

**Company number: 10471371**

**The Companies Act 2006**

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**PRIVATE COMPANY LIMITED BY SHARES**

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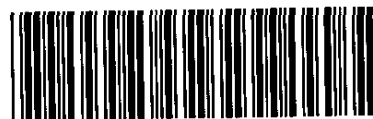
**ARTICLES OF ASSOCIATION**

**of**

**VOYAGEURS DU MONDE UK LIMITED**

(Adopted by special resolution passed on  
6 January 2017 and amended by special resolution  
passed on 18 September 2019)

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**(the "Company")**

(Adopted by special resolution passed on 6 January 2017  
and amended by special resolution  
passed on 18 September 2019)

**1. Preliminary**

- 1.1 Except as otherwise provided in these articles the articles contained in the Model Articles shall constitute the articles of the Company. In the case of any inconsistency between these articles and the articles of the Model Articles, the provisions of these articles shall prevail.
- 1.2 Articles 7(2), 8(2) and (3), 9(4), 10(3), 11(2) and (3), 12, 13, 14, 17, 19, 22(2), 25(2), 26(5), 30(2), (5), (6) and (7), 38, 39, 41(1) to (4) (inclusive), 45(1), 48(1), 50, 51, 52 and 53 of the Model Articles shall not apply to the Company.

**2. Definitions and interpretation**

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

**"A Ordinary Shares"** means the A ordinary shares of £0.01 each in the capital of the Company having the rights set out in these articles;

**"Accepting Shareholders"** has the meaning set out in article 16.2;

**"Accounts"** means the consolidated financial statements of Original Travel Company Limited (CRN: 04437204) and its Subsidiary Undertakings for the financial year ended on 31 December 2015 including the auditors' and directors' reports, the audited statement of financial position as at 31 December 2015, the audited statement of comprehensive income for that year and the notes to them;

**"Act"** means the Companies Act 2006 including any statutory modification or re-enactment thereof from time to time in force;

**"Adoption Date"** means the date referred to above for the adoption of these articles;

**"Amortisation"** means the amortisation of intangible assets as shown by the relevant Leaver Accounts;

**"Associate"** means in relation to a person:

- (a) a person who is his associate and the question of whether a person is an associate of another shall be determined in accordance with section 435 of the Insolvency Act 1986; and (whether or not an associate as so defined)
- (b) any Group Undertaking of that person;

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

**"Available Profits"** means profits available for distribution within the meaning given in Part 23 of the Act;

**"Bad Leaver"** means any Leaver:

- (a) whose employment (or the employment of the Relevant Employee from whom that Leaver acquired his, her or its Shares) terminates or is terminated as a result of gross misconduct
- (b) who (or the Relevant Employee in respect of whom) resigns voluntarily and joins a competitor within two years of the Leaving Date; or
- (c) who (or the Relevant Employee in respect of whom) resigns voluntarily prior to 31 December 2022 other than as a result of:
  - (i) circumstances constituting the Specified Circumstances;
  - (ii) sickness or other physical or mental incapacity which renders them unfit to carry on their duties (as certified by a suitably qualified medical practitioner appointed by the Company or, failing appointment by the Company within a 15 Business Day period of being requested in writing so to do, appointed by or on behalf of the relevant Leaver);
  - (iii) death;
  - (iv) the long term sickness, other incapacity or other special needs of a Family Member for whom the Leaver is required to care on a long term basis; or
  - (v) circumstances constituting constructive dismissal,

except, in each case, where the Leaver is designated a Good Leaver by VDM Direction;

**"Board"** means the board of directors of the Company from time to time;

**"Body Corporate"** has the meaning given in section 1173(1) of the Act;

**"Business Day"** means any day other than a Saturday or Sunday or a public holiday in England or France;

**"Connected"** has, for the purposes of article 22 only, the meaning given in article 22.11(b) and has, for all other purposes in these articles, the meaning given in sections 1122 and 1123 of the Corporation Tax Act 2010;

**"Controlling Interest"** means the legal or beneficial ownership of that number of the Ordinary Shares which in aggregate would confer more than 50 per cent. of the voting rights normally exercisable at general meetings of the Company;

**"Cost of Revenue"** means all direct costs of the business of the Group Companies for the Relevant Financial Year including without limitation air tickets and other travel fares, hotel accommodation, costs of excursions, ground handling arrangements, travel insurance premium and commissions net of VAT (recognised in the month of departure) including the cost of the tour operators margin scheme;

**"Deed of Adherence"** means a deed of adherence to an Investment Agreement in substantially the form required under such Investment Agreement;

**"Depreciation"** means the depreciation of tangible fixed assets as shown in the relevant Leaver Accounts;

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

**"Disposal"** means the sale of all or substantially all of the business and assets of the Company to one or more buyers whether through a single transaction or a series of transactions;

**"Drag Along Notice"** has the meaning given in clause 16.3;

**"Drag Along Right"** has the meaning given in clause 16.2;

**"Drag Price"** has the meaning given in clause 16.3(c);

**"EBITDA"** means Profits Before Tax, Depreciation, Amortisation and Interest of the Group Companies as derived from the relevant Leaver Accounts;

**"Electronic Address"** has the meaning given in section 333(4) of the Act;

**"Electronic Form"** and **"Electronic Means"** have the meanings given in section 1168 of the Act;

**"Eligible Director"** means a Director who would be entitled to vote on a matter had it been proposed as a resolution at a meeting of the Directors;

**"Excess Shares"** has the meaning set out in article 9.2;

**"Exit Event"** means the occurrence of a Listing or the completion of a Sale or Disposal or the occurrence of a Liquidation or other return of capital, whichever is the soonest to occur;

**"Exit Proceeds"** means:

- (a) on a Listing, the aggregate market value of all the issued Ordinary Shares allotted or in issue immediately upon the Listing becoming effective, as conclusively certified (at the cost to the Company) by the sponsoring broker:
  - (i) assuming that there have been exercised in full all rights of any person to call for the allotment or issue of any Ordinary Shares;
  - (ii) excluding any new shares, options or other rights to subscribe for Ordinary Shares which are to be or have been newly subscribed in order to raise additional capital as part of the Listing; and
  - (iii) determined by reference to the price at which the Ordinary Shares the subject of the Listing are to be issued or (as appropriate) placed or, in the case of an offer for sale by tender, by reference to the applicable striking price, as part of the Listing,

less the costs and expenses payable by the Shareholders which are attributable to the Listing (and assuming prior repayment of the Loan Notes);

