

Company Number: 09809490

**ARTICLES OF ASSOCIATION**  
**OF**  
**AIRFLOW COOLING HOLDINGS LIMITED**

**(Adopted by special resolution passed on 17 October 2023)**

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*D Piercey*  
Daniel Piercey

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

*S Staniforth*  
Simon Staniforth

**ARTICLES OF ASSOCIATION**

*T Staniforth*  
Thomas Staniforth

**OF**

**AIRFLOW COOLING HOLDINGS LIMITED**

**(Adopted by special resolution passed on 17 October 2023)**

**INTRODUCTION**

**1. INTERPRETATION**

1.1 In these Articles, the following words have the following meanings:

<b>"A Share"</b>	an A ordinary share of £1 in the capital of the Company;
<b>"Appointor"</b>	has the meaning given in article 12.1;
<b>"Articles"</b>	the Company's articles of association for the time being in force;
<b>"Available Profits"</b>	profits available for distribution within the meaning of part 23 of the CA 2006;
<b>"B Share"</b>	a B ordinary share of £1 in the capital of the Company;
<b>"B Shareholder"</b>	a holder, from time to time, of B Shares;
<b>"Bad Leaver"</b>	a Departing Employee Shareholder who becomes a Departing Employee Shareholder in circumstances where he is not a Good Leaver;
<b>"Board"</b>	the board of directors of the Company as constituted from time to time.
<b>"Business Day"</b>	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
<b>"CA 2006"</b>	the Companies Act 2006;

<b>"Company"</b>	Airflow Cooling Holdings Limited, a company incorporated in England and Wales with company registration number 09809490 whose registered office address is 132 Rutland Road, Sheffield, South Yorkshire, England, S3 9PP;
<b>"Compulsory Transfer"</b>	<b>Employee</b> has the meaning given in article 17.1.4;
<b>"Conflict"</b>	a situation in which a director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company;
<b>"Deemed Transfer Notice"</b>	a Transfer Notice that is deemed to have been served under any provision of these Articles;
<b>"Departing Employee Shareholder"</b>	an Employee Shareholder who ceases to be a director or employee of the Company or any Group Company (other than by reason of death);
<b>"Eligible Director"</b>	any 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 countered in respect of the particular matter);
<b>"Employee Shareholder"</b>	a B Shareholder who is, or has been, a director and/or an employee of the Company or any member of the Group;
<b>"Fair Value"</b>	has the meaning given in article 18.2;
<b>"Good Leaver"</b>	<p>an Employee Shareholder who becomes a Departing Employee Shareholder by reason of:</p> <p>(a) permanent disability or permanent incapacity through ill-health; or</p> <p>(b) 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 unfair;</p>
<b>"Group"</b>	the Company any subsidiary from time to time of the Company, and any subsidiary from time to time of a holding company of the Company and <b>"Group Company"</b> shall be construed accordingly;

<b>"Interested Director"</b>	has the meaning given in article 9.1;
<b>"Model Articles"</b>	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, and reference to a numbered Model Article is a reference to that article of the Model Articles;
<b>"Ordinary Shares"</b>	the A Shares and the B Shares from time to time;
<b>"Original Shareholder"</b>	Daniel Kyle Piercey, for so long as he is the holder of a majority of the A Shares;
<b>"Sale Shares"</b>	has the meaning given in article 16.2;
<b>"Seller"</b>	has the meaning given in article 16.2;
<b>"Termination Date"</b>	means: <ul style="list-style-type: none"> <li>(a) where employment ceases by virtue of notice given by the employer to the employee, the date on which such notice expires;</li> <li>(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;</li> <li>(c) where the Employee Shareholder concerned is a director but not an employee, the date on which his service agreement (or other terms of appointment) with whichever of the Company or any other Group Company that employs him is terminated; or</li> <li>(d) in any other case, the date on which the employment or holding of office is terminated;</li> </ul>
<b>"Transfer Notice"</b>	has the meaning given in article 16.2;
<b>"Transfer Price"</b>	has the meaning given in article 16.5;
<b>"Valuers"</b>	an independent firm of accountants jointly 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 within 5 Business Days of the expiry of the 10 Business Day period referred to in article 16.5, an independent

firm of accountants appointed by the President, for the time being, of the Institute of Chartered Accountants in England and Wales (in each case acting as an expert and not as an arbitrator); 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.

- 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 CA 2006 shall have those meanings in these Articles, but excluding any statutory modification of them not in force on the date when these Articles become binding on the Company.
- 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 A reference to a **“holding company”** or a **“subsidiary”** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the CA 2006.

