

Company number 07780699

**PRIVATE COMPANY LIMITED BY SHARES**

**WRITTEN RESOLUTIONS**

of

**BARGAINMAX LIMITED**

(Company)

*1 November 2018*

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the directors of the Company propose that the following resolutions are passed as an ordinary resolution and a special resolution as set out below (**Resolutions**).

**ORDINARY RESOLUTION**

1. **THAT** each of:
  - 1.1 the 4 issued ordinary shares of £1.00 each in the capital of the Company (**Ordinary Shares**) held by Panel Ash Limited be reclassified as A ordinary shares of £1.00 each;
  - 1.2 the 2 Ordinary Shares held by Menachem Sholom Ansbacher and the 2 Ordinary Shares held by Kimberley Ansbacher be reclassified as B ordinary shares of £1.00 each.

**SPECIAL RESOLUTION**

2. **THAT** the articles of association produced to the meeting and initialled by the chairman of the meeting for the purpose of identification be adopted as the articles of association of the Company in substitution for, and to the exclusion of, the existing articles of association.

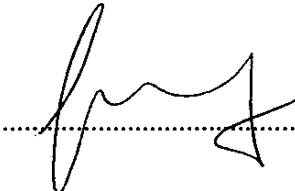
**AGREEMENT**

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

The undersigned, a person entitled to vote on the Resolutions on *1 November 2018*, hereby irrevocably agrees to the Resolutions:


Signed on behalf of **Panel Ash Limited**

Date *01/11/2018*



Signed by **Menachem Sholom Ansbacher**

Date *01/11/2018*





Signed by Kimberley Ansbacher

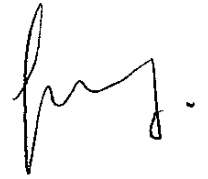
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Date 01/11/2018 .....

#### NOTES

1. If you agree with the Resolutions, 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 the Company's registered office. You may not return the Resolutions to the Company by any other method. If you do not agree to the Resolutions, you do not need to do anything: you will not be deemed to agree if you fail to reply.
2. Once you have indicated your agreement to the Resolutions, you may not revoke your agreement.
3. Unless, by the date falling 28 days from the date of these Resolutions, sufficient agreement has been received for the Resolutions to pass, they will lapse. If you agree to the Resolutions, please ensure that your agreement reaches us before or during this date.

**THE COMPANIES ACT 2006**  
**PRIVATE COMPANY LIMITED BY SHARES**



**ARTICLES OF ASSOCIATION**

**of**

**BARGAINMAX LIMITED**  
**(Company Number 07780699)**

**(Adopted by special resolution passed on 01 / 11 / 2018)**



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**THE COMPANIES ACT 2006**

**PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**

**OF**

**BARGAINMAX LIMITED (Company)**

**(Adopted by special resolution passed on 07/11/2018)**

**INTRODUCTION**

**1. INTERPRETATION**

**1.1 The following definitions and rules of interpretation apply in these Articles:**

**Act:** means the Companies Act 2006.

**Acting in Concert:** has the meaning given to it in the City Code on Takeovers and Mergers published by the Panel on Takeovers and Mergers (as amended).

**A Director:** the director appointed in accordance with article 10.1

**A Fund:** a separate established in the books of the Company called the A Fund into which shall be paid 50% of the Available Profits which A Fund shall belong to and attach to the A Shares.

**Allocation Notice:** has the meaning given in article 18.12.

**Applicant:** has the meaning given in article 18.12.

**Articles:** means the company's articles of association for the time being in force.

**A Share:** means an A ordinary share of £1.00 in the capital of the Company.

**Available Profits:** means the profits and income of the Company available for distribution in each Financial Year in accordance with the provisions of the Act after payment of all salaries, shareholder loans and interest thereon.

**B Director:** the director appointed in accordance with article 10.2.

**B Fund:** a separate established in the books of the Company called the B Fund into which shall be paid 50% of the Available Profits which B Fund shall belong to and attach to the B Shares.

**Board:** the board of directors of the Company as constituted from time to time.

**B Share:** means a B ordinary share of £1.00 in the capital of the Company.

**Business Day:** means any day other than a Saturday, Sunday or public holiday in England on which banks in London are open for business.