- (b) on a Sale, the net aggregate price or value of the consideration to be paid in cash for all the issued Shares, including any deferred consideration and after taking into account:
  - (i) the costs and expenses attributable to the Sale;
  - (ii) to the extent required under the terms of the Sale, any amount to be applied in the discharge of any bank indebtedness (or other indebtedness in the nature of borrowings) of the Company or the Group (inclusive of any break fees, costs or other penalties relating to such discharge);
  - (iii) the value of any other consideration (in cash or otherwise) received by the Shareholders which can reasonably be regarded as in addition to the price paid or payable in respect of the Sale (and paid on or prior to completion of the Sale and including for the avoidance of doubt any pre-sale dividends paid to the Shareholders); and
  - (iv) the amount paid by the Company or the relevant purchaser on behalf of the Company at the time of the Sale in redeeming or otherwise repaying the Loan Notes;
- (c) on a Disposal, a sum equal to the total amount that would be available for distribution in cash amongst or to be receivable by the Shareholders if a Liquidation occurred immediately following the Disposal (and assuming prior repayment of the Loan Notes); and
- (d) on a Liquidation or other return of capital or assets, a sum equal to the total amount that is available for distribution amongst the Shareholders (and assuming prior repayment of the Loan Notes);

**"Fair Price"** has the meaning set out in article 12.5;

**"Family Member"** in relation to a Shareholder, means any one or more of that person's spouse or civil partner and children (including step-children);

**"Family Trust"** in relation to a Shareholder, means a grant or settlement set up wholly for the benefit of that person and/or that person's Family Members (or any charity or charities by way of default beneficiaries);

**"Good Leaver"** means a Leaver who is:

- (a) deemed to be a good leaver by VDM Direction; or
- (b) not a Bad Leaver;

**"Gross Margin"** means Revenue less Cost of Revenue for the Relevant Financial Year as shown in the relevant Leaver Accounts;

**"Group Company"** means the Company and any other company (or other entity) which is a Subsidiary Undertaking of the Company from time to time (and **"Group"** shall be construed accordingly);

**"Group Undertaking"** has the meaning given in section 1161 of the Act;

"**Hard Copy Form**" has the meaning given in section 1168(2) of the Act;

"**Hurdle**" means £13,334,000<sup>1</sup>;

"**Independent Expert**" means an umpire (acting as an expert and not as an arbitrator) nominated by the parties concerned and including any person (if required) appointed in accordance with these articles, including under article 14.7;

"**Investment Agreement**" means the Investment and Shareholders' Agreement dated the same date as the Adoption Date entered into by the Company, VDM and the Managers as such agreement is replaced or amended from time to time relating to the Company which is binding from time to time on the Shareholders or the Company and the Shareholders;

"**Leaver**" means:

- (a) any Shareholder who ceases to be a Relevant Employee;
- (b) any Shareholder (other than VDM or a VDM Associate) being a Permitted Transferee (pursuant to the provisions of articles 11.1(a) and 11.1(b)) of a Relevant Employee who ceases to be a Relevant Employee (including any such Permitted Transferee from a Relevant Employee by way of one or more intermediate transfers); and
- (c) any person (other than a VDM or a VDM Associate) who becomes entitled to any Shares:
  - (i) on the death of a Shareholder;
  - (ii) on the bankruptcy of a Shareholder who is an individual;
  - (iii) on the receivership, administrative receivership, administration, liquidation or other arrangement for the winding-up (whether solvent or insolvent) or dissolution of a Shareholder which is a company or limited partnership or limited liability partnership; or
  - (iv) on the exercise of an option after giving, or being given, notice under his employment contract such that he will cease to be a Relevant Employee or after otherwise ceasing to be a Relevant Employee;

"**Leaver Accounts**" means the specific accounts to be prepared in order to calculate the Reinvesting Seller Sale Price in accordance with article 13;

"**Leaver Sale Notice**" has the meaning set out in article 12.2;

"**Leaver Sale Price**" means the price payable for the relevant Leaver Shares as calculated in accordance with article 12.4;

"**Leaver Shares**" has the meaning set out in article 12.2;

"**Leaving Date**" means the date on which the relevant person becomes a Leaver (i.e. the actual date of cessation of employment);

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<sup>1</sup> Calculated as £14,050,000, less £716,240 then rounded up to the nearest £1,000.

**"Leaving Trigger Date"** means the earlier to occur of:

- (a) the Leaving Date of the relevant Reinvesting Seller; or
- (b) the date on which notice to terminate the Relevant Seller's employment with any Group Company is served by the Relevant Seller or the relevant Group Company;

**"Liquidation"** means the passing of a resolution for the winding up of the Company;

**"Listing"** means the admission of any class of the issued share capital of the Company (or any holding company of the Company) to the Official List of the UK Listing Authority and to trading on the London Stock Exchange plc's market for listed securities or to trading on the AIM market operated by the London Stock Exchange plc or to any other recognised investment exchange (as defined in section 285 of the Financial Services and Markets Act 2000);

**"Loan Notes"** means the loan notes constituted by the Loan Note Instrument;

**"Loan Note Instrument"** means the instrument entered into by the Company pursuant to the Investment Agreement and dated the same date as the Adoption Date, constituting up to £716,240 2 per cent. unsecured loan notes 2022 (as the same may be amended from time to time);

**"Managers"** means the persons whose names and addresses are set out in schedule 2 to the Investment Agreement and anyone who is named as a Manager in a Deed of Adherence;

**"Model Articles"** means the model articles for private companies limited by shares contained in Schedule 1 to the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the Adoption Date;

**"Net Cash"** means the aggregate amount of Shareholder Funds less Tangible Assets of the Group Companies as shown in the relevant Leaver Accounts;

**"Office"** means the registered office of the Company from time to time;

**"Offeror"** has the meaning set out in article 16.1;

**"Ordinary Shares"** means the ordinary shares of £0.01 each in the capital of the Company having the rights set out in these articles;