## 2. **ADOPTION OF THE MODEL ARTICLES**

- 2.1 The Model Articles shall apply to the Company, except in so far as they are modified or excluded by these Articles or are inconsistent with these Articles, and, subject to any such modifications, exclusions or inconsistencies, shall together with these Articles constitute the articles of association of the Company to the exclusion of any other articles or regulations set out in any statute or in any statutory instrument or other subordinate legislation.
- 2.2 Model Articles 6(2), 7, 8, 9(1), 11 to 14 (inclusive), 16, 17, 22(2), 26(5), 30, 38, 39, 43, 44(2), 49 and 50 to 53 (inclusive) shall not apply to the Company.

- 2.3 Model Article 20 shall be amended by the insertion of the words "(including alternate directors and the secretary (if any))" before the words "properly incur".
- 2.4 In Model Article 25(2)(c), the words "evidence, indemnity and the payment of a reasonable fee" shall be deleted and replaced with the words "evidence and indemnity".
- 2.5 Model Articles 27(2)(a) and (b) shall be amended by the insertion, in each case, of the words "and to any other agreement to which the holder was party at the time of his death" after the words "subject to the articles".
- 2.6 Model Article 28(2) shall be amended by the deletion of the word "If" and the insertion of the words "Subject to the articles and to any other agreement to which the holder was party at the time of his death, if" in its place.
- 2.7 Model Articles 31(1)(a) to (c) (inclusive) shall be amended by the deletion, in each case, of the words "either" and "or as the directors may otherwise decide". Model Article 31(d) shall be amended by the deletion of the words "either" and "or by such other means as the directors decide".

## **DIRECTORS**

### **3. DIRECTORS' MEETINGS**

- 3.1 Any decision of the directors must be taken at a meeting of directors in accordance with these Articles or must be a decision taken in accordance with article 4.
- 3.2 Subject as provided in these Articles, the directors may participate in directors' meetings for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. The directors will try to meet at least monthly.
- 3.3 All decisions made at any meeting of the directors shall be made only by resolution, and no such resolution shall be passed unless:
  - 3.3.1 more votes are cast for it than against it; and
  - 3.3.2 at least one Eligible Director who is participating in the meeting of the directors has voted in favour of it.
- 3.4 Except as provided by article 4, each director has one vote at a meeting of directors.
- 3.5 If at any time before or at any meeting of the directors all directors participating should request that the meeting be adjourned or reconvened to another time or date (whether to enable further consideration to be given to any matter or for other directors to participate or for any other reason, which need not be stated), then such meeting shall be adjourned or reconvened accordingly, and no business shall be conducted at that meeting after such a request has been made. No meeting of directors may be adjourned pursuant to this article more than once.

#### 4. **UNANIMOUS DECISIONS OF DIRECTORS**

- 4.1 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.
- 4.2 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.
- 4.3 A decision may not be taken in accordance with this article if the Eligible Directors would not have formed a quorum at a directors' meeting to vote on the matter.

#### 5. **NUMBER OF DIRECTORS**

The number of directors shall not be less than one and the Board shall at all times contain at least one director. No shareholding qualification for directors shall be required.

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

- 6.1 Any director may call a meeting of directors by giving not less than 5 Business Days' notice of the meeting (or such shorter period of notice as may be determined by the chairman of the Board, acting at his sole discretion) to each director or by authorising the company secretary (if any) to give such notice.
- 6.2 Notice of any directors' meeting must be accompanied by:
  - 6.2.1 an agenda specifying in reasonable detail the matters to be raised at the meeting; and
  - 6.2.2 copies of any papers to be discussed at the meeting.
- 6.3 Matters not on the agenda, or business conducted in relation to those matters, may not be raised at a meeting of directors unless all the directors agree in writing.

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

- 7.1 The quorum at any meeting of the directors (including adjourned meetings) shall be one Eligible Director.
- 7.2 No business shall be conducted at any meeting of directors unless a quorum is present at the beginning of the meeting and also when that business is voted on.
- 7.3 If a quorum is not present within 30 minutes of the time specified for the relevant meeting in the notice of the meeting, then the meeting shall be adjourned for 5 Business Days at the same time and place.



## 8. CHAIRING OF DIRECTORS' MEETINGS

The post of chairman of the Board may be determined from time to time in writing by the shareholders representing in excess of 50% of the Ordinary Shares then in issue. The chairman shall have a casting vote. If the chairman of the Board for the time being is unable to attend any meeting of the Board, the shareholders who appointed him shall be entitled to appoint another director to act as chairman at the meeting.