**Compulsory Transfer Event:** in relation to any shareholder, means his breaching the restrictive covenants set out in clause 7 of the Shareholders Agreement.

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

**Consideration:** has the meaning given in article 18.12.

**Continuing Shareholders:** has the meaning given in article 18.6.

**Drag Along Notice:** has the meaning given in article 21.2.

**Drag Along Right:** has the meaning given in article 21.1.

**Dragged Shareholders:** has the meaning given in article 21.1.

**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).

**Equivalent Consideration:** has the meaning given in article 22.4.

**Fair Value:** has the meaning given in article 19.

**Financial Year:** in relation to the Company, means its accounting reference period of 12 months ending on such date as the Company may determine in accordance with section 392 of the Act.

**Funds:** means the A Fund and the B Fund.

**Independent Expert:** means the auditors for the time being of the Company or, if they decline the instruction, an independent firm of accountants appointed by the Company and the Seller or, in the absence of agreement between the Company and the Seller on the identity of the expert or its terms of appointment, an independent firm of accountants appointed, and whose terms of appointment are agreed, by the President, for the time being, of the Institute of Chartered Accountants.

**Interested Director:** has the meaning given in article 7.1.

**Manager:** means Menachem Sholom Ansbacher, a holder of Shares in the Company.

**Minimum Transfer Condition:** has the meaning given in article 18.2.

**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.

**Offerors:** has the meaning given in article 21.1.

**Offer Period:** has the meaning given in article 18.6.

**Panel Ash:** means Panel Ash Limited, a holder of Shares in the Company.

**Proposed Sellers:** has the meaning given in article 21.1.

**Sale Shares:** has the meaning given in article 18.2.

**Seller:** has the meaning given in article 18.2.

**Sellers' Shares:** has the meaning given in article 22.1.

**Selling Shareholders:** has the meaning given in article 22.1.

**Shareholders Agreement:** means the agreement entered into on or about the date hereof between the Company and its members (as amended or varied in accordance with its terms from time to time).

**Shares:** means the A Shares and the B Shares.

**Surplus Shares:** has the meaning given in article 18.10.

**Tag Along Notice:** has the meaning given in article 22.2.

**Tag Along Option:** has the meaning given in article 22.1.

**Tag Purchaser:** has the meaning given in article 22.1.

**Tag Shareholders:** has the meaning given in article 22.1.

**Tag Shares:** has the meaning given in article 22.2.

**Transfer Notice:** has the meaning given in article 18.2.

**Transfer Price:** has the meaning given in article 18.2.

- 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 or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.6 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.7 Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.8 Where the context permits, **other** and **otherwise** are illustrative and shall not limit the sense of the words preceding them.
- 1.9 The Model Articles shall apply to the company, except in so far as they are modified or excluded by, or are inconsistent with, these Articles.



- 1.10 Articles 8, 9(1) and (3), 11(2) and (3), 13, 14(1), (2), (3) and (4), 17(2), 18(e), 44(2), 49, 52 and 53 of the Model Articles shall not apply to the company.
- 1.11 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".
- 1.12 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".
- 1.13 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".
- 1.14 Article 27(3) of the Model Articles shall be amended by the insertion of the words ", subject to article 10," after the word "But".
- 1.15 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) of the Model Articles," after the words "the transmittee's name".
- 1.16 Articles 31(1)(a) to (c) (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". Article 31(d) of the Model Articles shall be amended by the deletion of the words "either" and "or by such other means as the directors 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**

- 3.1 Any director may call a directors' meeting by giving notice of the meeting to the directors or by authorising the company secretary (if any) to give such notice.
- 3.2 Notice of a directors' meeting shall be given to each director in writing.

**4. QUORUM FOR DIRECTORS' MEETINGS**

The quorum for the transaction of business at a meeting of directors is the A Director and the B Director.

**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 existing or proposed transaction or arrangement 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 existing or proposed transaction or arrangement 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 transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such 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 (**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 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 be two, consisting of the A Director and the B Director.

## **10. APPOINTMENT OF DIRECTORS**

10.1 For so long as Panel Ash is the holder of A Shares, it shall be entitled to maintain in office Guy Mechlowitz as the A Director.