**"Other Shareholders"** has the meaning set out in article 16.2;

**"Parent Undertaking"** has the meaning set out in section 1162 of the Act;

**"Permitted Transfer"** has the meaning set out in article 10.3(a)(i);

**"Permitted Transferee"** means a person to whom Shares are permitted to be transferred as a result of a Permitted Transfer;

**"Primary Holder"** has the meaning set out in article 24.8;

**"Profits Before Tax"** means the pre-tax profits of the Group Companies as shown by the relevant Leaver Accounts;

**"Proposed Purchaser"** has the meaning set out in article 17.2;

**"Proposed Sale"** has the meaning set out in article 17.1;

**"Proposed Sale Notice"** has the meaning set out in article 17.1;

**"Proposed Sellers"** has the meaning set out in article 17.1;

**"Put and Call Option Deeds"** means each of the put and call option deeds entered into by each of the Reinvesting Sellers (as a separate deed for each person) and VDM and dated the same date as the Adoption Date;

**"Qualifying Person"** has the meaning given in section 318(3) of the Act;

**"Qualifying Offer"** has the meaning set out in article 16.1;

**"Reinvesting Seller Sale Price"** means (as determined pursuant to article 13):

(a) in relation to a Reinvesting Seller whose Leaving Trigger Date falls on or before 31 December 2017:

(i) £11.37 per Ordinary Share; and

(ii) £0.01 per A Ordinary Share; and

(b) in relation to a Reinvesting Seller whose Leaving Trigger Date falls on or after 1 January 2018, the amount which is equal to:

(i) in respect of any Ordinary Shares held by him

$$\left( \frac{((9 \times \text{EBITDA}) + (4 \times \text{Gross Margin}))}{2} + \text{Net Cash} \right) \times \text{Relevant Percentage}; \text{ and}$$

(ii) in respect of any A Ordinary Shares held by him:

$$\left( \left( \frac{((9 \times \text{EBITDA}) + (4 \times \text{Gross Margin}))}{2} + \text{Net Cash} \right) - \text{Hurdle} \right) \times \text{Relevant Percentage}$$

**"Reinvesting Sellers"** means Nick Newbury, Tom Barber, Neill Ghosh and Andrew Smith;

**"Relevant Employee"** means any person who is (or has been) a Shareholder and is an employee of any Group Company;

**"Relevant Financial Year"** means, in relation to a Leaver, the most recently ended financial year of the Group Companies prior to the Leaving Trigger Date;

**"Relevant Percentage"** means the percentage expressed as a decimal that the relevant Reinvesting Seller's Leaver Shares in question represent as against the entire issued share capital of the Company as at Leaving Trigger Date;

**"Relevant Securities"** has the meaning set out in article 9.1;

**"Revenue"** means the amounts receivable by the Group Companies operating their respective businesses including, without limitation:

(a) from the sale of tailor made holidays, journeys, itineraries, breaks and adventure travel and other services supplied to customers net of VAT recognised from the date of departure; and



- (b) in respect of commissions or similar arrangement from suppliers of the products and services described in (i) above, net of VAT and recognised in accordance with historic practice (to the extent compliant with UK GAAP);

**"Sale"** means the sale of the entire issued equity share capital of the Company to one or more buyers whether through a single transaction or a series of transactions;

**"Shareholder"** means a holder of any Share from time to time (but excludes the Company holding Treasury Shares from time to time);

**"Shareholder Funds"** means an amount equivalent to the Net Assets of the Group Companies as shown by the relevant Leaver Accounts;

**"Shares"** means (unless the context otherwise requires) any shares in the capital of the Company (of whatever class) and **"Share"** shall be construed accordingly;

**"Specified Circumstances"**; means termination of employment by a Relevant Employee within three months of either:

- (a) the Relevant Employee becoming aware that either:
- (i) Messrs Rial, Capestan, Habasque, Minvielle and Moulin (being the five current managers of Avantage S.A.) or the trustees of any grant or settlement set up wholly for the benefit of any of those persons, their spouses and children have ceased to hold in aggregate at least 40% of the voting share capital in Avantage S.A.; or
  - (ii) Avantage S.A. has ceased to be the parent company of VDM; or
- (b) the Company and its Group Companies incurring third party indebtedness exceeding 3x the EBITDA shown by the audited accounts for the most recently completed financial year of the Company and its Group Companies;

**"Subsidiary Undertaking"** has the meaning set out in section 1162 of the Act;

**"Tag Seller"** has the meaning set out in article 17.3;

**"Tangible Assets"** means the tangible assets of the Group Companies as shown by the relevant Leaver Accounts;

**"Target Group"** means Original Travel Company Limited (CRN: 04437204) and its Subsidiary Undertakings as at the Adoption Date;

**"Treasury Shares"** means Shares held by the Company as treasury shares within the meaning set out in section 724(5) of the Act;

**"VDM Consent"** means the giving of a written consent by or on behalf of VDM in the manner specified in any Investment Agreement, which may be given in one or more documents;

**"VDM Direction"** means the giving of a written direction by or on behalf of VDM in the manner specified in any Investment Agreement, which may be given in one or more documents;

**"VDM Director"** means any director appointed by VDM pursuant to the Investment Agreement; and

**"VDM"** means Voyageurs du Monde S.A.

2.2 In these articles:

- (a) reference to any statute, statutory provision or other enactment includes a reference:
  - (i) to that statute, statutory provision or other enactment as from time to time *consolidated, modified, re-enacted (with or without modification)* or replaced by any statute, statutory provision or other enactment; and
  - (ii) any subordinate legislation made under the relevant statutory provision;
- (b) headings are used for convenience only and shall not affect the construction of these articles;
- (c) reference to "**issued Shares**" of any class or Shares of any class "**in issue**" shall exclude any Shares of that class held as Treasury Shares from time to time;
- (d) reference to the "**holders**" of a class of Share shall exclude the Company holding Shares of that class as Treasury Shares from time to time, unless stated otherwise;
- (e) words and expressions defined in the Model Articles (or, in the absence of such definition in the Model Articles, in the Act as at the Adoption Date) shall have the same meanings in these articles unless stated otherwise or the context otherwise requires;
- (f) reference to the singular includes the plural and vice versa and reference to any gender includes other genders; and
- (g) references to "**and/or**" (including without limitation in the definition of "Relevant Employee") shall be construed disjunctively.

