

WE HEREBY CERTIFY THAT THIS DOCUMENT  
IS A TRUE COPY OF THE ORIGINAL

Signed .....  
SWINBURNE MADDOX LLP  
DATED THE 22 DAY OF JUNE 2017

Company number: 07184780

**PRIVATE COMPANY LIMITED BY SHARES**

**WRITTEN RESOLUTION**

of

Whickham Salerooms Limited (the **Company**)

**22 JUNE** 2017 (the **Circulation Date**)

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the directors of the Company propose that the following resolution is passed as a special resolution (the **Resolution**).

**SPECIAL RESOLUTION**

THAT the draft regulations attached to this written resolution be adopted as the articles of association of the Company in substitution for, and to the exclusion of, the existing articles of association.

**AGREEMENT**

Please read the notes at the end of this document before signifying your agreement to the Resolution.

The undersigned, the persons entitled and eligible to vote on the Resolution on the Circulation Date, hereby irrevocably agree to the Resolution:

**Alan David Dumighan**

Dated: **22 JUNE** 2017

**See overleaf.**

TUESDAY



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A16

27/06/2017

#277

COMPANIES HOUSE

**Lesley Penelope Dumighan**

Dated:

L. P. Dumighan  
22 JUNE 2017

**Jason Mark Dumighan**

Dated:

J. Dumighan  
22 JUNE 2017

**Paul Richard Dumighan**

Dated:

Paul R. Dumighan  
22 JUNE 2017

#### NOTES

1. If you agree with the Resolution, please indicate your agreement by signing and dating this document where indicated above and returning the signed version either by hand or by post to Mike Ward, Swinburne Maddison LLP, Venture House, Aykley Heads Business Centre, Durham DH1 5TS. You may not return the Resolution to the Company by any other method.
2. If you do not agree to the Resolution, you do not need to do anything: you will not be deemed to agree if you fail to reply.
3. Once you have indicated your agreement to the Resolution, you may not revoke your agreement.
4. Unless, by the date that is 28 days after the Circulation Date, sufficient agreement has been received for the Resolution to pass, it will lapse. If you agree to the Resolution, please ensure that your agreement reaches us before or during this date.

**Company Number: 07184780**

**The Companies Act 2006**

**Company Limited by Shares**

**Articles of Association**

**of**

**Whickham Salerooms Limited**

**(the Company)**

**(Adopted by Special Resolution passed on 22 June 2017)**

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**THE COMPANIES ACT 2006**

**PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**

**OF**

**WHICKHAM SALEROOMS LIMITED**

**(Adopted by special resolution passed on 22 June 2017)**

## **INTRODUCTION**

### **1. INTERPRETATION**

1.1 In these Articles, unless the context otherwise requires:

**A Ordinary Shares:** the ordinary shares of £1 each in issue in the capital of the Company designated as A Ordinary Shares and having the rights and being subject to the restrictions as set out within these Articles;

**Act:** means the Companies Act 2006;

**appointor:** has the meaning given in article 11.1;

**Articles:** means the Company's articles of association for the time being in force;

**B Ordinary Shares:** the ordinary shares of £1 each in issue in the capital of the Company designated as B Ordinary Shares and having the rights and being subject to the restrictions as set out within these Articles;

**Bad Leaver:** an Employee who becomes a Departing Employee in circumstances where he is not a Good Leaver;

**business day:** means any day (other than a Saturday, Sunday or public holiday in the United Kingdom) on which clearing banks in the City of London are generally open for business;

**C Ordinary Shares:** the ordinary shares of £1 each in issue in the capital of the Company designated as C Ordinary Shares and having the rights and being subject to the restrictions as set out within these Articles;

**Conflict:** has the meaning given in article 7.1;

**eligible director:** means a director who would be entitled to vote on the matter at a meeting of directors (but excluding any director whose vote is not to be counted in respect of the particular matter);

**Deemed Transfer Notice:** a Transfer Notice deemed to have been given by a holder of C Ordinary Shares in accordance with article 22.1;

**Departing Employee:** an Employee who ceases to be a director and/or employee of the Company.

**Effective Date:** the date of the Transfer Notice or Deemed Transfer Notice (as the case may be).

**Employee:** a director and/or employee of the Company who is a holder of C Ordinary Shares;

**Fixed Value:** either:

- (a) in circumstances where the Market Value is less than or equal to £1.5m, the aggregate price the Seller paid for each Sale Share whether obtained by allotment and issue or by a transfer from the holders of the Ordinary Shares, the A Ordinary Shares and/or the B Ordinary Shares; or
- (b) in circumstances where the Market Value exceeds £1.5m, such proportion of the sum equal to five percent (5%) of such excess as the Sale Shares are a proportion of all the C Ordinary Shares in issue on the Effective Date.

**Good Leaver:** an Employee who becomes a Departing Employee by reason of:

- (a) his resignation if the Termination Date is on or after the third anniversary of his becoming a shareholder;
- (b) retirement, permanent disability or permanent incapacity through ill-health; or
- (c) redundancy (as defined in the Employment Rights Act 1996); or
- (d) dismissal by the Company which is determined, by an employment tribunal or at a court of competent jurisdiction from which there is no right to appeal, to be wrongful or constructive;

**Market Value:** the market value of the Company on the Effective Date as agreed between the Company and the Seller or, failing such agreement within five (5) Business Days of the Effective Date, as determined in accordance with clause 23.