## 9. DIRECTORS' INTERESTS

9.1 For the purposes of section 175 of the CA 2006, the shareholders (and not the directors) shall have the power to authorise, by resolution and in accordance with the provisions of these Articles, any Conflict proposed to them by any director which would, if not so authorised, involve a director (the **"Interested Director"**) breaching their duty under section 175 of the CA 2006 to avoid conflicts of interest.

9.2 The Interested Director must provide the shareholders with such details as are necessary for the shareholders to decide whether or not to authorise the Conflict, together with such additional information as may be requested by the shareholders.

9.3 Any authorisation by the shareholders of a Conflict under this article may (whether at the time of giving the authorisation or subsequently):

9.3.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised;

9.3.2 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;

9.3.3 provide that the Interested Director will or will not be an Eligible Director in respect of any future decision of the directors in relation to any resolution related to the Conflict;

9.3.4 impose upon the Interested Director such other terms for the purposes of dealing with the Conflict as the shareholders think fit;

9.3.5 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

9.3.6 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 that they relate to such matters.

- 9.4 Where the shareholders authorise a Conflict:
- 9.4.1 the Interested Director will be obliged to conduct himself in accordance with any terms and conditions imposed by the shareholders in relation to the Conflict; and
  - 9.4.2 the Interested Director will not infringe any duty he owes to the Company by virtue of sections 171 to 177 of the CA 2006, provided that he acts in accordance with such terms and conditions (if any) as the shareholders impose in respect of their authorisation.
- 9.5 The shareholders 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.
- 9.6 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 shareholders in accordance with these Articles (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.
- 9.7 Subject to sections 177(5) and 177(6) of the CA 2006, a director who is in any way, whether directly or indirectly, interested in a proposed transaction or arrangement with the Company shall declare the nature and extent of his interest to the other directors before the Company enters into the transaction or arrangement in accordance with the CA 2006.
- 9.8 Subject to sections 182(5) and 182(6) of the CA 2006, a director who is in any way, whether directly or indirectly, interested in a transaction or arrangement that has been entered into by the Company shall declare the nature and extent of his interest to the other directors as soon as is reasonably practicable in accordance with the CA 2006, unless the interest has already been declared under article 9.7.
- 9.9 Subject, where applicable, to any terms, limits or conditions imposed by the shareholders in accordance with article 9.3, and provided a director has declared the nature and extent of his interest in accordance with the requirements of the CA 2006, a director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the Company:
- 9.9.1 may be a party to, or otherwise interested in, any such transaction or arrangement with the Company or in which the Company is otherwise (directly or indirectly) interested;

- 9.9.2 shall be an Eligible Director for the purposes of any proposed decision of the directors in respect of such transaction or arrangement or proposed transaction or arrangement in which he is interested;
- 9.9.3 shall be entitled to vote at a meeting of directors or participate in any unanimous decision in respect of such transaction or arrangement or proposed transaction or arrangement in which he is interested;
- 9.9.4 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;
- 9.9.5 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
- 9.9.6 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 CA 2006)) 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 CA 2006.

## 10. **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 a form that enables the Company to retain a copy of such decisions.

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

- 11.1 The holder(s) of a majority of the Ordinary Shares shall be entitled to appoint and remove directors at any time.
- 11.2 Any appointment or removal of a director pursuant to this article shall be in writing and signed by or on behalf of the holder(s) of a majority of the Ordinary Shares and served on the Company at its registered office, and on the director, in the case of his removal. Any such appointment or removal shall take effect when the written notice is received by the Company or at such later time as shall be specified in such notice.
- 11.3 No director shall be appointed or removed otherwise than pursuant to these Articles, save as provided by law.