2.3 A special resolution shall be effective for any purpose for which an ordinary resolution is expressed to be required under any provision of these articles or the Act.

2.4 In these articles, references to a "**transfer**" of a Share or of an interest in a Share will be deemed to include (without limitation):

- (a) the transfer, sale or disposition of a legal, beneficial or other interest in such Share or in the economic or voting rights attaching to it;
- (b) the creation of a trust, encumbrance or other third party right over such Share or the economic rights attaching to it; and/or
- (c) the granting of any actual, conditional or contingent right to acquire such Share or the economic or voting rights attaching to it,

in any case, whether or not:

- (i) by the registered holder thereof;
- (ii) for consideration; or
- (iii) effected by instrument in writing.

### **3. Shares**

- 3.1 Subject to the Investment Agreement, the Company may issue Shares which are to be redeemed, or are liable to be redeemed at the option of the Company or the holder.
- 3.2 Subject to the Investment Agreement and the Act, the Company may purchase its own Shares out of capital otherwise than in accordance with Chapter 5 of Part 18 of the Act, to the extent permitted by section 692(1ZA) of the Act (as amended from time to time).
- 3.3 A Shareholder exercising the right to be issued with a replacement certificate under article 25(1) of the Model Articles:
- (a) may at the same time exercise the right to be issued with a single certificate or separate certificates;
  - (b) must return the certificate which is to be replaced to the Company if it is damaged or defaced; and
  - (c) must comply with such conditions as to evidence, indemnity and the payment of the expenses reasonably incurred by the Company in investigating evidence as the Directors may determine.

### **4. Share rights**

- 4.1 The rights attaching to the Ordinary Shares and the A Ordinary Shares shall be as set out in these articles.
- 4.2 For the avoidance of doubt, the Company shall not exercise any right in respect of any Treasury Shares, including without limitation any right to:
- (a) receive notice of or to attend or vote at any general meeting of the Company;
  - (b) receive or vote on any proposed written resolution; or
  - (c) receive a dividend or other distribution,
- save as permitted by section 726 of the Act.

### **5. Income**

For so long as any Loan Notes are in issue, the Company shall not, save with VDM Consent, distribute any Available Profits (or make any other distribution). Subject thereto, if any dividend is paid, it will be distributed in the following order of priority:

- (a) first, until the holders of the Ordinary Shares have received total distributions on those shares equal to the Hurdle, amongst the holders of the Ordinary Shares in proportion to the numbers of Ordinary Shares held by them; and
- (b) thereafter, amongst the holders of the Ordinary Shares and the A Ordinary Shares, in proportion to the numbers of Ordinary Shares and A Ordinary Shares held by them, as if such Ordinary Shares and A Ordinary Shares constituted one class of Share.

## **6. Return of capital and Exit Events**

On any Exit Event, the Exit Proceeds shall be applied in the following order of priority:

- (a) first, until the holders of the Ordinary Shares have received Exit Proceeds in respect of those Shares which, when aggregated with all distributions previously paid on those Shares, are equal to the Hurdle, amongst the holders of the Ordinary Shares in proportion to the numbers of Ordinary Shares held by them; and
- (b) thereafter, amongst the holders of the Ordinary Shares and the A Ordinary Shares, in proportion to the numbers of Ordinary Shares and A Ordinary Shares held by them, as if such Ordinary Shares and A Ordinary Shares constituted one class of Share.

## **7. Voting**

As regards voting, subject to the provisions of the Act, the Ordinary Shares and the A Ordinary Shares shall, assuming such holder is not a Leaver (who shall have no such right), confer on each holder thereof (in that capacity) the right to:

- (a) receive notice of, and to attend, speak and vote at all general meetings of the Company as follows:
  - (i) on a show of hands, to cast one vote each; and
  - (ii) on a poll to exercise one vote for each Ordinary Share and one vote for each A Ordinary Share of which he is the holder; and
- (b) receive, vote on and constitute an eligible member for the purposes of all written resolutions of the Company, with the right to cast one vote for each Ordinary Share and one vote for each A Ordinary Share of which he is the holder.

## **8. Variation of rights**

8.1 Subject to article 15, whenever the share capital of the Company is divided into different classes of shares, the special rights attached to any such class may only be adversely varied or abrogated (either whilst the Company is a going concern or during or in contemplation of a winding-up) either:

- (a) with the consent in writing of the holders of more than 75 per cent. in nominal value of the issued shares of that class; or
- (b) with the sanction of a special resolution passed at a separate general meeting or by way of written resolution of the holders of that class.

Any variation that does not adversely affect their rights shall not require such consent or resolution.

8.2 The provisions of these articles relating to written resolutions or general meetings of the Company or to the proceedings at such meetings shall, mutatis mutandis, apply to any separate written resolution or meeting (as the case may be) of the holders of any class of shares, save that in the case of meetings if a class has less than two members the necessary quorum shall be a single member of that class (or his proxy or duly authorised representative).

- 8.3 For the avoidance of doubt the issue of shares ranking pari passu or ahead of any share shall not constitute a variation of class rights.

## **9. Pre-emption on new issues**

- 9.1 Subject to consents required under the Investment Agreement in respect of any such allotment and issue having been obtained, all Shares (together "**Relevant Securities**") which the Company proposes to allot or issue shall first be offered by the Company for subscription to the holders of the Ordinary Shares and to the holders of the A Ordinary Shares other than to any Leaver pro rata to the number of Ordinary Shares and A Ordinary Shares held by each eligible Shareholder.
- 9.2 An offer of Relevant Securities pursuant to article 9.1 shall be made by the Company by notice in writing specifying the number of Relevant Securities to which the relevant Shareholder is entitled and limiting a time (being not less than 14 days) within which the offer (if not accepted) will be deemed to have been declined. Holders of Ordinary Shares or A Ordinary Shares who accept the offer shall be entitled to indicate in writing to the Company that they would accept, on the same terms, additional Relevant Securities (specifying a maximum number) which have not been accepted by other Shareholders ("**Excess Shares**"). Any Excess Shares shall be allotted to Shareholders who have indicated they would accept Excess Shares. Excess Shares shall be allotted pro rata to the aggregate number of Ordinary Shares and A Ordinary Shares held by Shareholders accepting Excess Shares (provided that no such Shareholder shall be allotted more than the maximum number of Excess Shares such Shareholder has indicated he is willing to accept).
- 9.3 After the expiration of such time or upon receipt by the Company of an acceptance or refusal of every offer so made (whichever is the earlier), the Board shall be entitled to dispose of any Relevant Securities so offered, and which are not required to be allotted in accordance with this article 9, in such manner as the Board (acting with VDM Consent) may think most beneficial to the Company.
- 9.4 Subject to these articles, the directors may make such arrangements as they see fit to deal with any Shareholder's entitlement to a fraction of a Share.
- 9.5 The provisions of sections 561(1) and 562(1) to (5) (inclusive) of the Act shall not apply to the Company.