**Model Articles:** means the model articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the date of adoption of these Articles;

**Ordinary Shares:** the ordinary shares of £1 each in issue in the capital of the Company designated as Ordinary Shares and having the rights and being subject to the restrictions as set out within these Articles;

**Seller:** the transferor of Shares pursuant to a Transfer Notice or Deemed Transfer Notice;

**Shares:** the Ordinary Shares, the A Ordinary Shares, the B Ordinary Shares and the C Ordinary Shares;

**Termination Date:**

- (a) where employment ceases by virtue of notice given by the employer to the employee, the date on which such notice expires;
- (b) where a contract of employment is terminated by the employer and a payment is made in lieu of notice, the date on which notice of termination was served;
- (c) where an employee dies, the date of his death;
- (d) where the employee concerned is a director but not an employee, the date on which his service agreement (or other terms of appointment) with the relevant Group Company is terminated; or
- (e) in any other case, the date on which the employment or holding of office is terminated;

**Transfer Notice:** an irrevocable notice in writing given by a holder of Shares in accordance with article 21.1; and

**writing or written:** the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise, save that, for the purposes of articles 21, 22 and 23, **writing** or **written** shall not include the sending or supply of notices, documents or information in electronic form.

- 1.2 Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the Act shall have the same meanings in these Articles.
- 1.3 Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles.

- 1.4 A reference in these Articles to an **article** is a reference to the relevant article of these Articles unless expressly provided otherwise.
- 1.5 Unless expressly provided otherwise, a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of:
- (a) any subordinate legislation from time to time made under it; and
  - (b) any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.
- 1.6 Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.7 The Model Articles shall apply to the Company, except in so far as they are modified or excluded by these Articles.
- 1.8 Articles 8, 9(1), 11(2) and (3), 13, 14(1), (2), (3) and (4), 17(2), 44(2), 52 and 53 of the Model Articles shall not apply to the Company.
- 1.9 Article 7 of the Model Articles shall be amended by:
- (a) the insertion of the words "*for the time being*" at the end of article 7(2)(a); and
  - (b) the insertion in article 7(2) of the words "*(for so long as he remains the sole director)*" after the words "*and the director may*".
- 1.10 Article 20 of the Model Articles shall be amended by the insertion of the words "*(including alternate directors) and the secretary*" before the words "*properly incur*".
- 1.11 In article 25(2)(c) of the Model Articles, the words "*evidence, indemnity and the payment of a reasonable fee*" shall be deleted and replaced with the words "*evidence and indemnity and the payment of reasonable expenses incurred by the company*".
- 1.12 Article 27(3) of the Model Articles shall be amended by the insertion of the words ", *subject to article 10,*" after the word "*But*".
- 1.13 Article 29 of the Model Articles shall be amended by the insertion of the words ", *or the name of any person(s) named as the transferee(s) in an instrument of transfer executed under article 28(2),*" after the words "*the transmittee's name*".



- 1.14 Articles 31(1)(a) to (d) (inclusive) of the Model Articles shall be amended by the deletion, in each case, of the words "*either*" and "*or as the directors may otherwise decide*".

## **DIRECTORS**

### **2. UNANIMOUS DECISIONS**

- 2.1 A decision of the directors is taken in accordance with this article when all eligible directors indicate to each other by any means that they share a common view on a matter.
- 2.2 Such a decision may take the form of a resolution in writing, where each eligible director has signed one or more copies of it, or to which each eligible director has otherwise indicated agreement in writing.
- 2.3 A decision may not be taken in accordance with this article if the eligible directors would not have formed a quorum at such a meeting.

### **3. CALLING A DIRECTORS' MEETING**

Any director may call a directors' meeting by giving reasonable notice of the meeting to the directors or by authorising the company secretary (if any) to give such notice.

### **4. QUORUM FOR DIRECTORS' MEETINGS**

- 4.1 Subject to articles 4.2 and 4.3, the quorum for the transaction of business at a meeting of directors is any two eligible directors.
- 4.2 For the purposes of any meeting (or part of a meeting) held pursuant to article 7 to authorise a director's conflict, if there is only one eligible director in office other than the conflicted director(s), the quorum for such meeting (or part of a meeting) shall be one eligible director.
- 4.3 If the total number of directors in office for the time being is less than the number fixed as a quorum the continuing directors or sole director may nevertheless act for all purposes and shall have authority to exercise all of the powers and discretions conferred by the Model Articles and by these Articles expressed to be vested in the directors generally.

### **5. CASTING VOTE**

If the numbers of votes for and against a proposal at a meeting of directors are equal, the chairman or other director chairing the meeting shall not have a casting vote.

## 6. TRANSACTIONS OR OTHER ARRANGEMENTS WITH THE COMPANY

Subject to sections 177(5) and 177(6) and sections 182(5) and 182(6) of the Act and provided he has declared the nature and extent of his interest in accordance with the requirements of the Companies Acts, a director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the company:

- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the company or in which the Company is otherwise (directly or indirectly) interested;
- (b) shall be an eligible director for the purposes of any proposed decision of the directors (or committee of directors) in respect of such contract or proposed contract in which he is interested;
- (c) shall be entitled to vote at a meeting of directors (or of a committee of the directors) or participate in any unanimous decision, in respect of such contract or proposed contract in which he is interested;
- (d) may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a director;
- (e) may be a director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the Company is otherwise (directly or indirectly) interested; and
- (f) shall not, save as he may otherwise agree, be accountable to the Company for any benefit which he (or a person connected with him (as defined in section 252 of the Act)) derives from any such contract, transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such contract, transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act.