## 12. **ALTERNATE DIRECTORS**

- 12.1 Any director (other than an alternate director) (the **"Appointor"**) may appoint any person (whether or not a director) to be an alternate director to exercise the Appointor's powers, and carry out the Appointor's responsibilities, in relation to the taking of decisions by the directors, in the absence of the Appointor. A person may be appointed an alternate director by more than one director.
- 12.2 Any appointment or removal of an alternate director must be effected by notice in writing to the Company (and to the alternate, on removal) signed by the Appointor or in any other manner approved by the directors.
- 12.3 The notice must:
  - 12.3.1 identify the proposed alternate; and
  - 12.3.2 in the case of a notice of appointment, contain a statement signed by the proposed alternate that he is willing to act as the alternate of the director giving the notice.
- 12.4 An alternate director has the same rights, in relation to any decision of the directors, as the alternate's Appointor.
- 12.5 Except as the Articles specify otherwise, alternate directors:
  - 12.5.1 are deemed for all purposes to be directors;
  - 12.5.2 are liable for their own acts and omissions;
  - 12.5.3 are subject to the same restrictions as their Appointors; and
  - 12.5.4 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.
- 12.6 A person who is an alternate director but not a director may, subject to him being an Eligible Director:
  - 12.6.1 be counted as participating for the purposes of determining whether a quorum is present at a meeting of directors (but only if that person's Appointor is an Eligible Director and is not participating); and
  - 12.6.2 participate in a unanimous decision of the directors (but only if his Appointor is an Eligible Director in relation to that decision and does not himself participate).
- 12.7 A director who is also an alternate director is entitled, in the absence of his Appointor(s), to a separate vote on behalf of each Appointor (provided that that Appointor is an

Eligible Director in relation to that decision), in addition to his own vote on any decision of the directors.

- 12.8 An alternate director may be paid expenses and may be indemnified by the Company to the same extent as if he were a director but shall not be entitled to receive from the Company any remuneration in his capacity as an alternate director except such part (if any) of the remuneration otherwise payable to the alternate's Appointor as the Appointor may by notice in writing to the Company from time to time direct.
- 12.9 An alternate director's appointment as an alternate (in respect of a particular Appointor) terminates:
  - 12.9.1 when the alternate's Appointor revokes the appointment by notice to the Company and the alternate in writing specifying when it is to terminate;
  - 12.9.2 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; or
  - 12.9.3 when the alternate director's Appointor ceases to be a director for whatever reason.

## **SHARES**

### **13. SHARE CAPITAL**

- 13.1 Except as otherwise provided in these Articles, the A Shares and the B Shares shall rank pari passu in all respects but shall constitute separate classes of shares.
- 13.2 On the transfer of any share as permitted by these Articles:
  - 13.2.1 a share transferred to a non-shareholder shall remain of the same class as before the transfer; and
  - 13.2.2 a share transferred to a shareholder shall automatically be redesignated on transfer as a share of the same class as those shares already held by the shareholder.

If no shares of a class remain in issue following a redesignation under this article 13.2, these Articles shall be read as if they do not include any reference to that class or to any consents from, or attendance at any meeting or votes to be cast by, shareholders of that class or directors appointed by that class.

- 13.3 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 shareholder holding shares 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, a shareholder present in person or by proxy or (being a corporation) by a duly authorised representative may constitute a meeting.

13.4 Each of the following shall be deemed to constitute a variation of the rights attached to each class of shares:

13.4.1 any alteration of the Articles; and

13.4.2 any reduction, subdivision, consolidation, redenomination or purchase or redemption by the Company of its own shares.

13.5 The Company shall immediately cancel any shares acquired under Chapter 4 of Part 18 of the CA 2006.

#### 14. **INCOME**

Any Available Profits in respect of any Financial Year shall be applied, if and to the extent that the Board shall resolve, in paying to the holders of the A Shares and the B Shares such dividends on each class of shares as the Board may determine, provided that there shall be no obligation to pay equal dividends to the holders of each class of shares or to pay dividends to all classes of shares if dividends are declared in favour of any one or more class of shares.

#### 15. **SHARE TRANSFERS: GENERAL**

15.1 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.

15.2 No shareholder shall transfer any share except:

15.2.1 in accordance with the procedure set out in article 16;

15.2.2 in accordance with article 17;

15.2.3 in accordance with article 19; or

15.2.4 with the prior written consent of the Original Shareholder.

15.3 Subject to article 15.2.2, article 15.2.3 and article 15.2.4, no B Shareholder shall transfer any shares in the capital of the Company prior to 5 May 2025.

15.4 Subject to article 15.5, the directors must register any duly stamped or certified exempt 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.

- 15.5 The directors may, as a condition to the registration of any transfer of shares in the Company, require the transferee to execute and deliver to the Company a deed under which the transferee agrees to be bound by the terms of any shareholders' agreement (or similar document) in force between the shareholders in such form as the directors may reasonably require (but not so as to oblige the transferee to have any obligations or liabilities greater than those of the proposed transferor under any such agreement or other document). If any such condition is imposed in accordance with this article 15.5, the transfer may not be registered unless that deed has been executed and delivered to the Company's registered office by the transferee.
- 15.6 Any transfer of shares by way of a sale under these Articles shall be deemed to include a warranty that the transferor sells the shares with full title guarantee.
- 15.7 Any Transfer Notice served in respect of the transfer of any shares which has not completed before the date of service of a Deemed Transfer Notice shall automatically be revoked by the service of the Deemed Transfer Notice.