## **10. Share transfers - general provisions**

- 10.1 The instrument of transfer of a Share may be in any usual form or in any other form which the Board may approve and shall be executed by or on behalf of the transferor (but shall not require to be executed by or on behalf of the transferee unless any Share to which it relates is not fully paid). The transferor shall remain the holder of the Shares concerned until the name of the transferee is entered in the register of members in respect of such Shares.
- 10.2 The Directors may refuse to register the transfer of any Share:
- (a) if it is not lodged at the Office or at such other place in England as the Directors may appoint and/or it is not accompanied by the certificate(s) for the Shares to which such transfer relates (or an indemnity in respect of the same) and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer;
  - (b) if it is in respect of more than one class of Share;

- (c) if it is in favour of more than four transferees;
- (d) if it is to a person who is (or whom the Directors reasonably believe to be) under 18 years of age or who does not have (or whom the Directors reasonably believe does not have) the legal capacity freely to dispose of any Share without let, hindrance or court approval.

10.3 The Directors shall refuse to register the transfer of any Share unless:

- (a) such transfer is either:
  - (i) a transfer permitted under article 11 (a "**Permitted Transfer**"); or
  - (ii) a transfer made in accordance with and permitted or required under articles 12.2 (*Compulsory transfers*) to 17 (*Tag along*) (inclusive); and
- (b) in any case, in circumstances where the Investment Agreement will survive following completion of such transfer, unless the proposed transferee has entered into a Deed of Adherence.

## 11. Permitted Share transfers

11.1 Subject to article 10 (*Share transfers – general provisions*), a Shareholder or holder of any interest in any Share shall only be permitted to transfer any Share or an interest in any Share:

- (a) in the case of a Shareholder who is a Relevant Employee so long as he remains such a Relevant Employee, to a Family Member over the age of 18 or to a trustee of a Family Trust, provided that:
  - (i) there is disclosed to a VDM Director the identity of the proposed Family Member or the trustee of the relevant Family Trust;
  - (ii) the proposed Permitted Transferee takes such prior independent legal advice as VDM by VDM Direction may reasonably require;
  - (iii) no costs incurred in connection with the setting up or administration of the Family Trust in question are to be paid by the Company;
  - (iv) where the transfer is to a spouse or civil partner of a Shareholder, that transferee gives an undertaking to the Company and to VDM that if he or she ceases to be the spouse or civil partner of that Shareholder, he or she will, prior to so ceasing, transfer all Shares held by him or her back to the original transferor;
  - (v) where the transfer is to a trustee of a Family Trust, that transferee gives an undertaking to the Company and to VDM that if he or she ceases to be a trustee of that Family Trust, he or she will, prior to so ceasing, transfer all Shares held by him or her either to the new or remaining trustee(s) of that Family Trust or back to the original transferor; and
  - (vi) the transferee has entered into a Deed of Adherence agreeing to observe the provisions of:
    - (A) the Investment Agreement; and

- (B) if the transferor is a Reinvesting Seller, the Put and Call Option Deed to which that Reinvesting Seller is a party;
  - (b) in the case of a Shareholder who is a trustee of a Family Trust, to:
    - (i) the new or remaining trustee(s) of the Family Trust upon any change of trustee(s); and
    - (ii) any persons (being a Shareholder or a former Shareholder who has previously transferred some or all of his Shares in accordance with article 11.1(a) or a Family Member of such a person),

provided that such transfer is made only following the provision of VDM Consent (such consent not to be unreasonably withheld or delayed);
  - (c) in the case of a Shareholder which is a Body Corporate, to a Group Undertaking of that Body Corporate so long as it is re-transferred to the original transferor if the transferee ceases to be a Group Undertaking of the transferor;
  - (d) on and after a Listing;
  - (e) when required or permitted by any of articles 12.2 (*Compulsory transfers*) or 14 (*General provisions relating to compulsory transfers*) or 15 (*Compliance*) or 16 (*Drag along*) or 17 (*Tag along*);
  - (f) pursuant to the Put and Call Option Deeds; and
  - (g) with the prior written consent of each other Shareholder.
- 11.2 The Company shall only be permitted to sell or transfer any Treasury Shares to any person with VDM Consent or by VDM Direction.

## 12. Compulsory transfers

- 12.1 The provisions of this article 12.2 shall apply to any Leaver in respect of his entire holding of Shares.
- 12.2 Within the period commencing on the relevant Leaving Date and expiring at midnight on the first anniversary of such date, each of VDM and the Leaver shall have the right to serve a notice on the other to the effect that the other is, with immediate effect, deemed to have offered, as the case may be, to buy or sell (subject to the prior entitlement of any one or more of the person or persons specified in article 14.6) such number of his Shares (including any additional Shares acquired by him after the Leaving Date and whether or not such Shares were in issue at the Leaving Date) as are specified in such notice (the "**Leaver Shares**") at the Leaver Sale Price (a "**Leaver Sale Notice**"). Upon delivery of such Leaver Sale Notice, VDM shall be obliged to procure the purchase of, and the Leaver shall be obliged to transfer at the Leaver Sale Price with full title guarantee and free from all encumbrances and third party rights, the Leaver Shares in accordance with articles 14 (*General provisions relating to compulsory transfers*) and 15 (*Compliance*).
- 12.3 The time periods for service of a Leaver Sale Notice referred to in article 12.2 shall be extended in the event that the Fair Price for such Leaver Shares has not yet been agreed or determined within such applicable time period.
- 12.4 The "**Leaver Sale Price**" for Leaver Shares shall be:
- (a) in the case of a Good Leaver the Fair Price; and

(b) in the case of a Bad Leaver 65% of the Fair Price.

