

Company No. 160499



COMPANIES ACT 1985
COMPANY LIMITED BY SHARES
ARTICLES OF ASSOCIATION
OF
VIS ENTERTAINMENT PLC

4

adopted by Special Resolution of the Company passed on
29 December 2000

1 Preliminary

These Articles together with the regulations contained in Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 (as amended) ("**Table A**") shall apply to the Company save insofar as such regulations are excluded or varied hereby. The first sentence of Regulation 24 and Regulations 73 to 77 (inclusive) 80, 82, 87 and 118 of Table A shall not apply to the Company.

2 Definitions and Interpretation

In these Articles the following words and expressions shall (except where the context otherwise requires) have the following meanings:-

"**the Act**" means the Companies Act 1985 (as amended by the Companies Act 1989) and every other statutory modification or re-enactment thereof for the time being in force;

"**'A' Ordinary Share**" means an 'A' ordinary share of £0.10 in the capital of the Company;

"**'A' Ordinary Shareholder**" a registered holder of any 'A' Ordinary Shares;

"**Asset Sale**" means the completion of any transaction whereby any person or group of persons purchases the whole or substantially the whole of the business and assets of the Company;

"**Auditors**" means the auditors from time to time of the Company;

"**'B' Ordinary Share**" means a convertible preferred ordinary share of £0.10 in the capital of the Company;

"**'B' Ordinary Shareholder**" means a holder for the time being of any 'B' Ordinary Shares;

"**'B' Ordinary Shareholders' Costs**" means the payments made to the Company by the 'B' Ordinary Shareholders in respect of the 'B' Ordinary Shares from and including the date of subscription for the relevant 'B' Ordinary Shares up to and including the date of conversion (but, for the avoidance of doubt, excluding for these purposes the consideration paid by a purchaser of any 'B' Ordinary Shares to the existing holder of such shares in respect of the purchase of those 'B' Ordinary Shares);

CERTIFIED A TRUE COPY

A handwritten signature in black ink, appearing to read "PETER BAILLIE", is written over a horizontal line.

PETER BAILLIE SECRETARY
12 APR 01

"B' Ordinary Shareholders' Receipts" means the receipts of the 'B' Ordinary Shareholders in respect of the 'B' Ordinary Shares (gross of any tax liability which may arise in respect thereof) and shall comprise the following receipts:

- (a) dividends received by the 'B' Ordinary Shareholders from the Company;
- (b) amounts received by the 'B' Ordinary Shareholders from the Company on a return of capital pursuant to the terms of Article 4.4;
- (c) in the event of a Liquidity Event, the value of any 'A' Ordinary Shares into which 'B' Ordinary Shares are converted pursuant to article 4.5 and/or any amount to be paid pursuant to Article 4.5.5;
- (d) any other amount received by the 'B' Ordinary Shareholders from the Company in respect of the 'B' Ordinary Shares (other than as referred to in (a), (b) or (c) above) (but, for the avoidance of doubt, excluding for these purposes the proceeds of sale of any 'B' Ordinary Shares sold otherwise than in the context of a Listing or a Trade Sale);

and so that references to receipts shall be deemed to be references to amounts received or receivable and the date of receipt shall be the date of actual receipt (or the closest estimate thereof) save in the case of a Liquidity Event when that part of the 'B' Ordinary Shareholders' Receipts referred to in paragraph (c) above shall be deemed received in the case of a Listing on the date of Listing or, in relation to a Trade Sale, the date of completion of that Trade Sale or in relation to a Funding Commitment, on the date on which such funds are made available to the Company;

"Board" means all the Directors of the Company from time to time including the Subscribers' Director (if any), the New Subscriber's Director, the 3i Director (if any) the Telewest Director and the SEP and SE Director (if any);

"Connected Persons" means as defined by section 839 of the Income and Corporation Taxes Act 1988;

"Directors" means the directors from time to time of the Company;

"Equity Shares" means the 'A' Ordinary Shares, the Ordinary Shares and the 'B' Ordinary Shares and any shares derived therefrom whether by conversion, consolidation or subdivision or by way of rights or bonus issue or otherwise for the time being in issue;

"FSA" means the Financial Services Act 1986 and every statutory modification or re-enactment thereof for the time being in force;

"Fund" means any bank, investment trust or investment company (within the meaning of Chapter 21 of Section 10 of the rules governing admission of securities to listing issued by the Stock Exchange), unit trust, building society, industrial provident or friendly society, any other collective investment scheme (as defined by the Financial Services Act 1986), *any business investor* (as defined by the Financial Services (Glossary and Interpretation) Rules and Regulations 1990), partnership, limited partnership, pension fund or insurance company or any person who is an authorised person under the Financial Services Act 1986, any subsidiary undertaking of any of the foregoing and any co-investment scheme in relation to any of the foregoing;

"3i" means 3i Group plc (company number 1142830) and having its registered office at 91 Waterloo Road, London SE1 8XP;

"3i Director" means a director appointed by 3i pursuant to Article 16.5 of these Articles;

"Institutional Investors" means each of 3i Group plc and Scottish Enterprise and SEP or any nominee of 3i Group plc or Scottish Enterprise or SEP or any member of the 3i Group or Scottish Enterprise Group or SEP Group to whom 3i Group plc or Scottish Enterprise or SEP may have transferred shares in accordance with these Articles;

"Investment Agreement" an agreement made on 26 June 1998 among the Company, 3i Group plc, Scottish Enterprise, Scottish Equity Partnership, Noble Grossart Investments Limited, Chris van der Kuyl and Peter Baillie;

"IRR" means the internal rate of return expressed as a percentage per annum of the amount subscribed for 'B' Ordinary Shares calculated from and including the date of subscription for the relevant 'B' Ordinary Shares down to and including the date of conversion. The return to 'B' Ordinary Shareholders shall be the amount of the 'B' Ordinary Shareholders' Receipts less the amount of the 'B' Ordinary Shareholders' Costs. The return shall accrue on a daily basis and the rate of return shall be compounded on an annual basis at the end of each calendar year;

"Liquidity Event" means any of the following events:

- (i) Listing;
- (ii) the sale and purchase of shares conferring (whether themselves, together with shares already held by the purchaser or together with shares held by Connected Persons or persons acting in concert (as acting in concert is defined in the City Code on Takeovers and Mergers)), the rights to fifty per cent (50%) or more of the votes at general meeting of the Company (a "Trade Sale"); or
- (iii) the obtaining by the Company from a sole party who is not already a member of the Company at the date of adoption of these Articles of immediately available funding in cash in excess of ten million pounds (£10,000,000) after payment by the Company of any expenses relating to the obtaining of such funding (a "Funding Commitment");

"Listing" means the admission of all or any of the Equity Shares to the Alternative Investment Market, NASDAQ, EASDAQ or the Official List of the Stock Exchange or the grant of permission by the Stock Exchange to deal in the same on any recognised investment exchange (as that term is defined in the FSA);

"Managers" means Ian Ritchie, Peter Baillie and Christian van der Kuyl or any of them;

"Member of the 3i Group" means 3i Group plc, any subsidiary of 3i Group plc and any company of which 3i Group plc is a subsidiary;

"Member of the SEP Group" shall mean SEP and any general or limited partner for the time being in SEP or any guarantor or indemnifier of the investment of any partner for the time being in SEP and any subsidiary or holding company from time to time of any limited or general partner of SEP and any subsidiary of such holding Company and any member of the Scottish Enterprise Group or any fund managed by Scottish Equity Partners Limited, incorporated under the Companies Act under number SC189451 and having its registered office at 17 Blythswood Square, Glasgow G2 4AD;

"Member of the Scottish Enterprise Group" means Scottish Enterprise, any subsidiary for the time being of Scottish Enterprise, and any company, corporation or other body of

persons that shall have acquired the whole or substantially the whole of the undertaking of Scottish Enterprise or any subsidiary of such company, corporation or body and any other body to which the statutory functions of Scottish Enterprise have been delegated or a Scottish Enterprise Successor;

"New Subscriber" means John Boyle or any of his permitted transferees pursuant to the provisions of Articles 8.2 or 8.3