## 7. DIRECTORS' CONFLICTS OF INTEREST

- 7.1 The directors may, in accordance with the requirements set out in this article, authorise any matter or situation proposed to them by any director which would, if not authorised, involve a director (an **Interested Director**) breaching his duty under section 175 of the Act to avoid conflicts of interest (**Conflict**).
- 7.2 Any authorisation under this article 7 will be effective only if:
  - (a) to the extent permitted by the Act, the matter in question shall have been proposed by any director for consideration in the same way that

any other matter may be proposed to the directors under the provisions of these Articles or in such other manner as the directors may determine;

- (b) any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Director or any other interested director; and
- (c) the matter was agreed to without the Interested Director voting or would have been agreed to if the Interested Director's and any other interested director's vote had not been counted.

7.3 Any authorisation of a Conflict under this article 7 may (whether at the time of giving the authorisation or subsequently):

- (a) extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised;
- (b) provide that the Interested Director be excluded from the receipt of documents and information and the participation in discussions (whether at meetings of the directors or otherwise) related to the Conflict;
- (c) provide that the Interested Director shall or shall not be an eligible director in respect of any future decision of the directors in relation to any resolution related to the Conflict;
- (d) impose upon the Interested Director such other terms for the purposes of dealing with the Conflict as the directors think fit;
- (e) provide that, where the Interested Director obtains, or has obtained (through his involvement in the Conflict and otherwise than through his position as a director of the Company) information that is confidential to a third party, he will not be obliged to disclose that information to the Company, or to use it in relation to the Company's affairs where to do so would amount to a breach of that confidence; and
- (f) permit the Interested Director to absent himself from the discussion of matters relating to the Conflict at any meeting of the directors and be excused from reviewing papers prepared by, or for, the directors to the extent they relate to such matters.

7.4 Where the directors authorise a Conflict, the Interested Director will be obliged to conduct himself in accordance with any terms and conditions imposed by the directors in relation to the Conflict.

7.5 The directors may revoke or vary such authorisation at any time, but this will not affect anything done by the Interested Director, prior to such revocation or variation, in accordance with the terms of such authorisation.

7.6 In authorising a Conflict, the directors may decide (whether at the time of giving the authorisation or subsequently) that if a director has obtained any information through his involvement in the Conflict otherwise than as a director of the Company and in respect of which he owes a duty of confidentiality to a person other than the Company, the director is under no obligation to:

- (a) disclose such information to the directors or to any director or other officer or employee of the Company; or
- (b) use or apply any such information in performing his duties as a director,

where to do so would amount a breach of that duty of confidence.

7.7 A director is not required, by reason of being a director (or because of the fiduciary relationship established by reason of being a director), to account to the Company for any remuneration, profit or other benefit which he derives from or in connection with a relationship involving a Conflict which has been authorised by the directors or by the Company in general meeting (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.

## **8. RECORDS OF DECISIONS TO BE KEPT**

Where decisions of the directors are taken by electronic means, such decisions shall be recorded by the directors in permanent form, so that they may be read with the naked eye.

## **9. NUMBER OF DIRECTORS**

Unless otherwise determined by ordinary resolution, the number of directors (other than alternate directors) shall not be subject to any maximum but shall not be less than one.

## **10. APPOINTMENT OF DIRECTORS**

In any case where, as a result of death or bankruptcy, the Company has no shareholders and no directors, the transmittee(s) of the last shareholder to have died or to have a bankruptcy order made against him (as the case may be) have the right, by notice in writing, to appoint a natural person (including a transmittee who is a natural person), who is willing to act and is permitted to do so, to be a director.

## **11. APPOINTMENT AND REMOVAL OF ALTERNATE DIRECTORS**

11.1 Any director (**appointor**) may appoint as an alternate any other director, or any other person approved by resolution of the directors, to:

- (a) exercise that director's powers; and
- (b) carry out that director's responsibilities,

in relation to the taking of decisions by the directors, in the absence of the alternate's appointor.

11.2 Any appointment or removal of an alternate must be effected by notice in writing to the Company signed by the appointor, or in any other manner approved by the directors.

11.3 The notice must:

- (a) identify the proposed alternate; and
- (b) in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the director giving the notice.

## **12. RIGHTS AND RESPONSIBILITIES OF ALTERNATE DIRECTORS**

12.1 An alternate director may act as alternate director to more than one director and has the same rights in relation to any decision of the directors as the alternate's appointor.

12.2 Except as the Articles specify otherwise, alternate directors:

- (a) are deemed for all purposes to be directors;
- (b) are liable for their own acts and omissions;
- (c) are subject to the same restrictions as their appointors; and
- (d) are not deemed to be agents of or for their appointors

and, in particular (without limitation), each alternate director shall be entitled to receive notice of all meetings of directors and of all meetings of committees of directors of which his appointor is a member.

12.3 A person who is an alternate director but not a director:

- (a) may be counted as participating for the purposes of determining whether a quorum is present (but only if that person's appointor is not participating);
- (b) may participate in a unanimous decision of the directors (but only if his appointor is an eligible director in relation to that decision, but does not participate); and
- (c) shall not be counted as more than one director for the purposes of articles 12.3(a) and 12.3(b).

12.4 A director who is also an alternate director is entitled, in the absence of his appointor, to a separate vote on behalf of his appointor, in addition to his own vote on any decision of the directors (provided that his appointor is an eligible director in relation to that decision).

12.5 An alternate director may be paid expenses and may be indemnified by the Company to the same extent as his appointor but shall not be entitled to receive any remuneration from the Company for serving as an alternate director except such part of the alternate's appointor's remuneration as the appointor may direct by notice in writing made to the Company.

