered accountant shall value the Sale Shares in accordance with the following formula:

$$A = \frac{B}{C} \times D$$

where:

A is the fair value of the Sale Shares;

B is the number of Sale Shares;

C is the total number of issued shares of the same class as the Sale Shares; and

D is the value of all the issued shares of the same class as the Sale Shares (as determined by the said chartered accountant in accordance with and applying the foregoing provisions of this Article).

For the purposes of this Article 8.1, the Ordinary Shares shall be deemed to be one class of share. Save for shares sold pursuant to a deemed Transfer Notice the Transfer Notice may contain a provision that unless all the shares comprised therein are sold by the Company pursuant to this Article 8 none shall be sold and any such provision shall be binding on the Company.

- 8.1.1 In the case of Compulsory Employee Transfers where the Employee Member is not a Good Leaver the Sale Price shall be restricted to a maximum of the original subscription price of the Sale Shares.
- 8.1.2 In the case of Celtic Management Agreement Transfers the Sale Price of the Sale Shares shall be the higher of the original subscription price of the Sale Shares and the fair value of the Sale Shares, calculated in accordance with the provisions of Article 8.1.
- 8.2 If a chartered accountant is asked to certify the fair value as aforesaid his certificate shall be delivered to the Company and as soon as the Company receives the certificate it shall furnish a certified copy thereof to the Vendor and save for shares sold pursuant to a deemed Transfer Notice the Vendor shall be entitled save for the avoidance of doubt in relation to a Compulsory Employee Transfer by notice in writing given to the Company within ten days of the service upon him of the certified copy to cancel the Company's authority to sell the Sale Shares. The cost of obtaining the certificate shall be borne by the Company unless the Vendor shall give notice of cancellation as aforesaid in which case the Vendor shall bear the cost.
- 8.3 Upon the price being fixed as aforesaid and provided that (i) the Vendor shall not give a valid notice of cancellation and (ii) the Company has given at least seven Business Days prior notice of receipt of the Transfer Notice or deemed Transfer Notice to all persons then holding options to subscribe for shares in the Company, the Company shall forthwith offer the Sale Shares as follows:

8.3.1 Unless the holders of the "A" Ordinary Shares agree otherwise any shares being sold by reason of a Compulsory Employee Transfer or a Celtic Management Agreement Transfer shall be offered to the Employee Trust within fourteen days of the Sale Price being determined. Any shares not sold under this sub-article within seven days of such offer will be available for sale to the members of the Company as set out below;

8.3.2 if the Sale Shares are A Ordinary Shares they shall be offered in the following order:-

8.3.2.1 first to the holders of A Ordinary Shares; and

8.3.2.2 secondly to the holders of B Ordinary Shares;

8.3.3 if the Sale Shares are B Ordinary Shares they shall be offered in the following order:-

8.3.3.1 first to the holders of B Ordinary Shares; and

8.3.3.2 secondly to the holders of A Ordinary Shares; and

8.3.4 if the Sale Shares are Preference Shares they shall be offered in the following order:-

8.3.4.1 first to the holders of A Ordinary Shares; and

8.3.5 secondly to the holders of B Ordinary Shares,

in each case (other than the Vendor) pro rata as nearly as may be to the respective numbers of shares of the relevant class held by such members.

Any offer made by the Company under this sub-article will invite the relevant members to state in writing the maximum number of the shares offered to them they wish to purchase and will remain open for twenty one days.

8.4 If the Company shall pursuant to the above provisions of this Article 8 find a member or members of the Company willing to purchase all or any of the Sale Shares the Vendor shall be bound upon receipt of the Sale Price to transfer the Sale Shares (or such of the same for which the Company shall have found a purchaser or purchasers) to such persons. If the Vendor shall make default in so doing the Company shall if so required by the person or persons willing to purchase such Sale Shares receive and give a good discharge for the purchase money on behalf of the Vendor and shall authorise some person as the Vendor's attorney to execute transfers of the Sale Shares in favour of the purchasers and shall enter the names of the purchasers in the Register of Members as the holders of such of the Sale Shares as shall have been transferred to them as aforesaid.