"New Subscriber's Director" means a director appointed by the New Subscriber pursuant to Article 16.3 of these Articles

"Noble Grossart" means Noble Grossart Investments Limited a Company registered in Scotland (Company Number 46265) and having its registered office at 48 Queen Street, Edinburgh, EH2 3NR;

"Ordinary Share" an ordinary share of £0.10 in the capital of the Company;

"Ordinary Shareholder" means a registered holder of any Ordinary Shares;

"Relevant Directors" means the directors and former directors of the Company and *its* subsidiaries and their Connected Persons but excluding the Telewest Director 3i Director, the SEP and SE Director, the Subscribers' Director and the New Subscriber's Director;

"Scheme Shares" means Ordinary Shares acquired pursuant to the exercise of options granted under the Company's Company Share Option Plan established by a resolution of the Directors on the Twentieth Day of July, 2000 and approved by the Inland Revenue on 29 August 2000;

"Scottish Enterprise or SE" shall mean any party succeeding in whole or Successor in part to the interest of Scottish Enterprise in SEP;

"SEP" shall mean Scottish Equity Partnership, a limited partnership established under the Limited Partnerships Act 1907 under number 2874 and having its place of registration at 120 Bothwell Street, Glasgow G2 7JP acting through its general partner Scottish Enterprise;

"SEP and SE Director" means a director appointed by SEP and SE pursuant to Article 16.4 of these Articles;

"Share Sale" the completion of any transaction whereby any person or group of persons acting in concert (as defined by the City Code on Take-Overs and Mergers) purchases not less than 90 per cent in nominal value of the Equity Shares;

"the Stock Exchange" means the London Stock Exchangeplc;

"Subscribers" as such term is defined in the Subscription Agreement together with SEP;

"Subscribers' Director" means a director appointed pursuant to Article 16 of these Articles;

"Subscription Agreement" means an agreement made on 16 October 1996 between (1) the Company (2) 3i Group plc and Others (3) the Managers and (4) Elderstreet Investments Limited;

"Subscription Agreement (No.2)" means an agreement made on 20 April 1999 among the Company, 3i Group plc, Scottish Enterprise, Scottish Equity Partnership, John Boyle, John Fickling, Brenner Limited, Chris Van der Kuyl and Peter Baillie;

"Subscription Agreement (No.3)" means an agreement made on the date of adoption of these articles between Flextech Television Limited, 3i, SEP, SE, the Company and others;

"Telewest" means Telewest Communications plc, a company incorporated in England and Wales with its registered office at Genesis Business Park, Albert Drive, Woking, Surrey GU21 5RW;

"Telewest Director" means a Director appointed by Telewest in accordance with Article 16.6;

"Telewest Group" means Telewest, any holding company of Telewest and any subsidiary of Telewest or of any such holding company;

Words incorporating the masculine gender only include the feminine and neuter genders and words incorporating the singular number only include the plural and vice versa.

Clause headings are for ease of reference only and do not affect the construction or interpretation of these Articles.

References to persons shall include bodies corporate unincorporated associations and partnerships.

Words and expressions defined in or for the purposes of the Act or Table A shall have the same meanings in these Articles unless the context otherwise requires.

Without prejudice to the provisions of Section 738 of the Act the expressions "paid up" or "paid up value" as used in relation to any part of the share capital of the Company shall mean the total amount paid up, or credited as paid up, on the relevant shares including any premium paid up or credited as paid up thereon.

3 Share Capital

The authorised share capital of the Company at the date of adoption of these Articles is £540,000 divided into 1,800,000 Ordinary Shares of £0.10 each, 3,000,000 'A' Ordinary Shares of £0.10 each³ and 600,000 'B' Ordinary Shares of £0.10 each.

4 Share Rights

4.1 Save as otherwise specifically provided in these Articles the 'A' Ordinary Shares, the 'B' Ordinary Shares and the Ordinary Shares rank pari passu but constitute three separate classes of shares.

4.2 Income

A. The profits of the Company in any financial year shall be applied in paying to the holders of the Equity Shares as a class, a cumulative net cash dividend (in each case hereinafter in these Articles referred to as the "Participating Dividend") of a sum which is equal to 30% of the Net Profit (calculated as hereinafter provided) of the Company and its subsidiaries for the relevant financial year.

The Participating Dividend (if any) shall be payable not more than 14 days after the general meeting at which the audited accounts of the Company for the relative financial year are

³ Share capital increased pursuant to ordinary resolution of the Company dated 22 August 2000

presented provided that in the event that the audited accounts of the Company for any financial year have not been presented at a general meeting of the Company on the date (hereinafter called "the Relevant Date") four months after the end of such financial year then an interim dividend on account of the Participating Dividend will be paid within fourteen days of the Relevant Date and will be the same amount as the equivalent Participating Dividend in the immediately preceding financial year. If following the presentation of the audited accounts of the Company for the said period an overpayment or underpayment of the Participating Dividend shall be proved to have been made the directors shall (in the case of an underpayment) within 30 days of presentation of the relevant accounts, declare and pay a final dividend of an amount equal to any shortfall and (in the case of an overpayment) the amount of any overpayment shall be treated as discharging pro tanto the liability of the Company in respect of the next succeeding payment or payments of the Participating Dividend. For the purposes of this article the expression "Net Profit" shall mean the net profit of the Company and its subsidiaries calculated on the historical cost accounting basis as shown in the audited consolidated profit and loss account of the Company and its subsidiaries for the relative financial year (to the nearest £1) but:

- (1) Before *any* provision is made for any dividend on any share in the capital of the Company or any of its subsidiaries or for any other distribution or for the transfer of any sum to reserve;
- (2) Before deducting any corporation tax (or any other tax levied upon or measured by profits and gains) on the profits earned and gains realised by the Company and its subsidiaries;
- (3) Before deducting any sum in excess of the rate agreed from time to time with the 3i Director (if any and failing which, 3i), the Telewest Director (if any and failing which Telewest) and the SEP and SE Director (if any and failing which, SEP and SE)) and the New Subscriber's Director in respect of salary and emoluments, fees, percentages, sums paid by way of expenses allowance (if taxable), pension contributions and benefits in kind payable to relevant Directors in respect of their services rendered to the Company or any subsidiary of the Company.

- B. Every dividend shall be distributed to the holders of the Equity Shares pro rata according to the number of fully paid up shares held by them respectively and shall accrue on a daily basis. For the avoidance of doubt no dividend shall be paid on any partly paid share.

Unless the Company has insufficient *profits* available for distribution and the Company is thereby prohibited from paying dividends by the Act, the Participating Dividend shall (notwithstanding regulations 102 to 108 of table A or any other provisions 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;

- C. The Company shall 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 as are necessary to permit lawful and prompt payment by the Company of the Participating Dividend.

4.3 Consents of the 'A' Ordinary Shareholders and 'B' Ordinary Shareholders

- 4.3.1 So long as any 'A' Ordinary Shares and/or 'B' Ordinary Shares remain outstanding the Company shall not without the consent or sanction of the holders of 50% of the 'A' Ordinary Shares and holders of 50% of the 'B' Ordinary Shares:-

- (a) modify or vary the rights attaching to the Equity Shares; or

- (b) pass any resolution to reduce all or any of its share capital represented by the Equity Shares;
- (c) create allot or issue any shares or securities or grant any right to require the allotment or issue of any such shares or securities other than pursuant to the terms of any share option scheme existing at the date of adoption of the Articles or similar scheme or arrangement approved by the Subscribers' Director, the New Subscriber's Director and the 3i Director (if any and failing which, 3i) and the SEP and SE Director (if any and failing which, SEP and SE) and the Telewest Director (if any and failing which Telewest) or otherwise pursuant to Article 12.

4.4 Capital

On a return of assets on liquidation, reduction of capital or otherwise the surplus assets of the Company remaining after payment of its liability shall be applied:

- 4.4.1 first in paying to the 'B' Ordinary Shareholders an amount equal to the subscription price (inclusive of any premium) paid or credited as paid for such shares together with such amount as is necessary to establish an IRR of twenty per cent (20%);
- 4.4.2 secondly in paying to the Ordinary Shareholders and A Ordinary Shareholders pro rata an amount equal to the subscription price (inclusive of any premium) paid or credited as paid on each of the Ordinary Shares and A Ordinary Shares;
- 4.4.3 thirdly in distributing pro rata to the amount subscribed for each Equity Share any surplus remaining to the holders of the Equity Shares.