16. **PRE-EMPTION RIGHTS ON THE TRANSFER OF SHARES**

- 16.1 Subject to article 15.3, except where the provisions of article 17 or article 19 apply, any transfer of shares in the capital of the Company by a B Shareholder shall be subject to the pre-emption rights in this article 16.
- 16.2 A B Shareholder ("**Seller**") wishing to transfer his shares in the Company ("**Sale Shares**") must give notice in writing (a "**Transfer Notice**") to the Company giving details of the proposed transfer, including:
- 16.2.1 the number of Sale Shares;
- 16.2.2 if the Seller wishes to sell the Sale Shares to a third party, the name of the proposed buyer;
- 16.2.3 the price (in cash) at which he wishes to sell the Sale Shares; and
- 16.2.4 whether the Transfer Notice is conditional on all, or a specific number of, the Sale Shares being sold ("**Minimum Transfer Condition**").
- 16.3 Once given (or deemed to have been given) under these Articles, a Transfer Notice may not be withdrawn.
- 16.4 A Transfer Notice (or Deemed Transfer Notice) constitutes the Company the agent of the Seller for the sale of the Sale Shares in accordance with the provisions of these Articles.
- 16.5 The "**Transfer Price**" for each Sale Share which is the subject of a Transfer Notice shall, save where expressly provided otherwise in these Articles, be the price per Sale Share (in cash) agreed between the Seller and the Board or, in default of agreement within 10 Business Days of the date of service of the Transfer Notice, the Fair Value of each Sale Share determined in accordance with article 18.

- 16.6 As soon as practicable following the agreement or the determination of the Transfer Price in accordance with article 16.5, the Board shall offer the Sale Shares for sale in the manner set out in the remaining provisions of this article 16 at the Transfer Price. Each offer shall be in writing and give details of the number and Transfer Price of the Sale Shares offered.
- 16.7 The Board shall offer the Sale Shares to all shareholders holding shares in the Company other than the Seller and any shareholders holding shares in the Company whose shares are, at the date of the Transfer Notice, the subject of a Deemed Transfer Notice (the **"Continuing Shareholders"**), inviting them to apply in writing within the period from the date of the offer to the date 20 Business Days after the offer (both dates inclusive) (the **"Offer Period"**) for the maximum number of Sale Shares they wish to buy.
- 16.8 If the Sale Shares are subject to a Minimum Transfer Condition, any allocation made under article 16.9 shall be conditional on the fulfilment of the Minimum Transfer Condition.
- 16.9 If:
- 16.9.1 at the end of the Offer Period, the total 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 in the Company bears to the total number of shares in the Company held by those Continuing Shareholders who have applied for Sale Shares. Fractional entitlements shall be rounded down to the nearest whole number (save where such rounding would result in not all Sale Shares being allocated, in which case the allocation of any such fractional entitlements among the Continuing Shareholders who have applied for Sale Shares shall be determined by the Board). 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;
- 16.9.2 not all Sale Shares are allocated following allocations in accordance with article 16.9.1, but there are applications for Sale Shares that have not been satisfied, the Board shall allocate the remaining Sale Shares to such applicant(s) in accordance with the procedure set out in article 16.9.1. The procedure set out in this article 16.9.2 shall apply on any number of consecutive occasions until either all Sale Shares have been allocated or all applications for Sale Shares have been satisfied; and
- 16.9.3 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 (the **"Surplus Shares"**) shall be dealt with in accordance with article 16.14.
- 16.10 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 16.9, stating that the Minimum Transfer



Condition has not been met and that the relevant Transfer Notice has lapsed with immediate effect.

16.11 If:

16.11.1 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

16.11.2 allocations under article 16.9 have been made in respect of some or all of the Sale Shares,

the Board shall give written notice of allocation (an **"Allocation Notice"**) to the Seller and each Continuing Shareholder to whom Sale Shares have been allocated (each an **"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 at least 10 Business Days, but not more than 20 Business Days, after the date of the Allocation Notice).

16.12 On the date specified for completion in the Allocation Notice, the Seller shall, against payment of the Consideration, execute and deliver a transfer of the Sale Shares allocated to such Applicant, in accordance with the requirements specified in the Allocation Notice.