8.5 If the directors shall not have found a member or members of the Company willing to purchase all of the Sale Shares pursuant to the foregoing provisions of this Article 8 the Vendor shall at any time within six months after the final offer by the Company to its members be at liberty to sell and transfer such of the Sale Shares as have not been so sold to any person at a price being no less than the Sale Price and on terms not materially more favourable as to timing of payment than would apply to the existing Shareholders accepting Sale Shares in accordance with this Article 8 provided that:

8.5.1 the Directors may require to be satisfied that such Sale Shares are being transferred in pursuance of 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; and

8.5.2 if the Transfer Notice contained a provision regarding a sale of the Sale Shares in their entirety pursuant to Article 8.1 no transfer of any Sale Shares shall be made pursuant to this Article 8.5 unless the whole of the Sale Shares are transferred.

- 8.6 If a member being a company ceases to be within the Control (as such term is defined by Section 840 of the Income and Corporation Taxes Act 1988) of the person(s) who controlled such company on the date on which it became a member of the Company or on the date of adoption of these Articles (whichever shall be the later) it shall be deemed to have immediately given a Transfer Notice in respect of all the shares as shall then be registered in its name; provided that this Article 8.7 shall have no application to BoS or to any member of BoS Group.
- 8.7 The foregoing provisions of this Article 8 shall not apply to a transfer if the holders of 75% of the Ordinary Shares so direct in writing and the directors shall be obliged to register any such transfer.
- 8.8 A Transfer Notice shall be deemed to have been given to the Company by any member who purports to transfer any shares other than in accordance with these Articles without giving a Transfer Notice to the Company and, in those circumstances, the deemed Transfer Notice shall:-
- 8.8.1 be deemed to apply to the number and class of shares purported to have been transferred;
- 8.8.2 entitle the Company to require delivery to it of the certificate for the shares purported to have been transferred

and where the context admits references in these Articles to a Transfer Notice shall include a deemed Transfer Notice and references in these Articles to a Vendor shall include a member deemed to have served a Transfer Notice.

9. Limitation on Transfer

- 9.1 Notwithstanding any other provision of these Articles to the contrary, no sale or transfer of the legal or beneficial interest in any shares in the share capital of the Company shall be made or registered if as a result of such sale or transfer and registration thereof Control (as defined in Article 8.7) would be obtained in the Company by a company or by any person or persons not in Control of the Company on the date of adoption of these Articles unless

after the expiry of such fourteen day period and before the transfer is lodged for registration the proposed transferee or transferees or his or their nominees has or have offered to purchase (i) the Preference Shares at a price of £1 each and (ii) all the other shares in the Company at the Specified Price (as hereinafter defined), and such offer shall have remained open for acceptance for a period of at least twenty-one days.

- 9.2 The expression "the Specified Price" shall mean the higher of:- (i) a price per share of the amount originally subscribed or deemed to have been subscribed for such share plus (a) a sum equal to any arrears, deficiency and accruals of the dividends payable on such shares calculated down to the date of sale or transfer and (b) all the tax credits that would have related to such dividends if such dividends had been paid; and (ii) a price per share at least equal to that offered or paid or payable by the proposed transferee or transferees or his or their nominees for any other Equity Shares in the capital of the Company plus an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of such shares which having regard to the substance of the transaction as a whole can reasonably be regarded as an addition to the price paid or payable for such shares, provided that if any part of the price per share is payable otherwise than by cash the transferor may at its option elect to take a price per share of such cash sum as may be agreed by it having regard to the substance of the transaction as a whole, and in the event of disagreement the calculation of the Specified Price shall be referred to an umpire, who shall act as an expert and not as an arbiter and shall be nominated by the parties concerned or failing agreement as to such nomination shall be appointed by the President for the time being of the Institute of Chartered Accountants of England and Wales and the decision of such umpire shall be final and binding.