### **13. TERMINATION OF ALTERNATE DIRECTORSHIP**

An alternate director's appointment as an alternate terminates:

- (a) when the alternate's appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate;
- (b) on the occurrence, in relation to the alternate, of any event which, if it occurred in relation to the alternate's appointor, would result in the termination of the appointor's appointment as a director;
- (c) on the death of the alternate's appointor; or
- (d) when the alternate's appointor's appointment as a director terminates.

### **14. SECRETARY**

The directors may appoint any person who is willing to act as the secretary for such term, at such remuneration and upon such conditions as they may think fit and from time to time remove such person and, if the directors so decide, appoint a replacement, in each case by a decision of the directors.

### **SHARES**

### **15. LIMITED LIABILITY OF MEMBERS**

The liability of the members is limited to the amount, if any, unpaid on the shares held by them.

### **16. SHARE CAPITAL**

16.1 The Company shall have four (4) classes of shares being the Ordinary Shares of £1 each, the A Ordinary Shares of £1 each, the B Ordinary Shares of £1 each and the C Ordinary Shares of £1 each.

- 16.2 Except as otherwise provided in these Articles, the Ordinary Shares, the A Ordinary Shares, the B Ordinary Shares and the C Ordinary Shares shall rank *pari passu* in all respects but shall constitute separate classes of shares.
- 16.3 Subject to the Act and without prejudice to the rights attached to any existing shares, any share may be issued with or have attached to it such rights or restrictions as the Company may by special resolution determine.
- 16.4 In accordance with and subject to the Act the Company may:
- (a) subject to any rights conferred on the holders of any other shares, issue shares that are to be redeemed or are liable to be redeemed at the option of the Company or holder;
  - (b) subject to any rights conferred on the holders of any class of shares, purchase its own shares (including any redeemable shares); and
  - (c) make a payment in respect of the redemption or purchase of any of its own shares as authorised by these Articles out of distributable profits of the Company or the proceeds of a fresh issue of shares.
- 16.5 No variation of the rights attaching to any class of shares shall be effective except with the sanction of a special resolution of the holders of the relevant class of shares. Where a special resolution to vary the rights attaching to a class of shares is proposed at a separate general meeting of that class of shares, all the provisions of these Articles as to general meetings of the Company shall *mutatis mutandis* apply, but so that the necessary quorum shall be one holder of the relevant class present in person or by proxy or (being a corporation) by a duly authorised representative. For the purpose of this article, one holder present in person or by proxy or (being a corporation) by a duly authorised representative may constitute a meeting.
- 16.6 The following shall not be deemed to constitute a variation of the rights attached to either class of shares:
- (a) any resolution to put the Company into liquidation (save where the Company is insolvent); and
  - (b) any reduction, subdivision, consolidation, redenomination, re-designation or purchase or redemption by the Company of its own shares or other alteration in the share capital of the Company.

## **17. SHARE RIGHTS**

### **Voting rights**

- 17.1 On a show of hands at a general meeting the holders of the Ordinary Shares, the A Ordinary Shares, the B Ordinary Shares and the C Ordinary Shares

present in person or by proxy shall each have one vote, unless the proxy himself is entitled to vote.

- 17.2 On a poll at a general meeting the holders of the Ordinary Shares, the A Ordinary Shares, the B Ordinary Shares and the C Ordinary Shares present in person or by proxy shall carry one vote for each Ordinary Share, A Ordinary Share, B Ordinary Share and C Ordinary Share held.
- 17.3 On a vote on a written resolution the holders of the Ordinary Shares, the A Ordinary Shares, the B Ordinary Shares and the C Ordinary Shares shall carry one vote for each Ordinary Share, A Ordinary Share, B Ordinary Share and C Ordinary Share held.

### **Returns of capital**

- 17.4 On a return of capital on liquidation or otherwise (except on a redemption or purchase by the Company of any shares) the surplus assets of the Company remaining after the payment of its liabilities (the **Surplus Assets**) shall be distributed:
- (a) first to the holders of the Ordinary Shares, the A Ordinary Shares, the B Ordinary Shares and the C Ordinary Shares the capital paid up or credited as paid up on such shares;
  - (b) second, a maximum of one and one half million pounds (£1.5m) of the balance of the Surplus Assets to the holders of the Ordinary Shares, the A Ordinary Shares and the B Ordinary Shares *pro rata* according to the amount paid up or credited as paid up on such Ordinary Shares, A Ordinary Shares and B Ordinary Shares; and
  - (c) third any balance of the Surplus Assets in excess of one and one half million pounds (£1.5m):
    - (i) as to five percent (5%) to the holders of the C Ordinary Shares *pro rata* according to the amount paid up or credited as paid up on such C Ordinary Shares; and
    - (ii) as to ninety five percent (95%) to the holders of the Ordinary Shares, the A Ordinary Shares and the B Ordinary Shares *pro rata* according to the amount paid up or credited as paid up on such Ordinary Shares, A Ordinary Shares and B Ordinary Shares.

### **Dividends**

- 17.5 In any financial year, the profits available for distribution within the meaning of Part 23 of the Act (the **Available Profits**) may be used to pay dividends in accordance with articles 17.6 and 17.7.
- 17.6 Subject to article 17.7:



- (a) the directors may, subject to the provisions of the Act, pay interim dividends; and
- (b) the company may, on the recommendation of the directors, declare dividends

out of any Available Profits.

- 17.7 The directors may, so long as the share capital of the Company is divided into different classes and in their absolute discretion, declare or recommend dividends on or make distributions in respect of any class or classes of shares and when so declaring may vary the dividend payable between the different classes of shares and may determine that any class or classes may receive a dividend and that another class or classes shall not.