- 10.2 For so long as the Manager and/or Kimberley Ansbacher are the holders of the B Shares, they shall be entitled to maintain in office the Manager as the B Director.

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

- 11.1 Any director 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 article 12.3.

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 AND FUNDS**

### **15. THE SHARES**

- 15.1 Save as specifically set out in these Articles, the Shares shall rank parri passu in all respects.
- 15.2 For so long as the Shares in the Company are divided into Shares of different classes, the directors may declare interim dividends and may recommend final dividends (which the shareholders holding shares carrying the right to vote may approve) on the basis that such dividend is payable to the holders of one or more class of Share to the exclusion of one or more other class of Share.

### **16. THE FUNDS AND DIVIDENDS**

- 16.1 The A Shares shall be the only shares interested in the A Fund. The A Shares shall carry the right pro rata to the A Fund and no shares of any other class shall carry any right to participate therein.
- 16.2 The B Shares shall be the only shares interested in the B Fund. The B Shares shall carry the right pro rata to the B Fund and no shares of any other class shall carry any right to participate therein.
- 16.3 The A Shares shall confer upon the holders the right at any time to receive a distribution of income from the A Fund of such amount as the Board may determine to distribute in respect of any Financial Year (provided always that such dividend shall not exceed the amount in the A Fund and that such dividend, when aggregated with all other dividends declared on the other classes of share, is permitted pursuant to the Act).
- 16.4 Any income belonging to or attaching to the A Shares shall be either distributed amongst the holders of the A Shares or if undistributed credited exclusively to the A Fund.
- 16.5 The B Shares shall confer upon the holders the right at any time to receive a distribution of income from the B Fund of such amount as the Board may determine to distribute in respect of any Financial Year (provided always that such dividend shall not exceed the amount in the B Fund and that such dividend, when aggregated with all other dividends declared on the other classes of share, is permitted pursuant to the Act).

- 16.6 Any income belonging to or attaching to the B Shares shall be either distributed amongst the holders of the B Shares or if undistributed credited exclusively to the B Fund.

**17. TRANSFER OF SHARES**

- 17.1 Notwithstanding any other provision of these Articles, the directors shall not register a transfer of any interest in a Share unless the transfer is made in accordance with article 18, article 21 or article 22.

- 17.2 In these Articles, references to a transfer of a Share include the transfer or assignment 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.

**18. PRE-EMPTION ON TRANSFER OF SHARES**

- 18.1 Except where the provisions of article 21 or article 22 apply, any transfer of Shares by a shareholder shall be subject to the pre-emption rights in this article 18.

- 18.2 A shareholder wishing to transfer Shares (**Seller**) shall, before transferring or agreeing to transfer any Shares, give notice in writing (**Transfer Notice**) to the Company specifying:

- (a) the number and class of Shares he wishes to transfer (**Sale Shares**);
- (b) if the Seller wishes to sell the Sale Shares to a third party, the name of the proposed transferee;
- (c) the price (in cash) per share at which he wishes to transfer the Sale Shares (which will be deemed to be Fair Value of the Sale Shares if no cash price is agreed between the Seller and the Board (**Transfer Price**)); and
- (d) whether the Transfer Notice is conditional on all, or a specific number of, the Sale Shares being sold to shareholders (**Minimum Transfer Condition**).

- 18.3 Once given under these Articles, a Transfer Notice may not be withdrawn.

- 18.4 A Transfer Notice appoints the Company the agent of the Seller for the sale of the Sale Shares at the Transfer Price.

- 18.5 As soon as practicable following the receipt of a Transfer Notice, the Board shall offer the Sale Shares for sale to the shareholders in the manner set out in article 18.6. Each offer shall be in writing and give details of the number and Transfer Price of the Sale Shares offered.