12.5 For the purposes of these articles, the "**Fair Price**" shall be:

- (a) in respect of a Leaver who (or the Relevant Employee in respect of whom) is not a Reinvesting Seller, such price as may be agreed between the Leaver and VDM and failing agreement the price determined in accordance with article 14.1 (*General provisions relating to compulsory transfers*); or
- (b) in respect of a Leaver who (or the Relevant Employee in respect of whom) is a Reinvesting Seller, the Reinvesting Seller Sale Price.

### **13. Leaver Accounts**

13.1 Within 30 Business Days following the later of (i) the date of service of a Leaver Sale Notice and (ii) the date on which the Board approves the annual financial statements of the Group Companies for the Relevant Financial Year, the Company shall, in relation to a Leaver who is a Reinvesting Seller, prepare and deliver to the relevant Leaver the draft Leaver Accounts in respect of such Relevant Financial Year including a draft calculation of EBITDA, Gross Margin and Net Cash. Neither the Company, the Leaver nor any other Shareholder shall do anything to hinder such preparation and shall give such assistance and cooperation to the Leaver as he may reasonably request.

13.2 The relevant Leaver shall review the drafts referred to in article 13.1 and shall within 20 Business Days of the delivery, deliver to the Company a report setting out any matters of disagreement with the drafts in sufficient detail to enable the Company to consider them. If no report is delivered within such period, the calculation of EBITDA, Gross Margin and Net Cash shall, in the absence of fraud or manifest error, be as shown in the draft Leaver Accounts. If the Leaver delivers a report within such period, the EBITDA, Gross Margin and Net Cash shall be as shown in the Company's statement adjusted by such amounts as may be agreed between the parties or determined by the chartered accountant nominated in accordance with article 13.4.

13.3 For the purposes of preparing and reviewing the draft Leaver Accounts each party shall procure, in so far as they are reasonably able, that the other party and their accountants and any expert nominated under article 13.4 below are given reasonable access at reasonable times to:

- (a) the accounting records and working papers (including any audit working papers) required or used for; and
- (b) staff of the other party and their accountants who have been materially engaged,

in the preparation of the draft Leaver Accounts and that the staff referred to in this article 13.3 answer all reasonable questions put to them.

13.4 If, within 20 Business Days after delivery to the Company of the report referred to in article 13.2, there remains an outstanding dispute about the relevant draft Leaver Accounts or the calculation of the EBITDA, Gross Margin and Net Cash, any party may refer any matter in dispute to a chartered accountant nominated jointly by the parties or (failing nomination within 10 Business Days after a request for joint nomination by any party) nominated at the request of either party by the president of the Institute of Chartered Accountants in England and Wales.



- 13.5 The chartered accountant so nominated shall be instructed by the referring party to:
- (a) determine as soon as practicable the matters in dispute having regard to the draft Leaver Accounts and the report referred to above;
  - (b) for the purpose of making his determination under article 13.5(a), determine any issue as to interpretation of this agreement, his jurisdiction to determine any matter or his terms of reference;
  - (c) adopt such procedures to assist with the conduct of the determination as he reasonably considers appropriate including instructing professional advisers to assist him in reaching his determination; and
  - (d) act as an expert and not as an arbitrator,

and his decision will be binding on the parties except in the case of fraud or manifest error. His fees will be payable by the parties in such proportions as he decides (and in the absence of any direction shall be borne 50:50). If either party fails to give him any required undertaking or advance contribution as regards its fees it will be open to the other party to give such undertaking or make such contribution and to the extent the chartered accountant so decides such party shall be entitled to be reimbursed by the other party.

- 13.6 No party shall be entitled to make any objection to the appointment of the accountant on the ground that he imposes limits on his liability in relation to the carrying out of his instructions.

*Accounting principles applicable to the Leaver Accounts*

- 13.7 The Leaver Accounts shall be prepared and drawn up to 31 December of the Relevant Financial Year:

- (a) in accordance with the specific requirements of articles 13.8 and 13.9;
- (b) (subject to article (a)), applying policies, practices, procedures, evaluation rules and methods consistent with those applied in the preparation of the annual financial statements of the Group Companies for the financial year ended 31 December 2015 provided that such policies, practices, procedures, evaluation rules and methods comply with UK GAAP when applying financial reporting standard 102; and
- (c) (subject to articles 13.7(a) and 13.7(b)) in accordance with UK GAAP.

For these purposes, UK GAAP shall be as it applies at the time of preparation of the Leaver Accounts for the Relevant Financial Year.

- 13.8 Subject to and in addition to the requirements of article 13.7 the Leaver Accounts shall:

- (a) set out the EBITDA, Gross Margin and Net Cash of the Group Companies as at the end of the Relevant Financial Year;
- (b) treat foreign currency transactions in the same manner as in the annual financial statements of the Group Companies for the financial year ended 31 December 2015;
- (c) be prepared in accordance with the specific accounting policies and methods set out in article 13.9 and so that, in the case of any conflict, such accounting policies and methods shall override the provisions of article 13.7.

13.9 The following provisions shall apply for the purpose of calculating the EBITDA in any Leaver Accounts:

- (a) to the extent that any Group Company shall be required to pay any management or administration charge or charge for goods or services or any facility to VDM or any of its Group Undertakings (other than a Group Company) and (i) the amount of such charges exceeds the amount which the company in question would have had to pay on an open market arm's length basis or (ii) the goods or services or facility in question were not required by the company in question (or would not have been required had such company not been VDM or any of its Group Undertakings) (other than a Group Company), the Profits Before Tax shall be adjusted to eliminate such excess;
- (b) to the extent that any Group Company shall be required by VDM or any VDM Director to provide goods or services or any facility to any person and the amount payable for such goods services or facilities is less than the amount that such Group Company would have been likely to obtain on an open market arm's length basis, the Profits Before Tax shall be adjusted to eliminate such deficit or loss;
- (c) all lease incentives shall be amortised over the period of the relevant lease;
- (d) items of other income including without limitation tourist board marketing contributions currently recognised below Gross Margin in the Accounts shall continue to be recognised as such;
- (e) all research and development tax credits shall be disregarded; and
- (f) the amortisation or write off of any element of the foreign debtor balance of £148,000 shown in the Accounts shall be disregarded for all purposes.