4.5 Conversion

- 4.5.1 A holder of 'B' Ordinary Shares may by notice in writing to the Company at any time at its option and without the payment of any additional consideration convert its 'B' Ordinary Shares into A Ordinary Shares at a conversion rate of one A Ordinary Share for each 'B' Ordinary Share. The 'B' Ordinary Shares shall be deemed to have converted on receipt by the Company of such notice and the Company shall take such steps as are necessary to reflect the conversion in the statutory books of the Company.
- 4.5.2 A holder of 'A' Ordinary Shares may at any time at its option and without the payment of any additional consideration convert its 'A' Ordinary Shares into Ordinary Shares at a conversion rate of one Ordinary Share for each 'A' Ordinary Share. The 'A' Ordinary Shares shall be deemed to have converted on receipt by the Company of such notice and the Company shall take such steps as are necessary to reflect the conversion in the statutory books of the Company.
- 4.5.3 Immediately prior to the Liquidity Event and on the assumption that such Liquidity Event will proceed immediately thereafter at the anticipated price, if the IRR on conversion of the existing 'B' Ordinary Shares would be less than 20%, the Company shall by way of capitalisation of reserves or otherwise allot to the 'B' Ordinary Shareholders a bonus issue of such number of 'B' Ordinary Shares as shall together with the number of 'B' Ordinary Shares in issue immediately prior to such bonus issue give an IRR of 20% (or such number as shall be as close as possible to but not less than 20%).

- 4.5.4 Immediately prior to the Liquidity Event and immediately after the bonus issue pursuant to article 4.5.3 (if any) all (and not some only) of the 'B' Ordinary Shares then in issue shall automatically be converted into, and redesignated as 'A' Ordinary shares.
- 4.5.5 In the event that the Company has insufficient reserves or is otherwise unable to effect the bonus issue in full pursuant to article 4.5.3, the shareholders of the Company will procure that the proceeds of a Liquidity Event available for distribution among the shareholders shall be distributed to the 'B' Ordinary Shareholders in an amount sufficient to give an IRR of 20 %
- 4.5.6 Any fractions resulting from the application of the above formula shall be rounded up or down (as appropriate) to the nearest number (with halves being rounded to the nearest even number).
- 4.5.7 At least 14 days prior to a Liquidity Event giving rise to conversion under this article, the Company shall estimate the likely date of such a Liquidity Event; procure that the calculations set out in this article are carried out and that the auditors certify that such calculations have, in their opinion, been performed in accordance with the provisions of this article; and notify all holders of the Equity Shares of the results of such calculations. If the anticipated event does not occur by the date as at which or on the terms on which the said calculations were made, the procedures set out in this sub-article shall be repeated (if that event is still likely to occur) with reference to the next date on which the Company estimates the event is likely to occur and/or by reference to the actual terms concerned, as appropriate.
- 4.5.8 Upon such conversion becoming effective the Company shall be obliged:
- 4.5.8.1 to convene such meetings, seek such authorities and make such amendments to these Articles as may be requisite;
- 4.5.8.2 to issue substitute share certificates for the new 'A' Ordinary Shares arising on such conversion against surrender by holder of the certificate representing the former holding of 'B' Ordinary Shares.
- 4.5.9 For the purposes of articles 4.5.3 and 4.5.5 above, the value of a 'B' Ordinary Share shall be calculated by reference to such value as is attributed to the Company in relation to the relevant Liquidity Event (provided that such value represents at least fair market value of the Company,) and by reference to the portion of the total share capital of the Company then in issue that the 'B' Ordinary Shares represent taking into account any increase in share capital as a result of any bonus issue pursuant to article 4.5.3. Any fractions resulting from the application of the above formula shall be rounded up or down (as appropriate) to the nearest number (with halves being rounded to the nearest even number).
- 4.5.10 The Ordinary Shares resulting from the conversion pursuant to this Article shall rank from the date of conversion pari passu in all respects and form one class with the other Ordinary Shares in the capital of the Company.
- 4.5.11 The 'A' Ordinary Shares resulting from conversion pursuant to this article shall rank pari passu in all other respects and form one class with the 'A' Ordinary Shares then in issue and shall be issued fully paid.

5 Modification of Rights

Subject to the Act all or any of the special rights for the time being attached to any class of shares for the time being in issue may from time to time (whether or not the Company is being wound up) be altered or abrogated with the written consent of the holders of not less

than three-quarters of the issued shares of that class (including the consent of the New Subscriber and of Telewest) or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of such shares (passed with the consent of the New Subscriber and of Telewest). To any such separate general meeting all the provisions of these Articles as to general meetings of the Company shall mutatis mutandis apply except that the necessary quorum shall be two or more persons holding or representing by proxy not less than one-third of the issued shares of the class (provided that where all the shares of a class are registered in the name of one holder that holder present in person or by proxy may constitute a meeting) to include the New Subscriber or his proxy and Telewest or its proxy and that every holder of shares of the class shall be entitled on a poll to one vote for every such share held by him and that any holder of shares of the class present in person or by proxy may demand a poll and that at any adjourned meeting of such holders one holder present in person or by proxy (whatever the number of shares held by him) shall be a quorum.

6 Issue of New Shares

- 6.1 Subject to Articles 4.3.1(c) and 6.2 any shares for the time being un-issued and any new shares from time to time created (other than Equity Shares issued to employees pursuant to any option agreement to acquire Equity Shares which is in existence as at the date of adoption of these Articles or which shall be approved pursuant to Article 12 which shall be excluded from the provisions of Articles 6.1, 6.2 and 6.3 of this Article 6) shall before they are issued be offered to the holders of the Equity Shares in proportion (as nearly as may be) to the nominal amount of their existing holdings of Equity Shares (of whatever class). The offer shall be made by notice specifying the number and class of shares offered and the price per share and limiting a time (not being less than 20 days or greater than 30 days) within which the offer if not accepted will be deemed to be declined. After the expiration of such time, or on the receipt of an indication from the person(s) to whom the offer is made that he/they decline(s) to accept the shares offered or any of them, the Directors shall offer the shares declined in like manner (save that the minimum period for acceptance may be seven days) to the other holders of Equity Shares who have agreed to subscribe for all the shares offered to them in proportion (as nearly as may be) to the nominal amount of their existing holdings of Equity Shares (of whichever class). If the shares comprised in such further offer are declined or deemed to be declined the further offer shall be withdrawn.
- 6.2 In the event that all or any of the shares to which Article 6.1 apply are not subscribed for in accordance with the provisions of Article 6.1 the Directors may offer such shares to a third party (to be approved by the Subscribers such approval not to be unreasonably withheld or delayed) and subject to these Articles and the provisions of Section 80 of the Act such shares shall be at the disposal of the Directors who may allot, grant options over or otherwise dispose of them to such persons at such times and generally on such terms and conditions as they think proper, provided that:-
- 6.2.1 no shares shall be issued at a discount;
- 6.2.2 no shares to which Article 6.1 applies shall be issued more than three months after the expiry of the period for acceptance of the last offer of such shares made under Article 6.1 unless the procedure set out in Article 6.1 is repeated in respect of such shares; and
- 6.2.3 no shares shall be issued at a price less than that at which they were offered to the members of the Company in accordance with Article 6.1 and so that (if the Directors are proposing to issue such shares wholly or partly for non-cash consideration) the cash value of such consideration for the purposes of this sub-paragraph shall be as reasonably determined by the Auditors whose determination shall be final and binding on the Company and each of its members.

- 6.3 The provisions of Articles 6.1 and 6.2 shall mutatis mutandis apply to all equity securities (as defined in Section 94(2) of the Act) of the Company from time to time created.