16.13 If the Seller fails to comply with article 16.12:

16.13.1 the chairman of the Board (or, failing him, one of the other directors, or some other person nominated by a resolution of the Board) may, as agent on behalf of the Seller:

16.13.1.1 complete, execute and deliver in his name all documents necessary to give effect to the transfer of the relevant Sale Shares to the Applicants;

16.13.1.2 receive the Consideration and give a good discharge for it (and no Applicant shall be obliged to see to the distribution of the Consideration); and

16.13.1.3 (subject to the transfers being duly stamped) enter the Applicants in the register of members as the holders of the Sale Shares purchased by them; and

16.13.2 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(s) for the relevant Sale Shares or an indemnity, in a form reasonably satisfactory to the Board, in respect of any lost certificate, together, in either case, with such other evidence (if any) as the Board may reasonably require to prove good title to those Sale Shares, to the Company.

- 16.14 If an Allocation Notice does not relate to all of the Sale Shares or the Transfer Notice lapses pursuant to article 16.10, then, subject to article 16.15 and within 30 Business Days 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 16.14 shall continue to be subject to any Minimum Transfer Condition.
- 16.15 The Seller's right to transfer Sale Shares under article 16.14 does not apply if the Board reasonably considers that:
- 16.15.1 the transferee is a person (or a nominee for a person) who is a competitor with (or an associate of a competitor with) the business of the Company;
  - 16.15.2 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
  - 16.15.3 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.
- 16.16 The restrictions imposed by this article 16 may be waived in relation to any proposed transfer of Sale Shares with the consent of the shareholders who, but for the waiver, would or might have been entitled to have such Sale Shares offered to them in accordance with this article 16.

## 17. **COMPULSORY TRANSFERS**

- 17.1 A B Shareholder, who is an individual, is deemed to have served a Transfer Notice under article 16.2 immediately before any of the following events:
- 17.1.1 his death;
  - 17.1.2 a bankruptcy petition 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;
  - 17.1.3 the shareholder lacking capacity (under section 2 of the Mental Capacity Act 2005) to make decisions in relation to the Company or his shareholding; or
  - 17.1.4 the shareholder (being an Employee Shareholder) becoming a Departing Employee Shareholder (a "**Compulsory Employee Transfer**") (unless the directors otherwise direct in writing within 10 Business Days of the relevant Termination Date that a Transfer Notice shall not be deemed to have been served). For the purpose of this article 17.1.4, the Transfer Notice is deemed to have been served on the relevant Termination Date; or

- 17.1.5 the shareholder committing a material or persistent breach of any shareholders' agreement to which he is a party in relation to the shares in issue in the Company which if capable of remedy has not been so remedied within 20 Business Days of the holder(s) of a majority of the shares in issue in the Company requiring such remedy.
- 17.2 The Deemed Transfer Notice has the same effect as a Transfer Notice, except that:
- 17.2.1 the Deemed Transfer Notice takes effect on the basis that it does not identify a proposed buyer or state a price for the Sale Shares and, subject to article 17.2.2 and article 17.2.3, the Transfer Price for the Sale Shares shall be the aggregate Fair Value of those shares, determined by the Valuers in accordance with article 18;
- 17.2.2 the Transfer Price in respect of a Compulsory Employee Transfer shall, where the Departing Employee Shareholder is:
- 17.2.2.1 a Bad Leaver, be restricted to a maximum of the lower of:
- (a) the sum of £1 in aggregate in respect of such Sale Shares; and
- (b) the aggregate Fair Value of such Sale Shares; and
- 17.2.2.2 a Good Leaver, be the aggregate Fair Value of such Sale Shares; and
- 17.2.3 if the Seller is deemed to have given a Transfer Notice as a result of article 17.1.5, the Transfer Price shall be restricted to a maximum of the lower of:
- 17.2.3.1 the sum of £1 in aggregate in respect of such Sale Shares; and
- 17.2.3.2 the aggregate Fair Value of such Sale Shares.
- 17.3 A Deemed Transfer Notice under article 17.1.4 or article 17.1.5 shall immediately and automatically revoke:
- 17.3.1 a Transfer Notice served by the relevant shareholder before the occurrence of the relevant event giving rise to the Deemed Transfer Notice under article 17.1.4 or article 17.1.5 (as the case may be); and
- 17.3.2 a Deemed Transfer Notice deemed to be served by the relevant shareholder under any of the events set out in article 17.1.1 to article 17.1.3 (inclusive) (as the case may be) before the occurrence of the relevant event giving rise to the Deemed Transfer Notice under article 17.1.4 or article 17.1.5 (as the case may be).