- 18.6 The Board shall offer the Sale Shares to all shareholders other than the Seller (**Continuing Shareholders**), inviting them to apply in writing within 20 Business Days of the date of the offer (**Offer Period**) for the maximum number of Sale Shares they wish to buy.
- 18.7 If the Sale Shares are subject to a Minimum Transfer Condition, any allocation made under article 18.8 shall be conditional on the fulfilment of the Minimum Transfer Condition.
- 18.8 If, at the end of the Offer Period, the number of Sale Shares applied for is equal to or exceeds the number of Sale Shares, the Board shall allocate the Sale Shares to each Continuing Shareholder who has applied for Sale Shares in the proportion which his existing holding of shares bears to the total number of shares held by those Continuing Shareholders who have applied for Sale Shares. Fractional entitlements shall be rounded to the nearest whole number. No allocation shall be made to a Continuing Shareholder of more than the maximum number of Sale Shares which he has stated he is willing to buy.
- 18.9 If only some of the Sale Shares are allocated in accordance with article 18.8, but there are applications for Sale Shares that have not been satisfied, those Sale Shares shall be allocated to the relevant applicant(s) in accordance with the procedure set out in article 18.8.
- 18.10 If, at the end of the Offer Period, the total number of Sale Shares applied for is less than the number of Sale Shares, the Board shall allocate the Sale Shares to the Continuing Shareholders in accordance with their applications. The balance (**Surplus Shares**) shall be dealt with in accordance with article 18.15.
- 18.11 If the Transfer Notice includes a Minimum Transfer Condition and the total number of Sale Shares applied for is less than the number of Sale Shares specified in the Minimum Transfer Condition, the Board shall notify the Seller and all those to whom Sale Shares have been conditionally allocated under article 18.8, stating that the Minimum Transfer Condition has not been met and that the relevant Transfer Notice has lapsed with immediate effect.
- 18.12 If:
- (a) the Transfer Notice includes a Minimum Transfer Condition and such Minimum Transfer Condition has been satisfied, or the Transfer Notice does not include a Minimum Transfer Condition; and
  - (b) allocations under article 18.8 have been made in respect of some or all of the Sale Shares,

the Board shall give written notice of allocation (**Allocation Notice**) to the Seller and each Continuing Shareholder to whom Sale Shares have been allocated (**Applicant**). The Allocation Notice shall specify the number of Sale Shares allocated to each Applicant, the amount payable by each Applicant for the number of Sale Shares allocated to him (**Consideration**) and the place and time for completion of the transfer of the Sale Shares (which shall be not more than 10 Business Days after the date of the Allocation Notice).

18.13 On the service of an Allocation Notice, the Seller shall, against payment of the Consideration, transfer the Sale Shares allocated in accordance with the requirements specified in the Allocation Notice.

18.14 If the Seller fails to comply with the requirements of the Allocation Notice:

- (a) any of the other directors, or some other person nominated by a resolution of the Board may, on behalf of the Seller:
  - (i) complete, execute and deliver in his name all documents necessary to give effect to the transfer of the relevant Sale Shares to the Applicants;
  - (ii) receive the Consideration and give a good discharge for it; and
  - (iii) (subject to the transfers being duly stamped) enter the Applicants in the register of shareholders as the holders of the shares purchased by them; and
- (b) the Company shall pay the Consideration into a separate bank account in the Company's name on trust (but without interest) for the Seller until he has delivered his certificate for the relevant shares (or an indemnity, in a form reasonably satisfactory to the board, in respect of any lost certificate, together with such other evidence (if any) as the board may reasonably require to prove good title to those shares) to the Company.

18.15 If an Allocation Notice does not relate to all of the Sale Shares or the Transfer Notice lapses pursuant to article 18.11 then, subject to article 18.16 and within four weeks following service of the Allocation Notice or the date of the lapse of the Transfer Notice (as the case may be), the Seller may transfer the Surplus Shares or the Sale Shares (in the case of a lapsed offer) (as the case may be) to any person at a price at least equal to the Transfer Price. The sale of the Sale Shares (following the lapse of a Transfer Notice) in accordance with this article 18.15 shall continue to be subject to any Minimum Transfer Condition.

18.16 The Seller's right to transfer shares under article 18.15 does not apply if the Board reasonably considers that:

- (a) the sale of the Sale Shares is not bona fide or the price is subject to a deduction, rebate or allowance to the transferee; or

- (b) the Seller has failed or refused to provide promptly information available to the Seller and reasonably requested by the board to enable it to form the opinion mentioned above.