7 Transfers of Shares – General

- 7.1 The Directors may with the consent of the Subscribers' Director, the New Subscriber's Director and the 3i Director (if any and failing which, 3i) and the Telewest Director (if any and failing which Telewest) and the SEP and SE Director (if any and failing which, SEP and SE) but otherwise in their absolute discretion decline to register the transfer of any shares in the Company (including the transfer of any shares otherwise permitted under Article 8) to any person who in the opinion of the Directors is carrying on business directly or indirectly in competition with the Company or any member of the Group.
- 7.2 Without prejudice to the provisions of Regulation 24 of Table 'A' (as modified hereby) the Directors shall not register any transfer of shares in the Company except a transfer permitted by the following provisions of these Articles.
- 7.3 For the purposes of:
- 7.3.1 ensuring that a transfer of shares is duly authorised under the following provisions of these Articles; or
- 7.3.2 ensuring that no circumstances have arisen whereby a shareholder may be bound or be required to give or is deemed to have given a Sale Notice (as defined in Article 9.1); or
- 7.3.3 ascertaining when a Sale Notice should have been or is deemed to have been given hereunder the Directors may from time to time require any member or the legal personal representatives of any deceased member or the trustee in bankruptcy of any member or the receiver, administrative receiver or liquidator of any corporate 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 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 7 clear days after request the Directors shall be entitled to refuse to register the transfer in question or (in case no transfer is in question) may resolve to require by notice in writing that a Sale Notice be given in respect of the shares concerned. If such information or evidence discloses to the satisfaction of the Directors that circumstances have arisen whereby a shareholder may be bound or required to give or be deemed to have given a Sale Notice the Directors may resolve by notice in writing to require that a Sale Notice be given in respect of the shares concerned. A resolution of the Directors hereunder shall be binding upon the shareholders concerned who shall be bound to give a Sale Notice in respect of the shares concerned forthwith upon receipt of the said notice from the Directors.
- 7.4 In any case where the Directors have duly required a Sale Notice (as defined in Article 9.1) to be given in respect of any shares and such Sale Notice is not duly given within a period of one week such Sale Notice shall be deemed to have been given at the expiry of the said period and the provisions of these Articles relating to Sale Notices shall take effect accordingly.
- 7.5 A Sale Notice given or deemed to be given pursuant to this Article or Article 8 shall not be capable of revocation nor may it specify that unless all relevant shares are sold by the Company pursuant to the Sale Notice, none shall be so sold. Subject as provided to the contrary in this Article or Article 8 as appropriate, the provisions of Article 9 shall apply to any Sale Notice given or deemed to be given under or pursuant to this Article or Article 8.

- 7.6 In any case where a shareholder (or his personal representatives) has (or have) been required to give or has been deemed to have given a Sale Notice pursuant to the provisions of this Article or Article 8 and subsequently becomes the holder of further shares in the Company by virtue of the holding of any shares comprised in such Sale Notice (whether by way of rights or bonus issue conversion transfer or otherwise howsoever) a majority of the Directors may at any time thereafter determine in their absolute discretion that he (or his personal representatives) as appropriate shall be deemed to have served a Sale Notice pursuant to this Article or Article 8 (as appropriate) in respect of such further shares.

8 Permitted Transfers of Shares

8.1 Group Transfers

- 8.1.1 Any shares held by an undertaking ("Original Undertaking") may be transferred to any other undertaking ("Transferee Undertaking") PROVIDED ALWAYS that each and any such Transferee Undertaking is a group undertaking in relation to that Original Undertaking.
- 8.1.2 In the event that any Transferee Undertaking ceases to be a group undertaking in relation to the Original Undertaking then such Transferee Undertaking shall forthwith transfer any shares in the Company held by it to the Original Undertaking or to an undertaking which in relation to the Original Undertaking is a group undertaking.
- 8.1.3 Notwithstanding any other provisions in these Articles any transfer by any member of the 3i Group to any other member of the 3i Group may be made without restriction as to price or otherwise (but if such transferee ceases to be a member of the 3i Group it shall forthwith transfer the relevant shares to a member of the 3i Group) and any such transfer shall be registered by the Directors.
- 8.1.4 Notwithstanding any other provisions in these Articles any transfer by any member of the Scottish Enterprise Group to any other member in the Scottish Enterprise Group may be made without restriction as to price or otherwise, and any transfer shall be registered by the Directors.
- 8.1.5 Notwithstanding any other provisions of these articles any transfer by any member of the SEP Group to any other member of the SEP Group may be made without restriction as to price or otherwise and any transfer shall be registered by the Directors.
- 8.1.6 Notwithstanding any other provisions of these articles any transfer by any member of the Telewest Group to any other member of the Telewest Group may be made without restriction as to price or otherwise and any transfer shall be registered by the Directors.
- 8.1.7 In default of Articles 8.1.1 and 8.1.2 above the Original Undertaking or (as the case may be) the Transferee Undertaking shall be deemed to have served a Sale Notice (as defined in Article 9.1) in respect of all such shares PROVIDED ALWAYS that the price shall be the issue price (including any premium).

8.2 Nominees

- 8.2.1 Any shares may be transferred by the beneficial owner of such shares ("the Beneficial Owner") to a person shown to the reasonable satisfaction of the Board (to include the consent of the Subscribers' Director, the New Subscriber's Director, the Telewest Director (if any and failing which Telewest), the 3i Director (if any and failing which, 3i) the SEP and SE Director (if any and failing which, SEP and SE)) to be a nominee for the Beneficial Owner only.

- 8.2.2 Where any shares have been transferred to a nominee pursuant to Article 8.2.1 any such nominee may transfer any shares so transferred to the Beneficial Owner or to another person shown to the reasonable satisfaction of the Board (to include the consent of the Subscribers' Director, the New Subscriber's Director, the Telewest Director (if any and failing which Telewest), the 3i Director (if any and failing which, 3i) and the SEP and SE Director (if any and failing which SEP and SE)) to be a nominee for the Beneficial Owner only.
- 8.2.3 Where a person to whom any shares have been transferred as a nominee pursuant to this Article 8.2 ceases to hold such shares as nominee for the Beneficial Owner only he shall forthwith transfer such shares to the Beneficial Owner or to another person shown to the reasonable satisfaction of the Board (to include the consent of the Subscribers' Director, the New Subscriber's Director, the 3i Director (if any and failing which, 3i) and the SEP and SE Director (if any and failing which SEP and SE)) to be a nominee for the Beneficial Owner only and in default thereof he shall be deemed to have given a Sale Notice (as defined in Article 9.1) in respect thereof provided that the price shall be the issue price (including any premium).

The Board shall be obliged to register any transfer taking place pursuant to this Article 8.2.

8.3 To Privileged Relations and Trustees

8.3.1 Any shares may be transferred by a Beneficial Owner who is an individual:-

8.3.1.1 to a privileged relation of such Beneficial Owner;

8.3.1.2 to trustees to be held upon family trusts;

8.3.1.3 in respect of shares held by the New Subscriber only, with the prior written consent of the Institutional Investors (not to be unreasonably withheld or delayed), to a nominated company

A person or persons to whom the shares are transferred to in connection with the transfers referred to under this Clause 8.3.1.1, 8.3.1.2 and 8.3.1.3 being hereinafter collectively referred to as "Privileged Transferee(s)".

and all such transfers shall be registered by the Board.

8.3.2 Where any shares have been transferred to Privileged Transferees pursuant to Article 8.3.1 or allotted to trustees to be held upon family trusts for a Manager the Privileged Transferees or the said other trustees as the case may be may transfer any such shares without restriction and notwithstanding any other provisions in these Articles to a person or persons shown to the reasonable satisfaction of the Board (to include the consent of the Subscribers' Director, the New Subscriber's Director, the 3i Director, the SEP and SE Director and the Telewest Director (if any and failing which Telewest) to be:

8.3.2.1 the trustees for the time being (on a change of trustee) of the family trusts in question and/or;

8.3.2.2 the Beneficial Owner or any privileged relation of the Beneficial Owner and/or;

8.3.2.3 another nominated company.

In any case where a member proposing to transfer shares under this Article 8.3 ("the Proposing Transferor") holds those shares as a result of an earlier transfer authorised under this Article 8.3 from another member ("the Original member") the Proposing Transferor

may only transfer those shares to a person to whom the Original member could have transferred such shares under this Article 8.3 and such transfers shall be registered by the Board.