## **18. FURTHER ISSUE OF SHARES**

- 18.1 Subject to the remaining provisions of this article 18, the directors are generally and unconditionally authorised, for the purpose of section 551 of the Act, to exercise any power of the Company to:

- (a) offer or allot;
- (b) grant rights to subscribe for or to convert any security into; or
- (c) otherwise deal in, or dispose of,

any shares in the Company to any person, at any time and subject to any terms and conditions as the directors think proper.

- 18.2 The authority referred to in article 18.1:

- (a) shall be limited to a maximum nominal amount of five pounds (£5) or such other amount as may from time to time be authorised by the Company by ordinary resolution;
- (b) shall apply only insofar as the Company has not, subject to these Articles, renewed, waived or revoked it by ordinary resolution; and
- (c) may only be exercised for a period of five (5) years from the date of adoption of these Articles, save the directors may make an offer or agreement which would, or might, require shares to be allotted after the expiry of such authority (and the directors may allot shares in pursuance of such offer or agreement as if such authority had not expired).

- 18.3 In accordance with section 567(1) of the Act, sections 561 and 562 of the Act shall not apply to an allotment of equity securities (as defined in section 560(1) of the Act) made by the Company.

## 19. SHARE TRANSFERS - GENERAL

- 19.1 In these Articles, reference to the transfer of a share includes the transfer, assignment or other disposal of a beneficial or other interest in that share, or the creation of a trust or encumbrance over that share, and reference to a share includes a beneficial or other interest in a share.
- 19.2 The directors shall forthwith register any duly stamped transfer made in accordance with these Articles and shall not have any discretion to register any transfer of shares which has not been made in compliance with these Articles.
- 19.3 To enable the directors to determine whether or not there has been a disposal of shares in the capital of the Company (or any interest in shares in the capital of the Company) in breach of these Articles, the directors may from time to time require any Shareholder to provide the Company with such information and evidence as they may reasonably require relevant to that purpose. If a shareholder fails to provide information or evidence in respect of any shares registered in its name to the reasonable satisfaction of such directors within ten (10) Business Days of their request, such directors may serve a notice on the shareholder stating that the shareholder shall not in relation to all shares held by that shareholder be entitled to be present or to vote in person or by proxy at any general meeting of the Company or any meeting of the holders of shares of that class, or to vote on a written resolution of the shareholders or to receive dividends on the shares until such evidence or information has been provided to the directors' satisfaction.

## 20. PROHIBITED TRANSFERS

Any person who holds, or becomes entitled to, any C Ordinary Share (an **Employee Share**) shall not effect a transfer of such share, except a transfer in accordance with article 21 (Pre-emption), article 22 (Leavers) or article 23 (Drag Along).

## 21. PRE-EMPTION

- 21.1 Except in the case of a transfer pursuant to article 22 (Leavers) or article 24 (Drag Along), an Employee who wishes to transfer any Employee Shares (the **Seller**) to a *bona fide* third party shall give notice in writing of such wish to the Company (the **Transfer Notice**). Each Transfer Notice shall:
- (a) relate to Employee Shares only;
  - (b) specify the number of Employee Shares which the Seller wishes to transfer (the **Sale Shares**);
  - (c) specify the identity of any person to whom the Seller wishes to transfer the Sale Shares (the **Proposed Transferee**);

- (d) specify the price per Sale Share (the **Proposed Sale Price**) at which the Seller wishes to transfer the Sale Shares;
  - (e) be deemed to constitute the company as the Seller's agent for the sale of the Sale Shares at their Fixed Value in the manner prescribed by these articles; and
  - (f) not be varied or cancelled.
- 21.2 The Company shall on the sixth (6th) Business Day following either the Effective Date or the determination of the Market Value in accordance with clause 23 (as the case may be) give notice in writing to each of the holders of the Shares other than the C Ordinary Shares (the **Offerees**) offering for sale the Sale Shares at their Fixed Value. The notice shall specify that the Offerees shall have a period of ten (10) Business Days from the date of such notice in which to apply for some or all of the Sale Shares.
- 21.3 It shall be a further term of the offer that, if there is competition within any class of Offerees for the Sale Shares treated as having been offered to them, such Sale Shares shall be treated as offered among them in proportion to their existing holdings of the Shares other than the C Ordinary Shares (the **Proportionate Allocation**). However, in his application for Sale Shares an Offeree may, if he so desires, indicate that he would be willing to purchase a particular number of Employee Shares in excess of his Proportionate Allocation (the **Extra Shares**).
- 21.4 The Company shall allocate the Sale Shares as follows:
  - (a) if the total number of Sale Shares applied for is equal to or less than the available number of Sale Shares, each Offeree shall be allocated the number applied for in accordance with his application; or
  - (b) if the total number of Sale Shares applied for is greater than the available number of Sale Shares, each Offeree shall be allocated his Proportionate Allocation or such lesser number of Sale Shares for which he has applied and applications for Extra Shares shall be allocated in accordance with such applications or, in the event of competition, among those Offerees applying for Extra Shares in such proportions as equal (as nearly as may be) the proportions of all the Shares other than C Ordinary Shares held by such Offerees.
- 21.5 Allocations of Sale Shares made by the Company pursuant to this article shall constitute the acceptance by the persons to whom they are allocated of the offer to purchase those Sale Shares on the terms offered to them, provided that no person shall be obliged to take more than the maximum number of Sale Shares that he has indicated to the Company he is willing to purchase.
- 21.6 The Company shall forthwith upon allocating any Sale Shares give notice in writing (the **Sale Notice**) to the Seller and to each person to whom Sale

Shares have been so allocated of the number of Sale Shares so allocated and the aggregate price payable for them. Completion of the sale and purchase of those Sale Shares in accordance with the Sale Notice shall take place within five (5) Business Days of the date of the Sale Notice whereupon the Seller shall, upon payment of the price due in respect thereof, transfer those Sale Shares specified in the Sale Notice to the persons to whom they have been allocated (or to their nominee, which may be the Company) and deliver the relevant share certificates.