#### **14. General provisions relating to compulsory transfers**

14.1 If, in relation to a Leaver who is not a Reinvesting Seller, the Fair Price is not agreed between (i) the relevant transferor or Leaver and (ii) VDM pursuant to article 12.5(a) above, then it shall be determined by the Auditors (which expression shall, for the purposes of this article 14, be deemed to include a reference to the Independent Expert if the Auditors are unable or unwilling to act or are not appointed) as at the Leaving Date and in such circumstances:

- (a) the Company shall immediately instruct the Auditors to determine the Fair Price:
  - (i) on the basis that the price per Leaver Share shall be the sum which a willing buyer would agree with a willing seller for the entire issued ordinary share capital of the Company divided by the number of Ordinary Shares in issue;
  - (ii) without subtraction of any discount by reference to the percentage which the Leaver Shares represent of the entire issued share capital of the Company or in relation to any restrictions on the transferability of the Leaver Shares; and
  - (iii) taking into account such other factors as the Auditors consider appropriate including without limitation existing Group debt,

but for the purposes of such determination any Treasury Shares shall be disregarded;

- (b) the Auditors shall be instructed to determine the Fair Price as soon as possible after being instructed by the Company and, in so determining, the Auditors shall be deemed to be acting as experts and not as arbitrators and the Arbitration Act 1996 shall not apply;
  - (c) the determination of the Auditors shall, in the absence of fraud or manifest error, be final and binding; and
  - (d) the Company shall procure that any determination required under this article is obtained as soon as reasonably practicable and the cost of obtaining such determination shall be borne as to one half by the Company and as to one half by the Leaver.
- 14.2 The Company shall, for the purposes of article 14.1, on request promptly supply the Leaver, all VDM Directors and the Auditors (or the Independent Expert as the case may be) with all such information concerning its affairs, assets and financial position as is fair and reasonable to enable the Auditors (or the Independent Expert as the case may be) to form a view as to the Fair Price of the relevant Leaver Shares.
- 14.3 Completion of the sale and purchase of the Leaver Shares (whether or not a Reinvesting Seller) shall take place during normal business hours at the Office within five Business Days of the latest of:
- (a) the relevant Leaver Sale Price having been agreed or determined in accordance with these articles;
  - (b) (as the case may be) the completion of any relevant statutory process required to effect any purchase of Leaver Shares by the Company in accordance with article 14.6(a); and
  - (c) the identification of the person to whom such Leaver Shares are to be transferred in accordance with article 14.6,

or at such other place and/or at such time during normal business hours as the Company (acting with VDM Consent or by VDM Direction) may specify, when the relevant Leaver shall deliver to the Company at the Office or such other place as shall have been specified by the Company (acting with VDM Consent or by VDM Direction) a duly executed stock transfer form in respect of the relevant Leaver Shares together with the relevant share certificates (or an indemnity in respect of any lost share certificate in a form satisfactory to the Board (acting reasonably)) against payment of the Leaver Sale Price for such Leaver Shares. Payment must be:

- (i) in the form of a cheque (drawn on a London clearing bank) delivered at the Office or such other reasonably convenient place as shall have been specified to the Leaver by the Company (acting with VDM Consent) or by VDM Direction; or
  - (ii) by electronic funds transfer to the Leaver's bank account or any other method of payment as may be specified by the Company (with VDM Consent) or by VDM Direction.
- 14.4 Save in the case of an acquisition of any Leaver Shares by the Company under the provisions of these articles, if any Leaver defaults in transferring any of his Leaver Shares pursuant to article 12.2 (*Compulsory transfers*) or this article 14, the Company may:

- (a) receive the relevant purchase money in whatever form and shall hold the purchase money on trust (without interest) for and to the order of the relevant Leaver; and
- (b) nominate any person to execute, complete and deliver an instrument of transfer of such Leaver Shares together with any other documents necessary to effect the transfer of such Leaver Shares, in the name and on behalf of the relevant Leaver,

and thereafter, when such instrument has been duly stamped, the Company shall cause the name of the proposed transferee to be entered in the register of members of the Company as the holder of such Leaver Shares. The receipt by the Company of the purchase money shall be a good discharge to the proposed transferee (who shall not be bound to see to the application thereof) and, after his name has been so entered in the register of members of the Company, the validity of the proceedings shall not be questioned by any person.

14.5 In the case of any acquisition of Leaver Shares by the Company under the provisions of these articles, if the Leaver defaults in transferring any Leaver Shares pursuant to article 12.2 and this article 14, the Company shall be entitled to nominate any person to execute, complete and deliver a buyback agreement, an instrument or form of transfer relating to the buyback of such Leaver Shares, together with any other documents necessary to effect the purchase by the Company of the Leaver Shares, in the name and on behalf of the relevant Leaver and thereafter, when the applicable instrument or form of transfer has (if appropriate) been duly stamped, the Company shall cause such share capital to be cancelled in accordance with the Act and shall hold the purchase money in whatever form on trust (without interest) for and to the order of the relevant Leaver.

14.6 The order of the persons to whom the number and class of Leaver Shares shall be transferred in or pursuant to a Leaver Sale Notice shall be as follows:

- (a) to the extent designated by a VDM Direction and subject to the Company:
  - (i) having sufficient Available Profits; and/or
  - (ii) being entitled to purchase Shares out of capital otherwise than in accordance with Chapter 5 of Part 18 of the Act, pursuant to section 692(1ZA) of the Act,

and in either case having sufficient cash available to enable it to buy-back such Shares without (in the view of a VDM Director) prejudicing the financial position of the Company and otherwise subject to compliance with the Act, to the Company;

- (b) to the extent such Leaver Shares are not acquired or to be acquired by the Company in accordance with article 14.6(a), to any directors, officers (which shall not include any VDM Director) and employees of the Group as may be designated by the holders of a simple majority in nominal value of the Ordinary Shares and A Ordinary Shares held by the Managers and who might include a person who assumes and discharges the role and duties of a Relevant Employee within the Group;
- (c) to the extent such Shares are not acquired or to be acquired by the persons specified in articles 14.6(a) to (b) inclusive:
  - (i) to such other directors, officers and employees of the Group as are otherwise designated by VDM Direction; or

- (ii) in the absence of any such other person being specified, to VDM or to such Group Undertakings of VDM as may be designated by VDM Direction provided that such Shares must be transferred to VDM if the transferee ceases to be a Group Undertaking of VDM.