9.3 If an offeror for shares in the Company, having made offers in like terms to all the members of the Company receives valid acceptances which would, on completion, result in such offeror becoming the holder of not less than 76% of the Equity Share Capital, then:

9.3.1 such offeror shall give notice to any non-accepting holder of shares requiring him to accept the offer within 14 days and stating that, failing such acceptance, he shall be deemed to have accepted such offer in respect of all ordinary shares held by him and irrevocably to have waived any pre-emption rights he may have in relation to any shares the subject of such offer;

9.3.2 upon the expiry of such notice each recipient thereof shall be obliged to deliver to the offeror (or as he may direct) an executed share transfer form and share certificate(s) in respect of the shares which were the subject of the notice together with executed waiver of pre-emption rights, if appropriate;

9.3.3 if any such member fails to deliver executed share transfer form(s), share certificate(s) and pre-emption waiver(s) (if appropriate) as set out above he shall be deemed to have appointed any director of the Company to be his agent and attorney to execute such documents on his behalf and, against receipt by the Company (on trust for such member) of the appropriate purchase moneys, to deliver such executed transfer(s) and pre-emption waiver(s) (if appropriate) to the offeror and it shall be no impediment to completion of the transfer that such member's share certificate(s) has/have not been produced; and

9.3.4 after such offeror or his nominee has been registered as the holder of shares transferred in accordance with this article the validity of such transaction shall not be questioned by any person.

9.4 In this article:

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

9.4.2 the expression 'shares' includes bearer shares, depository receipts and any other security or instrument into which shares may be converted with a view to a sale;

9.4.3 whether or not persons are acting in concert will be determined by the then most recent edition of the City Code on Take-overs and Mergers.

9.5 All other regulations of the Company relating to the transfer of shares and the right to registration of transfers shall be read subject to the provisions of this Article 9.

9.6 Notwithstanding any other provision of these Articles, on the occurrence of a Takeover, Listing or an Asset Sale the provisions of the Schedule to these Articles shall apply.

10. **Voting Rights**

Subject to any special rights or restrictions as to voting attached to any shares by or in accordance with these Articles, on a show of hands every member who (being an individual) is present in person or (being a corporation) is present by a representative not being himself a member, shall have one vote, and on a poll every member who is present in person or by proxy or (being a corporation) is present by a representative shall have one vote for every Equity Share in the capital of the Company of which he is the holder; Provided that the holder of the Preference Shares shall be entitled to receive copies of circulars to shareholders and debenture holders and to receive notice of and to attend all General Meetings of the Company but not to vote thereat.

11. Appointment of Directors

- 11.1 The maximum number of directors at any one time holding office shall be 6 and the minimum number 2.
- 11.2 The directors may appoint a person (provided that the director being so appointed in favour of BoS agrees to be bound by the covenants and obligations contained in the Shareholders and Subscription Agreement) who is willing to act to be a director, either to fill a vacancy or as an additional director. In addition, the holders of shares representing more than half of the shares which carry the right to attend and vote at general meetings of the Company may by notice to the Company together appoint a person who is willing to act to be a director either to fill a vacancy or as an additional director.

12. Proceedings of Directors

- 12.1 Notice of every meeting of the directors shall be given to each director at any address supplied by him to the Company for that purpose whether or not he be present in the United Kingdom provided that any director may waive notice of any meeting either prospectively or retrospectively and if he shall do so it shall be no objection to the validity of such meeting that notice was not given to him.
- 12.2 Any director (or, where appropriate, his alternate director) may participate in a meeting of the directors by means of conference telephone or other communications equipment whereby all parties participating at the meeting can hear and speak to one another and participation in this manner shall be deemed to constitute presence in person at such meeting. In any such meeting, the place where the majority of the directors are present, or, in any case where there is no majority, the place where the chairman of the meeting is present, shall be deemed to be the place of the meeting.