8.4 Where shares are held by a Privileged Transferee and any such shares cease to be held by a Privileged Transferee (otherwise than in consequence of a transfer authorised under Article 8.3.2) or where, in the case of a nominated company, that company ceases to be under the control of the New Subscriber) the Privileged Transferee shall forthwith transfer such shares to a transferee permitted under Article 8.3.2 and in default thereof the Privileged Transferee shall be deemed to have given a Sale Notice (as defined in Article 9.1) in respect of the shares in question provided that the price shall be the issue price (including any premium).

8.5 For the purposes of this Article 8 the following expressions shall have the following meanings:-

8.5.1 **"privileged relation"** means the parent or spouse or brothers or sisters of the Beneficial Owner or any lineal descendant of that person or any person who is or has been married to any such lineal descendant or any stepchild or adopted child of the Beneficial Owner or of any such lineal descendant;

8.5.2 **"family trust"** means a trust (whether arising under a settlement inter vivos or a testamentary disposition by whomsoever made or an intestacy) under which the only persons being (or capable of being) beneficiaries are the individual Beneficial Owner and/or his privileged relations and no power of control over the voting powers conferred by such shares is for the time being exercisable by or subject to the consent of any person other than the trustees as trustees or the individual Beneficial Owner or his privileged relations.

8.5.3 **"nominated company"** means any company which is under the control of the New Subscriber.

8.6 **To Funds and other permitted transfers**

8.6.1 Any Share (and/or any interest therein) held by or on behalf of a Fund may be transferred without restriction as to price or otherwise and notwithstanding any other provisions in these Articles (i) to (or to a nominee or trustee for) the holders of units in, or any partner in, or members of or investors in (as the case may be) such Fund and any Share (and/or any interest therein) held by any nominee or trustee for such holders, partners, members or investors may be transferred to such holders, partners, members or investors or to another nominee or trustee for such holders, partners, members or investors (ii) to a nominee or trustee for such Fund and any Share (and/or any interest therein) held by a nominee or trustee for a fund may be transferred to that Fund or to another nominee or trustee for such Fund (iii) to (or to a nominee or trustee for) another Fund which is managed or advised by the same manager or adviser as the transferor (or as the Fund on behalf of whom any such share or interest is held by the transferor as nominee or trustee) or by a group undertaking of such manager or adviser and such transfer shall be registered by the Board.

8.6.2 Any transfer of any Share from a Fund (other than a Fund holding shares pursuant to the Subscription Agreement or the Investment Agreement or any of such parties' permitted transferees) to the New Subscriber or any of his permitted transferees in terms of Article 8.5 may take place at any time without any pre-emption rights arising and without there being any other restriction as to price or otherwise and any such transfers shall be registered by the Directors.

8.7 Any Shares and/or any interest therein may be transferred at any time to any person with the written consent of the holders of not less than 91 per cent in nominal value of the issued Equity Shares for the time being.

8.8 Subject to the provisions of Article 7.1 hereof and Regulation 24 of Table "A" (as modified hereby) any shares may be transferred free of restriction by the trustees of any employee benefit trust of the Company to any beneficiary thereof or to any replacement trustees.

8.9 **Disapplication of Transfer Restrictions to Scheme Shares**

Notwithstanding any other provision of these Articles, Scheme Shares shall be transferable freely without restriction as to price or otherwise and the compulsory transfer provisions in articles 9 and 10 shall not apply to the Scheme Shares.⁴

9 **Pre-Emption Rights on Transfer**

9.1 Any member wishing to transfer (other than a transfer permitted by Article (8) all or any Shares held by him and/or any interest therein (a "Retiring Shareholder") shall first give a notice in writing (a "Sale Notice") to the Company specifying (i) the number and denoting numbers (if any) of the shares which the Retiring Shareholder wishes to sell ("the Sale Shares") (ii) the price at which he proposes to transfer the Sale Shares ("the Price") (iii) the name of any third party to whom he proposes to sell or transfer the Sale Shares. The Sale Notice shall constitute the Company as the agent of the Retiring Shareholder for the sale of the Sale Shares at the Price. A Sale Notice may require that unless all the shares comprised in it are sold none shall be sold.

9.2 On receipt or deemed receipt of a Sale Notice the Company shall by notice in writing offer the Sale Shares at the Price to the holders of the Equity Shares in proportion (as nearly as may be) to the nominal amount of their existing holdings of Equity Shares ("First Offer").

The First Offer shall be made by the Company within 7 days of the date on which the Sale Notice is given ("Sale Notice Date") and shall specify that such offer must be accepted within 28 days or in default thereof will lapse. The Company shall by notice in writing offer (the "Second Offer") any remaining Sale Shares which have not been accepted pursuant to the First Offer to the other holders of Equity Shares who have agreed to accept the First Offer. Such holders may specify the number of shares they are willing to purchase up to the total number of remaining Sale Shares offered. If the number of shares so specified exceeds the total number of shares the subject of the Second Offer, the remaining Sale Shares shall be allocated to each such holder in proportion (as nearly as may be) to the nominal amount of his existing holding of Equity Shares (subject to any number specified by any such holder as the maximum number he is willing to purchase).

9.3 If the Company shall within the said time limits find members willing to purchase all or any of the Sale Shares it shall within 14 days of the expiry of such time limits or such earlier date as it may have found members willing to purchase all the Sale Shares give notice thereof to the Retiring Shareholder whereupon the Retiring Shareholder shall become bound to sell and transfer the Sale Shares to the respective purchasers free from all liens, charges, encumbrances and third party rights and (unless the notice given under this Article 9.3 provides otherwise) together with all rights attaching thereto at the date of sale. A notice under this Article 9.3 shall state the name and address of each of the purchasers and the number of shares to be purchased by him and shall designate a place and a time (being not

⁴ Inserted pursuant to special resolution of the Company dated 22 August 2000

less than 3 nor more than 10 days following the date of the notice) for completion of the sale of the shares comprised in such notice. If a Sale Notice states that the Retiring Shareholder is not willing to sell part only of his shares the provisions of this Article shall not take effect unless the Company shall have found purchasers for all such shares. Any offer made by the Company in respect of shares comprised in such a Sale Notice shall state as a condition of the offer that it is not capable of being accepted unless acceptances are received in respect of all the shares comprised in the relevant Sale Notice.

- 9.4 If the Company shall not within the said time limits find purchasers for all of the Sale Shares or if through no default of the Retiring Shareholder the purchase of any of the Sale Shares is not completed within the time period specified in Article 9.3 the Company shall promptly give notice in writing thereof to the Retiring Shareholder who shall be at liberty at any time within 2 months after the date of such notice to transfer such Sale Shares for which purchasers have not been found or in respect of which the sale was not completed as aforesaid to any person he may wish provided that:
- 9.4.1 such sale is completed at the Price or any higher or (subject as provided below) lower price and that otherwise the terms of payment of the purchase price are no more favourable to the purchaser than those offered to the shareholders or other persons hereunder.
- 9.4.2 no Sale Shares shall be sold at a lower price than the Price without the Retiring Shareholder first serving a further Sale Notice upon the Company specifying such lower price as the price at which such Sale Shares are offered and all the provisions of this Article 9 shall mutatis mutandis apply in respect of such further Sale Notice save that the Price shall be such lower price.
- 9.4.3 if the Sale Notice states that the Retiring Shareholder is not willing to transfer part only of the Sale Shares he shall not be entitled to sell part only of such shares hereunder.
- 9.4.4 the Directors may call for such evidence as they shall reasonably request in order to satisfy themselves that the consideration for any sale hereunder is as stated in the transfer without any rebate, allowance or deduction to the purchaser and if not so satisfied they may refuse to register a transfer hereunder.
- 9.5 If any shareholder shall fail or refuse to transfer any shares which he shall have become bound to transfer in accordance with the provisions of these Articles the Directors may authorise some person to execute and deliver on his behalf a transfer or transfers of such shares to the purchaser or purchasers and the Company may give a good receipt for the purchase price of such shares and may register the purchaser or purchasers as holders thereof and issue to them certificates for the same whereupon the purchaser or purchasers shall become indefeasibly entitled thereto. The shareholder shall in such case be bound to deliver up his certificate for the shares to the Company whereupon the Shareholder shall be entitled to receive the purchase price which shall in the meantime be held by the Company on trust for the Shareholder but without interest. If such certificate shall comprise any shares which the Shareholder has not become bound to transfer as aforesaid the Company shall issue to the Retiring Shareholder a balance certificate for such shares.
- 10 Transfers by Ordinary Shareholders on ceasing to be a Director or Employee and Transfers on Death or Bankruptcy**
- 10.1 In the event that an employee or director of the Company ceases for any reason (including death) to be an employee or director of the Company and is not continuing as either a director or employee of the Company or commits a material breach of the Subscription Agreement and/or the Subscription Agreement (No.2) and:

- 10.1.1 the employee is a holder of Ordinary Shares (whether solely or jointly with any other person); and/or
- 10.1.2 the employee has established a family trust which holds Ordinary Shares; and/or
- 10.1.3 any Ordinary Shareholder holds Ordinary Shares as the nominee of such employee or director (as the case may be); and/or
- 10.1.4 Ordinary Shares are held by a privileged relation or other permitted transferee of such employee or director (as the case may be); and/or
- 10.1.5 Ordinary Shares are held by a company the majority of the issued share capital of which is beneficially owned by such employee or director (as the case may be) the Board (to include the consent of both the Subscribers' Director, the New Subscriber's Director, the Telewest Director (if any and failing which Telewest), the 3i Director (if any and failing which, 3i) and the SEP and SE Director (if any and failing which, SEP and SE)) may within four months after the date on which the employee or director concerned ceases to be a director or employee as aforesaid or the date on which the Subscribers' Director and the New Subscriber's Director, the Telewest Director (if any and failing which Telewest), the 3i Director (if any and failing which, 3i) and the SEP and SE Director (if any and failing which, SEP and SE) shall together by written resolution determine there has been a material breach of the Subscription Agreement and/or the Subscription Agreement (No.2) as the case may be ("the Cessation Date") determine in its/his absolute discretion that there shall be deemed to have been served a Sale Notice by any of the holders of Ordinary Shares referred to in this Article (or their personal representatives in the case of their death) ("the Compulsory Vendors") in respect of all their shares in the Company (howsoever acquired).
- 10.2 The decision of the Subscribers' Director, the New Subscriber's Director, and the Telewest Director (if any and failing which Telewest), the 3i Director (if any and failing which, 3i) and the SEP and SE Director (if any and failing which, SEP and SE) as to whether there has been a material breach of the Subscription Agreement shall be final and binding and they shall not be liable to any person by reason thereof.
- 10.3 A Sale Notice deemed to have been given under Article 10.2 shall be deemed to have been given on the date of notification to the Compulsory Vendors of the Subscribers' Director's, the New Subscriber's Director's, the Telewest Director's (if any and failing which Telewest's), the 3i Director's (if any and failing which, the 3i) and the SEP and SE Director (if any and failing which, SEP and SE) determination pursuant to Article 10.2 that a Sale Notice is deemed to have been given ("the Deemed Notice Date".)
- 10.4 The price for the Sale Shares shall be as follows:
 - 10.4.1 if the Cessation Date is less than one year after the issue of the Sale Shares, or if the employee is a "Bad Leaver", the price shall be the "Market Value" of the Sale Shares as at the cessation of employment, or, if less, the issue price (including any premium) of the Sale Shares;
 - 10.4.2 if the Cessation Date is at least one year after the issue of the Sale Shares and the employee is a "Good Leaver", the price shall be the "Market Value" of the Sale Shares;
- 10.5 For the purposes of Article 10.4;-
 - 10.5.1 the "Market Value" shall be the price agreed between the Compulsory Vendors and Board (to include the Subscribers' Director, the New Subscriber's Director, the Telewest Director (if any and failing which Telewest), the 3i Director (if any and failing which, the 3i) and the

SEP and SE Director (if any and failing which, SEP and SE)) or, if they fail to agree a price within 21 days of the Deemed Notice Date the price certified by the Auditors acting as experts and not as arbitrators, to be the market value of the Sale Shares upon the Cessation Date (calculated on the basis of a sale by a willing seller to a willing buyer by reference to the value of the whole of the issued share capital of the Company and taking no account of the percentage of the capital represented by the Sale Shares but taking into account the effects on the Company of the employee or director in question ceasing to be an employee or director as the case may be). The costs of the Auditors shall be borne as determined by the Auditors.

10.5.2 a "Bad Leaver" is a person who ceases to be an employee and director in circumstances where the Company or one of its subsidiary undertakings was entitled to summarily dismiss that person and does summarily dismiss that person;

10.5.3 a "Good Leaver" is a person who ceases to be an employee and director and who is not a Bad Leaver.

10.6 If a majority of the Directors (including the Subscribers' Director, the New Subscriber's Director, the Telewest Director (if any and failing which Telewest), the 3i Director (if any and failing which, the 3i) and the SEP and SE Director (if any and failing which, SEP and SE)) so resolve they may at any time give notice to the legal personal representatives of a deceased member ("PR's") or the trustee in bankruptcy of a member ("trustee in bankruptcy") requiring such person to elect either to be registered himself or to give a Sale Notice (as defined in Article 9.1 in respect of the shares to which he/they become entitled in consequence of the death or bankruptcy of any member and if such notice is not complied within 14 days from the date of such notice the Directors may authorise some person to execute and deliver a transfer of the shares concerned to some person appointed by the Directors as a nominee for the PR's or trustee in bankruptcy and the Company may give a good receipt for the purchase price of such shares and may register the purchaser or purchasers as the holders thereof and issue to them certificates for the same whereupon the purchaser or purchasers shall become indefeasibly entitled thereto. In any such case the PR's or trustee in bankruptcy shall be bound to deliver up the certificates for the shares concerned to the Company whereupon they shall become entitled to receive the purchase price which shall in the meantime be held by the Company on trust for such person or persons but without interest.

10.7 For the avoidance of doubt where an individual is employed by and/or serves as a director of a company Article 10.1 shall apply upon that company ceasing to be within the Group.

11 Transfer of Control

11.1 Notwithstanding any other provision of these Articles but subject as provided in Article 11.3 no transfer of any Ordinary Shares, 'A' Ordinary Shares or 'B' Ordinary Shares ("Qualifying Shares") which if made and registered would result in a Share Sale or any person or group of persons acting in concert (as defined by the City Code on Take-Overs and Mergers) acquiring control of more than 30 per cent of the aggregate voting rights attaching to the Qualifying Shares shall be made or registered without the previous written consent of the holders of not less than 50 per cent of each class of Qualifying Shares unless:

11.1.1 before the transfer is lodged for approval by the Directors for registration the proposed transferee has made an offer in accordance with this Article 11 (a "Qualifying Offer") to purchase all the Qualifying Shares at the Specified Price; and