- 21.7 Save in the case of an acquisition of Sale Shares by the Company, if the Seller defaults in transferring any Sale Shares pursuant to article 21.6, the Company may receive such purchase money and may nominate some person to execute an instrument of transfer of such Sale Shares in the name and on behalf of the Seller and thereafter, when such instrument has been duly stamped, the Company shall cause the name of the proposed transferee to be entered in the register of members as the holder of such Sale Shares and shall hold the purchase money on trust (without interest) for the Seller. The receipt of the Company for the purchase money shall be a good discharge to the proposed transferee (who shall not be bound to see to the application thereof) and, after his name has been so entered in the register of members, the validity of the proceedings shall not be questioned by any person.
- 21.8 In the case of an acquisition of Sale Shares by the Company, if the Seller defaults in transferring any Sale Shares pursuant to article 21.6, the Company may nominate some person to execute an instrument of transfer of such Sale Shares in the name and on behalf of the Seller and thereafter, when such instrument has been duly stamped, the Company shall cause such share capital to be cancelled in accordance with the Act and shall hold the purchase money on trust (without interest) for the Seller.
- 21.9 If all the Sale Shares are not sold under the pre-emption provisions contained in articles 21.1 to 21.8 (inclusive), the Company shall (forthwith upon the exhaustion of such provisions) so notify the Seller and the Seller may at any time, within three (3) calendar months after receiving such notification, transfer to the Proposed Transferee any unsold Sale Shares at any price not less than the Proposed Sale Price provided that the directors may refuse registration of any Proposed Transferee if they reasonably believe the Proposed Transferee to be a competitor of the Company or the Group or a person connected with such a competitor (or a nominee of either).

## **22. LEAVERS**

- 22.1 A holder of C Ordinary Shares is deemed to have served a Transfer Notice under article 21.1 immediately before any of the following events:
- (a) the shareholder's death;

- (b) an order being made for the shareholder's bankruptcy, or an arrangement or composition being made with any of his creditors, or where he otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors;
- (c) the shareholder lacking capacity (under section 2 of the Mental Health Act 2005) to make decisions in relation to the Company or his shareholding; and
- (d) the shareholder (being an Employee) becoming a Departing Employee, unless the Board otherwise directs in writing within ten (10) Business Days of the relevant Termination Date that a Transfer Notice shall not be deemed to have been served.

22.2 A Deemed Transfer Notice deemed to be served under article 22.1(d) shall immediately and automatically revoke:

- (a) a Transfer Notice served by the relevant shareholder before the occurrence of the relevant event giving rise to the Deemed Transfer Notice; and
- (b) a Deemed Transfer Notice deemed to be served by the relevant shareholder under any of the events set out in article 22.1(a) to article 22.1(c) (inclusive).

22.3 A Deemed Transfer Notice has the same effect as a Transfer Notice and the provisions of article 21 shall apply, except that:

- (a) the Deemed Transfer Notice shall be treated as having specified that the Seller wishes to transfer all the C Ordinary Shares held by him (including any C Ordinary Shares acquired after the date the relevant Transfer Notice is deemed given but before completion of the transfer of Shares pursuant to the relevant Deemed Transfer Notice);
- (b) the Deemed Transfer Notice takes effect on the basis that it does not identify a proposed buyer or state a price for the C Ordinary Shares;
- (c) if the Seller is deemed to have given a Transfer Notice as a result of article 22.1(a) or article 22.1(c) the Transfer Price shall be the Fixed Value of each such Sale Share;
- (d) if the Seller is deemed to have given a Transfer Notice as a result of article 22.1(b) the Transfer Price shall be restricted to the aggregate price the Seller paid for each such Sale Share whether obtained by allotment and issue or by a transfer from the holders of the Ordinary Shares, the A Ordinary Shares and/or the B Ordinary Shares;
- (e) if the Seller is deemed to have given a Transfer Notice as a result of article 22.1(d), the Transfer Price shall, where the Departing Employee is:

- (i) a Bad Leaver, the aggregate price the Bad Leaver paid for each such Sale Share whether obtained by allotment and issue or by a transfer from the holders of the Ordinary Shares, the A Ordinary Shares and/or the B Ordinary Shares; and
  - (ii) a Good Leaver, be the Fixed Value of each such Sale Share;
- (f) the Seller does not have a right to withdraw the Deemed Transfer Notice; and
- (g) if the Allocation Notice(s) in respect of the Sale Shares comprised within a Deemed Transfer Notice do(es) not relate to all the Sale Shares:
  - (i) in the event the shareholder has died, the survivor(s) (where he was a joint holder) or his personal representatives (where he was a sole holder) may:
    - (A) elect to become registered as the holder/s of the balance of the Sale Shares; or
    - (B) transfer such Sale Shares to a third party; and
  - (ii) in all other cases, the Seller does not have the right to sell the balance of the Sale Shares to a third party without the prior written consent of all the holders of the Ordinary Shares, the A Ordinary Shares and the B Ordinary Shares.