13. Directors Interests

- 13.1 Subject to the provisions of the Act and provided that he has disclosed to the directors the nature and extent of any material interest of his, a director notwithstanding his office:-
- 13.1.1 may be a party to or otherwise interested in any transaction or arrangement with the Company or in which the Company is in any way interested;
- 13.1.2 may be a director or other officer of or employed by or be a party to any transaction or arrangement with or otherwise interested in any body corporate promoted by the Company or in which the Company is in any way interested;
- 13.1.3 may (and any firm or company of which he is a partner or member or director may) act in a professional capacity for the Company or any body corporate in which the Company is in any way interested;
- 13.1.4 shall not by reason of his office be accountable to the Company for any benefit which he derives from such office service or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit; and
- 13.1.5 shall be entitled to vote and be counted in the quorum on any matter concerning the foregoing paragraphs of this article.
- 13.2 For the purpose of this article:
- 13.2.1 a general notice to the directors that a director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a

disclosure that the director has an interest in any such transaction of the nature and extent so specified;

13.2.2 an interest of which a director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his; and

13.2.3 an interest of a person who is for any purpose of the Act (excluding any statutory modification not in force when these Articles were adopted) connected with a director shall be treated as an interest of the director and in relation to an alternate director an interest of his appointor shall be treated as an interest of the alternate director without prejudice to any interest which the alternate director has otherwise.

14. Directors' Borrowing Powers

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

14.1.1 of borrowing or securing the payment of money;

14.1.2 of guaranteeing the payment of money and the fulfilment of obligations and the performance of contracts; and

14.1.3 of mortgaging or charging the property assets and uncalled capital of the Company and (subject to section 80 of the Act) of issuing debentures

but so that:-

14.1.4 the directors of the Company shall procure that the aggregate amounts for the time being remaining undischarged by virtue of any of the foregoing operations by the Company and all subsidiaries of the Company and by virtue of any like operations by the Company and all subsidiaries of the Company (including any liability (whether ascertained or contingent) under any guarantee for the time being in force and including amounts due under any hire purchase, credit sale, conditional sale or leasing agreements (other than leases of real or heritable property) which can in accordance with current accounting practice be attributed to capital but excluding inter-company loans, mortgages and charges) shall not without the previous sanction of the Preference Shareholder exceed £8,200,000;

14.1.5 no such sanction shall be required to the borrowing of any sum of money intended to be applied in the repayment (with or without premium) of any moneys then already borrowed and outstanding, notwithstanding that the same may result in such limit being exceeded;

14.1.6 no lender or other person dealing with the Company shall be concerned to see or enquire whether the limit imposed by this Article 14 is observed and no debt or liability incurred in excess of such limit shall be invalid and no security given for the same shall be invalid or ineffectual except in the case of express notice to the lender or recipient of the security or person to whom the liability is incurred at the time when the debt or liability was incurred or the security given that the limit hereby imposed has been or was thereby exceeded

14.1.7 except with the previous sanction of the holder of the Preference Shares no mortgage or charge shall be created on any part of the undertaking property or assets of the Company or any subsidiary of the Company except for the purpose of securing moneys borrowed from any member of BoS Group with interest thereon and from bankers with interest thereon and bank charges.

15. Indemnity

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

16. Special Director

Notwithstanding any limitation on the number of Directors imposed by these Articles so long as any member of BoS Group is the holder of any share in the capital of the Company such member(s) shall be entitled to appoint as a Director of the Company any one person and to remove from office any person so appointed and to appoint another one person in his place ("the Special Director"). Any appointment or removal in terms of this paragraph shall be effected by notice in writing signed by such member(s) of BoS Group and delivered to the registered office of the Company. The Special Director appointed in terms of this Article shall not be required to hold any share qualification nor shall he be subject to retirement by rotation and the remuneration to be paid to him shall be payable by the Company and shall be such sum as shall for the time being be agreed for that purpose between the Company and him or failing such agreement such reasonable sum as shall be fixed by BoS (not exceeding in any event £15,000 per annum without the express agreement of the Company). Upon request by such member(s) of BoS Group the Company shall also procure that a Special Director appointed in terms of this paragraph be appointed a Director to any subsidiary of the Company. At the request of such member(s) of BoS Group any Special Director appointed in terms of this paragraph shall act as Chairman of the Board of Directors.