- 11.1.2 before or at the same time as the transfer of the Qualifying Shares is approved by the Directors (subject to stamping) each such accepted offer is completed and the consideration thereunder paid except insofar as failure to complete is due to the fault of the offeree.
- 11.2 A Qualifying Offer shall be in writing and shall be stipulated to be open for acceptance in the United Kingdom for at least 21 days and in default of acceptance in writing within such time by an offeree shall be deemed to have been rejected by such offeree.
- 11.3 The provisions of Article 11.1 shall not apply to the acquisition of shares by a party to the Subscription Agreement and/or the Subscription Agreement (No.2) or pursuant to Articles 8.2 to 8.6 (inclusive) or Article 8.8.
- 11.4 the purposes of this Article:
- 11.4.1 **"Connected Person"** shall have the meaning as set out in Section 839 Income and Corporation Taxes Act 1988 and persons will be regarded as "acting in concert" if they would be so regarded for the purposes of the City Code on Take-overs and Mergers;
- 11.4.2 **"Transfer"** and **"transferee"** shall include respectively the renunciation of a renounceable letter of allotment and the renouncee under any such letter of allotment; and
- 11.4.3 **"Specified Price"** shall mean:
- 11.4.3.1 a price per share of not less than that offered or paid or agreed to be paid by the proposed transferee or any Connected Person with or any person acting in concert with such person for each Qualifying Share; or, if higher,
- 11.4.3.2 if the proposed transferee or any Connected Person with or any person acting in concert with such person has acquired any Ordinary Shares or 'A' Ordinary Shares during the preceding twelve months, the "Specified Price " shall mean a price of not less than the highest average price per Ordinary Share or 'A' Ordinary Share paid or agreed to be paid in respect of all such shares so acquired during the preceding twelve months including the Qualifying Shares.
- 11.4.4 In determining the price paid or agreed to be paid for a share for the purposes of Article 11.4.3, there shall be included in each case an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the seller of the relevant shares (or any Connected Person or person acting in concert with him) which (having regard to the substance of the transaction as a whole) can reasonably be regarded as forming part of the consideration for the relevant shares.
- 11.5 In the event of disagreement the calculation of the Specified Price shall be referred to an *umpire (acting as expert and not as arbitrator) nominated by and acting at the joint expense of the parties concerned* (or, in the event of disagreement as to nomination, appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales (or any successor body thereto) at the request of any of the parties concerned) whose decision shall be final and binding. In the absence of fraud such umpire shall be under no liability to any person by reason of his calculation or anything done or omitted to be done by him for the purposes thereof or in connection therewith. The proposing transferor and any other shareholder shall provide such umpire with whatever information the umpire reasonably requests for the purposes of the calculation.
- 11.6 In the event that the holders of 75 per cent in nominal value of the Equity Shares shall accept a Qualifying Offer made on arms' length terms by a bona fide purchaser who is unconnected with any of the holders of the Equity Shares each of the other holders of Equity

Shares shall be required to accept the Qualifying Offer in respect of all the shares held by them and if any such member shall refuse or fail to transfer any of the Equity Shares held by him/it in accordance with the provisions of this Article the Subscribers' Director may authorise some person to execute and deliver on his/its behalf a transfer or transfers of such shares to the person or persons making the Qualifying Offer and the Company may give a good receipt for the purchase price for such shares and may register the purchaser or purchasers as holders thereof and issue to them certificates for the same whereupon the purchaser or purchasers shall become indefeasibly entitled thereto. The transferor shall in each case be bound to deliver up his certificate for all of his shares to the Company whereupon the transferor shall be entitled to receive the purchase price which shall in the meantime be held by the Company on trust for the transferor.

- 12 Matters requiring consent of the Subscribers' Director, the New Subscriber's Director , the Telewest Director (if any and failing which Telewest) and the Institutional Investors
- 12.1 In addition to any consent required by law the Company shall not do any of the following without the prior written consent each of the Subscribers' Director, the New Subscriber's Director, the Telewest Director (if any and failing which Telewest) and the Institutional Investors or if there is no Subscribers' Director and/or no New Subscriber's Director the consent or sanction of the 'A' Ordinary Shareholders given in accordance with Article 4:-
 - 12.1.1 acquire the whole or any part of any other business or undertaking (other than the purchase of raw materials and stock in the ordinary course of business) or acquire any shares or any option over shares in the capital of any company;
 - 12.1.2 make any material change in the nature of its business as carried on at the date of adoption of these Articles or in the case of a subsidiary undertaking acquired hereafter as at the date of such acquisition;
 - 12.1.3 declare or pay any dividend on any class of its shares other than as provided in these Articles or by a subsidiary undertaking to its parent undertaking;
 - 12.1.4 expand the business by way of new offices or satellite arrangements;
 - 12.1.5 create allot or issue any shares or securities or grant any right to require the allotment or issue of any such shares or securities other than pursuant to the terms of any share option scheme existing at the date of adoption of the Articles or similar scheme or arrangement approved by the Subscribers' Director, the New Subscriber's Director, the Telewest Director (if any and failing which Telewest), the 3i Director (if any and failing which, the 3i) and the SEP and SE Director (if any and failing which, SEP and SE);
 - 12.1.6 amend any provision of or add to or delete from any provision of its Memorandum or Articles of Association;
 - 12.1.7 increase, reduce, subdivide, consolidate, redeem (other than in accordance with these Articles) or otherwise vary the share capital of the Company other than pursuant to the terms of any share option scheme or similar scheme or arrangement validly existing at the date of adoption of these Articles or otherwise approved by the Subscribers' Director, the New Subscriber's Director, the Telewest Director (if any and failing which Telewest), the 3i Director (if any and failing which, 3i) and the SEP and SE Director (if any and failing which, SEP and SE) or reduce any amount standing to the credit of its share premium account or capital redemption reserve fund or any other reserve;
 - 12.1.8 apply for a Listing or enter into negotiations to effect a Share Sale or an Asset Sale;

- 12.1.9 commence any action for a voluntary winding up;
- 12.1.10 change its accounting reference date or its auditors;
- 12.1.11 change the accounting policies or principles normally adopted by it save as may be required from time to time to comply with legal requirements or with Statements of Standard Accounting Practice or Financial Reporting Standards;
- 12.1.12 appoint or remove any director;
- 12.1.13 permit any subsidiary to issue (other than to the Company or a wholly owned subsidiary of the Company) any shares other than pursuant to the terms of any share option scheme or similar scheme or arrangement approved by the Subscribers' Director, the New Subscriber's Director, the Telewest Director (if any and failing which Telewest) and the Institutional Investors;
- 12.1.14 dispose of any shares or permit any subsidiary to dispose of any shares (other than to the Company or a wholly owned subsidiary of the Company);

13 Proceedings at General Meetings

- 13.1 If under regulation 41 of Table A a meeting is adjourned because a quorum is not present and at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the shareholders present shall form a quorum and Regulations 40 and 41 of Table 'A' shall be modified accordingly.
- 13.2 A poll may be demanded by the Chairman or by any member present in person or by proxy and entitled to vote at the meeting and Regulation 46 of Table A shall be modified accordingly.
- 13.3 Regulation 53 of Table A shall be modified by the addition at the end of the following sentence: "If such a resolution in writing is described as a special resolution or as an extraordinary resolution or as an elective resolution, it shall have effect accordingly."
- 13.4 Regulation 59 of Table A shall be modified by the addition at the end of the following sentence: "Deposit of an instrument of proxy shall not preclude a member from attending and voting at the meeting or at any adjournment thereof."
- 13.5 Regulation 62 of Table A shall be modified by the deletion in paragraph (a) of the words "deposited at" and by the substitution for them of the words 'left at or sent by post or by facsimile transmission to' and by the insertion at the end of the regulation after the word "invalid" of the words "unless a majority of the Directors (the Subscribers' Director, the New Subscriber's Director, the 3i Director (if any and failing which, the 3i) and the SEP and SE Director (if any failing which, SEP and SE) being part of that majority) resolve otherwise".

14 Directors

- 14.1 Unless and until otherwise determined by ordinary resolution of the Company the number of the Directors shall be not less than 3.
- 14.2 No person shall be disqualified from being appointed a Director and no Director shall be required to vacate that office by reason only of the fact that he has attained the age of 70 years or any other age nor shall it be necessary to give special notice under the Act of any resolution appointing, reappointing or approving the appointment of a Director by reason of

his age but where the Board convenes any general meeting of the Company at which (to the knowledge of the Board) a Director will be proposed for election or reelection who has at the date of such meeting attained the age of 70 years the Board shall give notice of his having attained such age in the notice convening the meeting or in any document sent therewith but the accidental omission to give such notice shall not invalidate any proceedings at that meeting or any election or re-election of such Director thereat.