**19. COMPULSORY TRANSFER OF SHARES**

- 19.1 Upon the occurrence of a Compulsory Transfer Event in respect of a member (**Relevant Member**), that Relevant Member and, where the Relevant Member is the holder of B Shares, the Relevant Member's spouse, shall be deemed to have served a Transfer Notice (**Compulsory Transfer Notice**) in respect of all the Shares held from time to time by each of them respectively (**Compulsory Transfer Shares**). A Compulsory Transfer Notice shall supersede any current Transfer Notice in respect of any Compulsory Transfer Shares.
- 19.2 The Compulsory Transfer Shares shall be offered for sale in accordance with the provisions of article 18 as if the Compulsory Transfer Shares were Sale Shares except that the Transfer Price in respect of the Compulsory Transfer Shares shall be the Fair Value.

**20. FAIR VALUE**

- 20.1 The Fair Value shall be the price per Sale Share determined by the Independent Expert on the following bases and assumptions:
- (a) valuing the Sale Shares as on an arm's-length sale between a willing seller and a willing buyer as at the date the Transfer Notice was served;
  - (b) if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so;
  - (c) that the Sale Shares are capable of being transferred without restriction;
  - (d) valuing the Sale Shares as a rateable proportion of the total value of all the issued shares without any premium or discount being attributable to the percentage of the issued share capital of the Company which they represent; and
  - (e) reflecting any other factors which the Independent Expert reasonably believes should be taken into account.
- 20.2 If any difficulty arises in applying any of these assumptions or bases then the Independent Expert shall resolve that difficulty in whatever manner it shall in its absolute discretion think fit.
- 20.3 The directors will give the Independent Expert access to all accounting records or other relevant documents of the Company, subject to it agreeing such confidentiality provisions as the directors may reasonably impose.

- 20.4 The Independent Expert shall act as expert and not as arbitrator and its determination shall be final and binding on the parties (in the absence of fraud or manifest error).
- 20.5 The Independent Expert shall be requested to determine the Fair Value and to deliver its certificate to the Company. Forthwith upon receipt, the Company shall deliver a copy of the certificate to the Seller.
- 20.6 The cost of obtaining the Independent Expert's certificate shall be borne by the parties equally or in such other proportions as the Independent Expert directs.
- 21. DRAG ALONG**
- 21.1 Subject to having first complied with the pre-emption provisions set out in article 18, if the holder(s) of all of the A Shares or the holder(s) of all the B Shares (**Proposed Sellers**) propose to sell their beneficial interest in their holding of Shares in the Company and procure that the same terms are offered in accordance with article 21.5 by the proposed transferee (or any person Acting in Concert with it) (**Offerors**) to the holders of all the remaining Shares in the Company for the acquisition of their entire holdings of Shares in the Company, the Proposed Sellers shall have the right (**Drag Along Right**) to require all other holders of shares in the Company (**Dragged Shareholders**) to sell their Shares to the Offerors upon such terms.
- 21.2 The Drag Along Right may be exercised by the Proposed Sellers serving notice to that effect (**Drag Along Notice**) on the Dragged Shareholders at any time.
- 21.3 A Drag Along Notice once given shall be irrevocable but shall lapse (and the obligations thereunder shall lapse) in the event that for any reason the Proposed Sellers do not transfer their entire holdings of shares to the Offeror (or the Offeror's nominee) not later than the date specified in the Drag Along Notice as the date for completion of the sale and purchase of the shares.
- 21.4 If any Dragged Shareholder fails to complete the sale of any of his Shares, the Proposed Sellers or the Board (or any of them) may authorise any person to undertake on his behalf any action required to complete the sale of such Shares.
- 21.5 The offer referred to in this article 21.5 shall be on terms that each member to whom it is made shall be entitled to receive, for each of the Shares held by him, not less than the consideration offered to the Proposed Sellers for each of the Shares held by them by the proposed purchaser or any person Acting in Concert with the proposed purchaser, which shall be deemed to include any consideration (in cash or otherwise) paid or payable by such purchaser or person Acting in Concert which, having regard to the substance of the transaction as a whole, may reasonably be regarded as an addition to the price so paid or payable.