## **23. MARKET VALUE**

- 23.1 An **Expert** is a person appointed in accordance with this article to determine the Market Value.
- 23.2 The Company and the Seller (the **parties**) shall endeavour to agree on the appointment of an independent Expert, and to agree the terms of appointment with the Expert.
- 23.3 If the parties are unable to agree on an Expert or the terms of his appointment within ten (10) business days of either party serving details of a suggested expert on the other, either party shall then be entitled to request the then President of the Institute of Chartered Accountants in England and Wales to appoint an Expert of repute with experience in the valuation of private companies limited by shares and agree the Expert's terms of appointment.
- 23.4 If the Expert dies or becomes unwilling or incapable of acting, or does not deliver the decision within the time required by this article then:
- (a) either party may apply to the then President of the President of the Institute of Chartered Accountants in England and Wales to

discharge the Expert and to appoint a replacement Expert with the required expertise; and

- (b) this article applies in relation to the new Expert as if he were the first Expert appointed.

- 23.5 The parties are entitled to make submissions to the Expert including oral submissions and shall provide (or procure that others including the Company provide) the Expert with such assistance and documents as the Expert reasonably requires for the purpose of reaching a decision, subject to the Expert agreeing to give such confidentiality undertakings as the parties may reasonably require.
- 23.6 To the extent not provided for by this article, the Expert may in its reasonable discretion determine such other procedures to assist with the conduct of the determination as it considers just or appropriate, including (to the extent he considers necessary,) instructing professional advisers to assist it in reaching its determination.
- 23.7 Each party shall with reasonable promptness supply (and procure that others including the Company supply) each other with all information and give each other access to all documentation and personnel as the other party reasonably requires to make a submission under this article.
- 23.8 The **Market Value** shall be the market value of the Company determined in writing by the Expert by reference to a hypothetical sale of the entire issued share capital of the Company on the open market and the valuation is made on the following bases and assumptions:
- (a) there is available to any prospective purchaser all the information which a prudent prospective purchaser might reasonably require if he, as a willing buyer, were proposing to purchase it from a willing seller by private treaty and at arm's length;
  - (b) there is no reference to the rights or restrictions applying to any shares in the Company;
  - (c) the Company is carrying on business as a going concern and will continue to do so;
  - (d) the entire issued share capital is sold free of all encumbrances;
  - (e) the sale is taking place on the Effective Date; and
  - (f) taking account of any other factors that the Expert reasonably believes should be taken into account.
- 23.9 The Expert shall act as an expert and not as an arbitrator. The Expert's written decision on the matters referred to him shall be final and binding on the parties in the absence of manifest error or fraud.

23.10 Each party shall bear its own costs in relation to the reference to the Expert. The Expert's fees and any costs properly incurred by him in arriving at his determination (including any fees and costs of any advisers appointed by the Expert) shall be borne by the parties equally or in such other proportions as the Expert shall direct.

## **24. DRAG ALONG**

24.1 If the holders of all the Shares other than the C Ordinary Shares (the **Selling Shareholders**) wish to transfer all of their respective Shares to a *bona fide* purchaser on arm's length terms (the **Proposed Buyer**), such shareholders may require the holders of the C Ordinary Shares (the **Called Shareholders**) to sell and transfer their C Ordinary Shares (the **Called Shares**) to the Proposed Buyer (or as the Proposed Buyer directs) in accordance with the provisions of this article (the **Drag Along Option**).

24.2 The Selling Shareholders may exercise the Drag Along Option by giving written notice to that effect (a **Drag Along Notice**) at any time before the transfer of the Seller Shareholders' Shares to the Proposed Buyer. The Drag Along Notice shall specify:

- (a) that the Called Shareholders are required to transfer all their Called Shares pursuant to this article<sup>24</sup>;
- (b) the person to whom the Called Shares are to be transferred;
- (c) the consideration payable for the Called Shares which shall be:
  - (i) in circumstances where the aggregate price for the Selling Shareholders' Shares is less than or equal to one and one half million pounds (£1.5m), the amount paid up on the Called Shares; or
  - (ii) in circumstances where the aggregate price for the Selling Shareholders' Shares exceeds one and one half million pounds (£1.5m), an aggregate sum equal to five percent (5%) of such excess; and
- (d) the proposed date of the transfer.

24.3 Once issued, a Drag Along Notice shall be irrevocable. However, a Drag Along Notice shall lapse if, for any reason, the Selling Shareholders have not sold their respective Shares to the Proposed Buyer within sixty (60) business days of serving the Drag Along Notice. The Selling Shareholders may serve further Drag Along Notices following the lapse of any particular Drag Along Notice.

24.4 No Drag Along Notice shall require a Called Shareholder to agree to any terms except those specifically set out in these Articles.



- 24.5 Completion of the sale of the Called Shares shall take place on the Completion Date. **Completion Date** means the date proposed for completion of the sale of the Selling Shareholders' Shares unless:
- (a) all of the Called Shareholders and the Selling Shareholders agree otherwise in which case the Completion Date shall be the date agreed in writing by all of the Called Shareholders and the Selling Shareholders; or
  - (b) that date is less than fifteen (15) business days after the date on which the Drag Along Notice is served, in which case the Completion Date shall be the fifteenth (15th) business day after service of the Drag Along Notice.
- 24.6 On or before the Completion Date, the Called Shareholders shall deliver stock transfer forms for the Called Shares, together with the relevant share certificates (or a suitable indemnity for any lost share certificates) to the Company. On the Completion Date, the Company shall pay the Called Shareholders, on behalf of the Proposed Buyer, the amounts they are due for their Shares pursuant to article 24.2 to the extent that the Proposed Buyer has put the Company in the requisite funds. The Company's receipt for the price shall be a good discharge to the Proposed Buyer. The Company shall hold the amounts due to the Called Shareholders pursuant to article 24.2 in trust for the Called Shareholders without any obligation to pay interest.
- 24.7 To the extent that the Proposed Buyer has not, on the Completion Date, put the Company in funds to pay the consideration due pursuant to article 24.2, the Called Shareholders shall be entitled to the return of the stock transfer forms and share certificates (or suitable indemnity) for the relevant Called Shares and the Called Shareholders shall have no further rights or obligations under this article 23 in respect of their Shares.
- 24.8 If any Called Shareholder does not, or before the Completion Date, execute transfer(s) in respect of all of the Called Shares held by it, the defaulting Called Shareholder shall be deemed to have irrevocably appointed any person nominated for the purpose by the Selling Shareholders to be his agent and attorney to execute all necessary transfer(s) on his behalf, against receipt by the Company (on trust for such holder) of the consideration payable for the Called Shares, to deliver such transfer(s) to the Proposed Buyer (or as they may direct) as the holder thereof. After the Proposed Buyer (or its nominee) has been registered as the holder, the validity of such proceedings shall not be questioned by any such person. Failure to produce a share certificate shall not impede the registration of Shares under this article 23.