- 14.3 Regulation 8 1(e) shall not apply to the Subscribers' Director, the New Subscriber's Director, the Telewest Director, the 3i Director and the SEP and SE Director.
- 14.4 Regulation 68 of Table A shall be modified by the addition at the end of the following sentence: "Any such notice may be left at or sent by post or facsimile transmission to the office or such other place as may be designated for the purpose by the Directors."
- 14.5 A Director shall not retire -by rotation and a Director appointed to fill a vacancy or as an addition to the board shall not retire from the office at the Annual General Meeting next following his appointment. Regulations 78 and 79 of Table A shall be modified accordingly.
- 14.6 The office of Director shall be vacated if the Director in the reasonable opinion of all his co-Directors becomes incapable by reason of mental disorder of discharging his duties as Director, and Regulation 81 of Table A shall be modified accordingly provided that the provisions of this Article 14.6 shall not apply to the Subscribers' Director, the Telewest Director or the New Subscriber's Director.
- 14.7 The holders of not less than one half in nominal value of the shares giving the right to attend and vote at general meetings of the Company may, at any time and from time to time, remove any Director from office or appoint any person to be a Director. Such removal or appointment shall be effected by notice to the Company signed by or on behalf of such holder or holders (which notice may consist of several documents in the like form each signed by or on behalf of one or more holders) and left at or sent by post or facsimile transmission to the office or such other place designated by the Directors for the purpose. Such removal or appointment shall take effect immediately upon receipt of the notice or on such later date (if any) as may be specified in the notice. The provisions of this Article 14.7 shall not apply to the appointment or removal of a Subscribers' Director, the Telewest Director, the New Subscriber's Director, the 3i Director or the SEP and SE Director. This Article 14.7 is not to be taken as depriving a person removed under it of compensation or damages payable to him in respect of the termination of his appointment as Director or of any appointment terminating with that as Director.

15 Proceedings of Directors

- 15.1 The quorum necessary for the transaction of business at any meeting of the Directors shall be two of which one shall be the Subscribers' Director and Regulation 89 of Table 'A' shall be modified accordingly.
- 15.2 Any Director enabled to participate in the proceedings of a meeting by means of a communication device (including a telephone) which allows all the other Directors present at such meeting (whether in person or by his alternate or by means of such type of communication device) to hear at all times such Director and such Director to hear at all times all other Directors present at such meeting (whether in person or by proxy or by means of such type of communication device) shall be deemed to be present at such meeting and shall be counted when reckoning a quorum.

16 Subscribers' Director and Representative, the Telewest Director, the New Subscriber's Director and the 3i Director and the SEP and SE Director

- 16.1 So long as the Subscribers or any of them shall hold any shares in the capital of the Company they shall have the right at any time and from time to time to appoint one person as a non-executive Director of the Company but so that not more than one person shall hold office under this Article at any one time and the following provisions shall have effect:
- 16.1.1 any such appointment shall be effected by notice in writing to the Company by the Subscribers who may in like manner at any time and from time to time remove from office any Subscribers' Director appointed pursuant to this Article and appoint any person in place of any Subscribers' Director so removed or dying or otherwise vacating office as Subscribers' Director;
- 16.1.2 subject to Section 303 of the Act on any resolution to remove a Subscribers' Director the 'A' Ordinary Shares held by the Subscribers shall together carry one vote in excess of fifty per cent of all the other votes exercisable at the general meeting at which such resolution is to be proposed and if any such Subscribers' Director is removed pursuant to Section 303 of the Act or otherwise the Subscribers may re-appoint him or any other person as a Subscribers' Director.
- 16.2 *The right of the appointment and removal of the Subscribers' Director set out in Article 16.1 shall be exercised by each Subscriber's common manager or agent (as relevant) notified by the Subscribers holding among them a majority of the 'A' Ordinary Shares in writing to the Company from time to time PROVIDED that the first such manager or agent shall be Elderstreet Investments Limited and in relation to any provision in these Articles or the Subscription Agreement for the consent of the Subscribers or for the Subscribers to exercise any right or power, such consent, right or power shall be given or exercised by the said Subscriber's common manager or agent as the Subscribers' spokesman and agent.*
- 16.3 So long as the New Subscriber or his permitted transferees shall hold any shares in the capital of the Company he/they shall have the right at any time and from time to time to appoint one person as a non-executive Director of the Company but so that not more than one person shall hold office under this Article at any one time and the following provisions shall have effect:
- 16.3.1 any such appointment shall be effected by notice in writing to the Company by the New Subscriber or his permitted transferees who may in like manner at any time and from time to time remove from office any New Subscriber's Director appointed pursuant to this Article and appoint any person in place of any New Subscriber's Director so removed or dying or otherwise vacating office as New Subscriber's Director;
- 16.3.2 subject to Section 303 of the Act on any resolution to remove a New Subscriber's Director the 'A' Ordinary Shares held by the New Subscriber or his permitted transferees shall together carry one vote in excess of fifty per cent of all the other votes exercisable at the general meeting at which such resolution is to be proposed and if any such New Subscriber's Director is removed pursuant to Section 303 of the Act or otherwise the New Subscriber or his permitted transferees may re-appoint him or any other person as a New Subscriber's Director.
- 16.4 So long as SEP and SE or either of them or their permitted transferees shall hold any shares in the capital of the Company they shall have the joint right at any time and from time to time to appoint one person as a non-executive Director of the Company but so that not more than one person shall hold office under this Article at any one time and the following provision shall have effect:
- 16.4.1 any such appointment shall be effected by notice in writing to the Company by SEP and SE or their permitted transferees who may in like manner at any time and from time to time

remove from office any SEP and SE Director appointed pursuant to this Article and appoint any person in place of any SEP and SE Director so removed or dying or otherwise vacating office as the SEP and SE Director;

- 16.4.2 subject to Section 303 of the Act on any resolution to remove a SEP and SE Director the Equity Shares held by SEP and SE and their permitted transferees shall together carry one vote in excess of fifty per cent of all the other votes exercisable at the general meeting at which such resolution is to be proposed and if any such SEP and SE Director is removed pursuant to Section 303 of the Act or otherwise SEP and SE or their permitted transferees may re-appoint him or any other person as a SEP and SE Director.
- 16.5 So long as 3i or its permitted transferees shall hold any shares in the capital of the Company it shall have the right at any time and from time to time to appoint one person as a non-executive Director of the Company but so that not more than one person shall hold office under this Article at any one time and the following provisions shall have effect:
 - 16.5.1 any such appointment shall be effected by notice in writing to the Company by 3i or its permitted transferees who may in like manner at any time and from time to time remove from office any 3i Director appointed pursuant to this Article and appoint any person in place of any 3i Director so removed or dying or otherwise vacating office as a 3i Director.
 - 16.5.2 subject to Section 303 of the Act on any resolution to remove a 3i Director the Equity shares hold by 3i or its permitted transferees shall together carry one vote in excess of fifty per cent of all the other votes exercisable at the general meeting at which such resolution is to be proposed if any such 3i Director is removed pursuant to Section 303 of the Act or otherwise or its permitted transferees may re-appoint him or any other person as a 3i Director.
- 16.6 So long as Telewest or its permitted transferees shall hold any shares in the capital of the Company it/they shall have the right at any time and from time to time to appoint one person as a non-executive Director of the Company but so that not more than one person shall hold office under this Article at any one time and the following provisions shall have effect:
 - 16.6.1 any such appointment shall be effected by notice in writing to the Company by Telewest or its permitted transferees who may in like manner at any time and from time to time remove from office any Telewest Director appointed pursuant to this Article and appoint any person in place of any Telewest Director so removed or dying or otherwise vacating office a Telewest Director;
 - 16.6.2 subject to Section 303 of the Act on any resolution to remove a Telewest Director the 'B' Ordinary Shares (or, after conversion, the 'A' Ordinary Shares into which they are converted) held by Telewest or its permitted transferees shall together carry one vote in excess of fifty per cent of all the other votes exercisable at the general meeting at which such resolution is to be proposed and if any such Telewest Director is removed pursuant to Section 303 of the Act or otherwise Telewest or its permitted transferees may re-appoint him or any other person as a Telewest Director.

17 **Indemnities**

Subject to the provisions of the Act but without prejudice to any indemnity to which he may otherwise be entitled every Director, alternate director, secretary and other officer or employee for the time being of the Company shall be indemnified out of the assets of the Company against any liability (other than any liability arising out of the Subscription Agreement) sustained or incurred by him in defending any proceedings whether civil or

criminal relating to his conduct as an officer or employee of the Company in which judgement is given in his favour or in which he is acquitted or in connection with any application under Section 144 or Section 727 of the Act in which relief is granted to him by the Court.

ARTICLES OF ASSOCIATION

(adopted by Special Resolution on 29 December 2000)

VIS Entertainment Plc