## 18. VALUATION

- 18.1 The Valuers shall be requested to determine the Fair Value within 20 Business Days of their appointment and to notify the Company and the Seller in writing of their determination.
- 18.2 The **"Fair Value"** for any Sale Share shall be the price per share determined in writing by the Valuers on the following bases and assumptions:
  - 18.2.1 valuing each of the Sale Shares as a proportion of the total value of all the issued shares in the capital of the Company with a premium or discount being attributable to the percentage of the issued share capital of the Company which they represent or the rights or restrictions applying to the Sale Shares;
  - 18.2.2 if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so;
  - 18.2.3 the sale is to be on arms' length terms between a willing seller and a willing buyer;
  - 18.2.4 the Sale Shares are sold free of all encumbrances;
  - 18.2.5 the sale is taking place on the date the Valuers were requested to determine the Fair Value; and
  - 18.2.6 to take account of any other factors that the Valuers reasonably believe should be taken into account.
- 18.3 The shareholders are entitled to make submissions to the Valuers, including oral submissions, and will provide (or procure that the Company provides) the Valuers with such assistance and documents as the Valuers reasonably require for the purpose of reaching a decision, subject to the Valuers agreeing to give such confidentiality undertakings as the shareholders may reasonably require.
- 18.4 To the extent not provided for by this article 18, the Valuers may, in their reasonable discretion, determine such other procedures to assist with the valuation as they consider just or appropriate, including (to the extent they consider necessary) instructing professional advisers to assist them in reaching their valuation.
- 18.5 The Valuers shall act as expert and not as arbitrator and their written determination shall be final and binding on the shareholders in the absence of manifest error or fraud.
- 18.6 The cost of obtaining the Valuers' valuation shall be borne by the Company and the Seller equally or in such other proportions as the Valuers direct

19. **DRAG ALONG**

- 19.1 If the Original Shareholder wishes to transfer all (but not some only) of his shares to a bona fide purchaser on arm's length terms ("**Proposed Buyer**"), the Original Shareholder may require all other holders of shares in the Company ("**Called Shareholders**") to sell and transfer their shares ("**Called Shares**") to the Proposed Buyer (or as the Proposed Buyer directs) in accordance with the provisions of this article 19 ("**Drag Along Option**").
- 19.2 The Original Shareholder may exercise the Drag Along Option by giving written notice to that effect to the Called Shareholders ("**Drag Along Notice**") at any time before the transfer of the Original Shareholder's shares to the Proposed Buyer. The Drag Along Notice shall specify:
- 19.2.1 that the relevant Called Shareholder is required to transfer all of his Called Shares pursuant to this article 19;
- 19.2.2 the person to whom the Called Shares are to be transferred;
- 19.2.3 the purchase price payable for the Called Shares which shall, for each Called Share, be an amount at least equal to the price per share offered by the Proposed Buyer for the Original Shareholder's shares; and
- 19.2.4 the proposed date of the transfer.
- 19.3 Once issued, a Drag Along Notice shall be irrevocable. However, a Drag Along Notice shall lapse if, for any reason, the Original Shareholder has not sold their shares to the Proposed Buyer within 40 Business Days of serving the Drag Along Notice. The Original Shareholder may serve further Drag Along Notices following the lapse of any particular Drag Along Notice.
- 19.4 No Drag Along Notice shall require any Called Shareholder to agree to any terms except those specifically set out in this article 19.
- 19.5 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 Original Shareholder's shares unless:
- 19.5.1 the Original Shareholder and the Called Shareholders agree otherwise, in which case the Completion Date shall be the date agreed in writing by them; or
- 19.5.2 that date is less than 40 Business Days after the date on which the Drag Along Notice is served, in which case the Completion Date shall be the 45<sup>th</sup> Business Day after service of the Drag Along Notice.

- 19.6 Neither the proposed sale of the Original Shareholder's shares to the Proposed Buyer nor the sale of the Called Shares by the Called Shareholders shall be subject to the rights of pre-emption set out in article 16.
- 19.7 On or before the Completion Date, the Called Shareholders shall execute and deliver stock transfer forms for the Called Shares, together with the relevant share certificates (or suitable indemnities 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 due pursuant to article 19.2 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 in trust for the Called Shareholders without any obligation to pay interest.
- 19.8 To the extent that the Proposed Buyer has not, on the Completion Date, put the Company in funds to pay the purchase price due in respect of the Called Shares, the Called Shareholders shall be entitled to the return of the stock transfer forms and share certificates (or suitable indemnities) for the relevant Called Shares and the Called Shareholders shall have no further rights or obligations under this article 19 in respect of their shares.
- 19.9 If any Called Shareholder does not, on or before the Completion Date, execute and deliver (in accordance with article 19.7) transfers in respect of all of the Called Shares held by him, that Called Shareholder shall be deemed to have irrevocably appointed any person nominated for the purpose by the Original Shareholder to be his agent to execute all necessary transfers on his behalf, against receipt by the Company (on trust for such holder) of the purchase price payable for the Called Shares, and to deliver such transfers to the Proposed Buyer (or as he may direct) as the holder thereof. After the Proposed Buyer (or its nominee) has been registered as the holder of the Called Shares, 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 19.9.