17. Observer

- 17.1 At any time when BoS is a holder of any Share in the Company or RBS is a holder of shares in Celtic, RBS and BoS both may by notice in writing expressed to be given pursuant to this Article 17.1 addressed to the Company and delivered to the Company's registered office appoint an observer and remove from office any person so appointed and appoint another person in his place.
- 17.2 The observers shall be entitled to receive notice of all meetings of the Board and all meetings of any committee of the board. The Company shall procure that the observers are similarly entitled to receive notice of all meetings of the boards of all other members of the Group and all meetings of all committees of such boards. The observers shall be given all notices, agendas, minutes and other papers relating to such meetings as the relevant directors may be entitled to receive at the same time as such information is provided to the relevant directors. The observers shall be entitled to attend all meetings of the Board, all meetings of any committee of the Board, all meetings of the boards of all other members of the Group and all meetings of all committees of such boards. The observers shall be entitled to speak at any meeting at which he is entitled to attend but shall not be entitled to vote at any such meeting in their capacity as observers.
- 17.3 The observers may disclose any information they receive as such observer to their respective appointer or any holding company or subsidiary of their respective appointer or to their investment advisers.
- 17.4 The Company shall not be liable to pay any remuneration in respect of the observers.

Schedule

Celtic Exit Payment

1. Notwithstanding any other provision of these Articles, on the occurrence of a Takeover, Listing or an Asset Sale (such an event being an **"Exit Event"**) and subject to paragraph 5 below where:-
 - 1.1 the Realisation Value is more than £6,000,000 but less than £6,500,000, Celtic shall be paid a sum equal to 25% of the Net Realisation Value in excess of £6,000,000
 - 1.2 the Realisation Value is more than £6,500,000 but less than £7,000,000, Celtic shall be paid a sum equal to 30% of the Net Realisation Value in excess of £6,000,000
 - 1.3 the Realisation Value is more than £7,000,000 but less than £7,500,000, Celtic shall be paid a sum equal to 40% of the Net Realisation Value in excess of £6,000,000
 - 1.4 the Realisation Value is more than £7,500,000 but less than £8,000,000, Celtic shall be paid a sum equal to 45% of the Net Realisation Value in excess of £6,000,000
 - 1.5 the Realisation Value is more than £8,000,000 but less than £8,500,000, Celtic shall be paid a sum equal to 50% of the Net Realisation Value in excess of £6,000,000any such sum being referred to as the **"Celtic Exit Payment"**
2. For the purpose of clause 1:-
 - 2.1 the Realisation Value shall mean:-
 - 2.1.1 in the case of a Listing the Sale Price plus the aggregate amount of indebtedness to BoS under the BoS Facility at the time of Listing and/or the amount of indebtedness to BoS under the BoS Facility that has been repaid on or immediately prior to such Listing;
 - 2.1.2 in the case of a Takeover the Sale Price plus the aggregate amount of indebtedness to BoS under the BoS Facility at the time of Takeover and / or the amount of indebtedness to BoS under the BoS Facility that has been repaid on or immediately prior to such Takeover; and
 - 2.1.3 in the case of an Asset Sale the Sale Price.
 - 2.2 the Net Realisation Value shall mean the Realisation Value less the aggregate Transaction Costs.
3. It is recognised that an Asset Sale or a Takeover may occur as a result of the exercise by Celtic of the Celtic Option in which case when calculating the applicable Sale Price it shall be the gross price payable by Celtic prior to any set-off for sums that may be payable to it in accordance with this Schedule.
4. The Celtic Exit Payment shall be payable (by the Company in the case of an Asset Sale and by the members (pro rata to the number of Ordinary Shares held by them) in the case of a Listing or Takeover) within 2 Business Days of the date of completion of the Listing, Takeover or Asset Sale (as relevant).
5. In the event that the Property Price is reduced below £7,600,000 as a result of the operation of clause 2.8.1 of the Celtic Option, the £ figures (but not the % figures) set out in paragraphs 1.1 to 1.5 above (inclusive) shall be reduced proportionate to the amount of such reduction in the Property Price.