- 21.6 The purchase of any Shares in respect of which a Drag Along Notice is served shall be completed in accordance with the Sale Agreement at the same time as the sale by the Proposed Sellers of their holding of Shares to the Offerors and after such an Offeror or his nominee has been registered as the holder of Shares transferred in accordance with this article 21.6 the validity of such transaction shall not be questioned by any person.

**22. TAG ALONG**

- 22.1 Subject to articles 18 and 21, if the holder(s) of all of the A Shares or the holder(s) of all the B Shares (**Selling Shareholders**) wish to transfer all their interest in such Shares (**Sellers' Shares**) to a bona fide arm's length purchaser (**Tag Purchaser**) the other holders of Shares (**Tag Shareholders**) shall have the option (**Tag Along Option**) to offer all their Shares in accordance with the provisions of this article 22.
- 22.2 The Tag Shareholders may exercise the Tag Along Option by giving written notice to that effect (**Tag Along Notice**) at any time before the transfer of the Sellers' Shares to the Tag Purchaser. A Tag Along Notice shall specify that the Tag Purchaser is required to buy all their Shares (**Tag Shares**) pursuant to this article 22, the consideration for which the Tag Shares are to be transferred (calculated in accordance with the provisions of this article 22).
- 22.3 Tag Along Notices shall be irrevocable but will lapse if for any reason there is not a sale of the Sellers' Shares by the Selling Shareholders to the Tag Purchaser within 60 days after the date of service of the Tag Along Notice. The Tag Shareholders shall be entitled to serve further Tag Along Notices following the lapse of any particular Tag Along Notice.
- 22.4 The consideration (in cash or otherwise) for which the Tag Purchaser shall be either:
- (a) the same as that attributed by the offer from the Tag Purchaser to each ordinary share (**Equivalent Consideration**); or
  - (b) any other consideration certified by the Company's auditors as being no less favourable than the Equivalent Consideration.
- 22.5 Completion of the sale of the Tag Shares shall take place on the same date as the date proposed for completion of the sale of the Sellers' Shares unless:
- (a) all of the Tag Shareholders and the Selling Shareholders agree otherwise; or
  - (b) that date is less than three days after the Tag Along Notice where it shall be deferred until the third day after the Tag Along Notice.

- 22.6 The rights of pre-emption set out in these Articles shall not arise on any transfer of shares to a Tag Purchaser (or as he may direct) pursuant to a sale in respect of which a Tag Along Notice has been duly served.

#### **DECISION MAKING BY SHAREHOLDERS**

##### **23. POLL VOTES**

- 23.1 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.
- 23.2 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.

##### **24. PROXIES**

- 24.1 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".
- 24.2 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**

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

- 25.1 Subject to article 25.2, any notice, document or other information shall be deemed served on, or delivered to, the intended recipient:
- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice, document or other information is left at the address; or
  - (b) if sent by fax, at the time of transmission; or
  - (c) if sent by pre-paid United Kingdom first class post, recorded delivery or special delivery to an address in the United Kingdom, at 9.00 am on the second Business Day after posting; or
  - (d) if sent by pre-paid airmail to an address outside the country from which it is sent, at 9.00 am on the fifth Business Day after posting; or

- (e) if sent by reputable international overnight courier to an address outside the country from which it is sent, on signature of a delivery receipt or at the time the notice, document or other information is left at the address; or
- (f) if sent or supplied by e-mail, one hour after the notice, document or information was sent or supplied; or
- (g) 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; and
- (h) if deemed receipt under the previous paragraphs of this article 25.1 would occur outside business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of deemed receipt), at 9.00 am on the day when business next starts in the place of deemed receipt. For the purposes of this article, all references to time are to local time in the place of deemed receipt.

**25.2 To prove service, it is sufficient to prove that:**

- (a) if delivered by hand or by reputable international overnight courier, the notice was delivered to the correct address; or
- (b) if sent by fax, a transmission report was received confirming that the notice was successfully transmitted to the correct fax number; or
- (c) if sent by post or by airmail, the envelope containing the notice was properly addressed, paid for and posted; or
- (d) if sent by e-mail, the notice was properly addressed and sent to the e-mail address of the recipient.

**26. INDEMNITY**

**26.1 Subject to article 26.2, 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 26.1(a) and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.

26.2 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.

26.3 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).

## **27. INSURANCE**

27.1 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.

27.2 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.