## **DECISION MAKING BY SHAREHOLDERS**

### **20. QUORUM FOR GENERAL MEETINGS**

- 20.1 The quorum at any general meeting of the Company, or adjourned general meeting, shall be two persons present in person or by proxy, at least one of whom shall be the person who then holds a majority of the A Shares then in issue.
- 20.2 No business shall be transacted by any general meeting unless a quorum is present at the commencement of the meeting and also when that business is voted on.

## 21. **CHAIRING GENERAL MEETINGS**

The chairperson of the Board shall chair general meetings. If the chairperson is unable to attend any general meeting, the shareholder who appointed him may himself act as chair of the general meeting (where the chair of the Board and the shareholder are not one and the same) or shall be entitled to appoint his proxy present at the meeting to act as chair at the meeting, and the appointment of the chair of the meeting must be the first business of the meeting.

## 22. **VOTING**

22.1 At a general meeting:

22.1.1 on a show of hands, every shareholder who is present in person or by proxy shall have one vote, unless the proxy is himself a shareholder entitled to vote; and

22.1.2 on a poll, every shareholder present in person or by proxy shall have one vote for each share of which he is the holder.

22.2 On a vote on a written resolution, every shareholder has one vote for each share of which he is the holder.

## 23. **POLL VOTES**

23.1 A poll may be demanded at any general meeting by a qualifying person (as defined in section 318 of the CA 2006) present and entitled to vote at the meeting.

23.2 Model Article 44(3) 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 Model Article 45(1)(d) 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 general meeting (or adjourned meeting) to which they relate".

24.2 Model Article 45(1) shall be amended by the insertion of the words "and a proxy notice which is not delivered in such manner shall be invalid" 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 received by the intended recipient:
- 25.1.1 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;
  - 25.1.2 if sent by pre-paid first-class post or other next working day delivery service providing proof of delivery, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service;
  - 25.1.3 if sent by pre-paid airmail providing proof of delivery, at 9.00 am on the fifth Business Day after posting or at the time recorded by the delivery service;
  - 25.1.4 if sent by fax or email, at the time of transmission; or
  - 25.1.5 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.
- 25.2 If deemed receipt under article 25.1 would occur outside Usual Business Hours, the notice, document or other information shall be deemed to have been received when Usual Business Hours next recommence. For the purposes of this article, **“Usual Business Hours”** means 9.00 am to 5.30 pm local time on any day which is not a Saturday, Sunday or public holiday in the place of receipt of the notice, document or other information (which, in the case of service by fax or email shall be deemed to be the same place as is specified for service of notices, documents or other information on the relevant recipient by hand or post).
- 25.3 To prove service, it is sufficient to prove that:
- 25.3.1 if delivered by hand, the notice was delivered to the correct address;
  - 25.3.2 if sent by post or by airmail, the envelope containing the notice was properly addressed, paid for and posted;
  - 25.3.3 if sent by fax, a transmission notice was received confirming that the notice was successfully transmitted to the correct fax number; or
  - 25.3.4 if sent by email, the notice was properly addressed and sent to the email address of the recipient.



- 25.4 In proving that any notice, document or information was properly addressed, it will suffice to show that the notice, document or information was addressed to an address permitted for the purpose by the CA 2006.

## 26. **INDEMNITY AND INSURANCE**

- 26.1 Subject to article 26.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:

26.1.1 each relevant officer of the Company shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer in the actual or purported execution and/or discharge of his duties, or in relation to them, and 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 affairs; and

26.1.2 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 26.1.1 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 to the extent that such indemnity would be prohibited or rendered void by any provision of the CA 2006 or by any other provision of law and any such indemnity is limited accordingly.

- 26.3 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.

- 26.4 In this article:

26.4.1 a "**relevant officer**" means any director or other officer or former director or other officer of the Company, but excluding in each case any person engaged by the Company as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor; and

26.4.2 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 or any pension fund or employees' share scheme of the Company.