## **25. PURCHASE OF OWN SHARES**

25.1 Subject to the Act but without prejudice to any other provision of these Articles, the Company may purchase its own shares in accordance with Chapter 4 of Part 18 of the Act, including (without limitation) out of capital up to any amount in a financial year not exceeding the lower of:

- (a) £15,000; and
- (b) the nominal value of 5% of the Company's fully paid share capital at the beginning of each financial year of the Company.

## **26. DIVIDENDS AND OTHER DISTRIBUTIONS**

26.1 Where a dividend or other sum is payable in respect of a share, it must be paid by one or more of the following means:

- (a) transfer to a bank or building society account specified by the distribution recipient in writing; or
- (b) sending a cheque made payable to the distribution recipient by post to the distribution recipient at the distribution recipient's registered address (if the distribution recipient is the holder of the share) or, in any other case, to an address specified by the distribution recipient in writing; or
- (c) sending a cheque made payable to such person by post to such person at such address as the distribution recipient has specified in writing; or
- (d) any other means of payment as the directors agree with the distribution recipient in writing including, in the case of a non-cash distribution, transfer of specified assets in such manner as the directors agree with the distribution recipient in writing.

26.2 Subject to the terms of issue of the share in question, the Company may by ordinary resolution on the recommendation of the directors pay dividends by way of distribution of specific assets. For the purpose of such dividend, the directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution:

- (a) fixing the value of any assets;
- (b) paying cash to any distribution recipient on the basis of that value in order to adjust the rights of distribution recipients; and
- (c) vesting any assets in trustees.

## **DECISION MAKING BY SHAREHOLDERS**

## **27. POLL VOTES**

- 27.1 A poll may be demanded at any general meeting by any qualifying person (as defined in section 318 of the Act) present and entitled to vote at the meeting.
- 27.2 Article 44(3) of the Model Articles shall be amended by the insertion of the words "*A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made*" as a new paragraph at the end of that article.

## **28. PROXIES**

- 28.1 Article 45(1)(d) of the Model Articles shall be deleted and replaced with the words "*is delivered to the Company in accordance with the Articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in accordance with any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate*".
- 28.2 Article 45(1) of the Model Articles shall be amended by the insertion of the words "*and a proxy notice which is not delivered in such manner shall be invalid, unless the directors, in their discretion, accept the notice at any time before the meeting*" as a new paragraph at the end of that article.

## **ADMINISTRATIVE ARRANGEMENTS**

### **29. MEANS OF COMMUNICATION TO BE USED**

- 29.1 Any notice, document or other information shall be deemed served on or delivered to the intended recipient:
- (a) if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted (or 5 business days after posting either to an address outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom, if (in each case) sent by reputable international overnight courier addressed to the intended recipient, provided that delivery in at least 5 business days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider);
  - (b) if properly addressed and delivered by hand, when it was given or left at the appropriate address;
  - (c) if properly addressed and sent or supplied by electronic means, 1 hour after the document or information was sent or supplied; and
  - (d) if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient

receives (or is deemed to have received) notice of the fact that the material is available on the website.

For the purposes of this article, no account shall be taken of any part of a day that is not a working day.

- 29.2 In proving that any notice, document or other information was properly addressed, it shall suffice to show that the notice, document or other information was addressed to an address permitted for the purpose by the Act.

### **30. INDEMNITY**

- 30.1 Subject to article 30.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:

- (a) each relevant officer shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer:
  - (i) in the actual or purported execution and/or discharge of his duties, or in relation to them; and
  - (ii) in relation to the Company's (or any associated Company's) activities as trustee of an occupational pension scheme (as defined in section 235(6) of the Act),

including (in each case) any liability incurred by him in defending any civil or criminal proceedings, 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 the court grants him, in his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the Company's (or any associated Company's) affairs; and

- (b) the Company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in article 30.1(a) and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.

- 30.2 This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

- 30.3 In this article:

- (a) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate; and

- (b) a **relevant officer** means any director or other officer or former director or other officer of the Company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act), but excluding in each case any person engaged by the Company (or associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor).

### 31. INSURANCE

31.1 The directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant officer in respect of any relevant loss.

31.2 In this article:

- (a) a **relevant officer** means any director or other officer or former director or other officer of the Company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act), but excluding in each case any person engaged by the Company (or associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor);
- (b) a **relevant loss** means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the Company, any associated company or any pension fund or employees' share scheme of the Company or associated company; and
- (c) companies are **associated** if one is a subsidiary of the other or both are subsidiaries of the same body corporate.