14.7 If the Auditors are unable or unwilling to act for the purposes of making the calculations and determinations for the purpose of clause 14.1, or a VDM Direction so requires, the Auditors shall not be appointed for these purposes, the Fair Price shall be determined by an independent firm of chartered accountants of repute appointed by the Board to act as Independent Expert and whose determination in the absence of fraud or manifest error shall be final and binding on the parties concerned.

## 15. Compliance

For the purpose of ensuring compliance with article 11 (*Permitted Share transfers*), the Company shall immediately on a VDM Direction and may with VDM Consent require any Leaver or other Shareholder (other than VDM) to, and to use all reasonable endeavours to procure that any Permitted Transferee of his will provide to the Company any information and/or evidence relevant to such purpose and failing such information and/or evidence being provided the Company may refuse to register any transfer of the relevant Shares.

## 16. Drag along

16.1 In these articles a **"Qualifying Offer"** shall mean a bona fide offer in writing on arm's length terms by or on behalf of any third party (not being an Associate of any Shareholder) (the **"Offeror"**) for all the Shares (which need not include Treasury Shares) in the Company.

16.2 Where the holders of a Controlling Interest (the **"Accepting Shareholders"**) wish to accept a Qualifying Offer, they shall have the right (**"Drag Along Right"**) to require all of the remaining Shareholders (for the purposes of this article 16, the **"Other Shareholders"**) to sell their Shares to the Offeror (or his or its nominee) subject to the provisions of this article 16.

16.3 In order to exercise the Drag Along Right, the Accepting Shareholders must give an irrevocable notice in writing (**"Drag Along Notice"**) to the Other Shareholders. The Drag Along Notice must specify:

- (a) that the Other Shareholders are required to transfer their Shares to the Offeror;
- (b) the price receivable by the Accepting Shareholders (including details of any non-cash consideration receivable by the Accepting Shareholders (or any of them) which, having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or payable for the Accepting Shareholders' Shares (or any of them) (**"Non-Cash Consideration"**);
- (c) the price which the Other Shareholders will receive for each Share held by them (**"Drag Price"**) and details of how that price has been calculated;
- (d) the name of the Offeror; and
- (e) the proposed date for completion of the transfer of the Accepting Shareholders' Shares and the Other Shareholders' Shares (which must be at least seven days after the date of the Drag Along Notice).

- 16.4 The Drag Price must be at least equal to the price per Share receivable by the Accepting Shareholders (including the cash equivalent of any Non-Cash Consideration). Any dispute about the calculation of the Drag Price shall be immediately referred to the Auditors on the same basis as is contemplated by Article 14.7 (whose decision will, in the absence of manifest error, be final and binding) and pending the determination of the Drag Price no Shares may be transferred to the Offeror or as it may direct.
- 16.5 Without prejudice to article 16.4, the terms upon which the Other Shareholders may be required to sell their Shares pursuant to a Drag Along Notice must be no less favourable than the equivalent terms offered to the Accepting Shareholders. In particular (but without limitation), no Other Shareholder shall be required to give any warranties, covenants, indemnities or undertakings other than in respect of their respective title to the relevant Shares held by them.
- 16.6 If any Other Shareholder does not, on the date specified in the Drag Along Notice, execute and deliver a transfer in respect of the Shares held by him and deliver the certificate(s) in respect of the same (or an indemnity in lieu thereof in a form satisfactory to the Board (acting reasonably)), then any Accepting Shareholder shall be entitled:
- (a) to transfer such Other Shareholder's Shares directly to the Offeror or to his nominee(s);
  - (b) to execute, or authorise and instruct such person as he thinks fit to execute, the necessary transfer and indemnities (where applicable) as agent on such Other Shareholder's behalf; and
  - (c) against receipt by the Company (on trust for such Other Shareholder) of the consideration payable for the relevant Shares, to deliver such transfer and certificate(s) or indemnities to the Offeror (or his nominee(s)) and register such Offeror (or his nominee(s)) as the holder of those Shares,
- and the validity of such proceedings shall not be questioned by any person.
- 16.7 The consideration arising in connection with any Qualifying Offer shall be allocated in a manner consistent with the principles set out in article 6 (*Return of capital and Exit Events*).
- 16.8 Each Other Shareholder shall pay its pro-rata share (as a deduction from the gross pre-tax proceeds to be received, without prejudice to any other deductions lawfully required to be made) of the costs incurred by the Accepting Shareholders in connection with the relevant Qualifying Offer and the transfer of the Shares held by the Other Shareholders, to the extent that such costs have been incurred on behalf of the Accepting Shareholders and all of the Other Shareholders.
- 16.9 Where a notice has been served under article 16.2 on the Other Shareholders, their Shares may not be transferred other than pursuant to this article 16.

## 17. Tag along

- 17.1 In circumstances where the Other Shareholders are not required to transfer their Shares pursuant to article 16, if at any time one or more Shareholders (the "**Proposed Sellers**") propose to sell on arm's length terms to any Offeror, in one or a series of related transactions, such number of Shares which would, if registered, result in either:
- (a) the Offeror (together with persons Connected or Acting in Concert with him but not including the Proposed Sellers) holding a Controlling Interest; or

- (b) the Proposed Sellers (together with persons Connected or Acting in Concert with them) ceasing to hold a Controlling Interest (having previously done so),

(a "**Proposed Sale**"), the Proposed Sellers shall give written notice (the "**Proposed Sale Notice**") to the other Shareholders and the Company of any Proposed Sale at least five Business Days prior to the proposed date of completion of such Proposed Sale.

- 17.2 The Proposed Sale Notice shall set out, to the extent not described in any accompanying documents, the identity of the proposed purchaser (the "**Proposed Purchaser**") together with (subject to article 17.5), the sale price and other terms and conditions of payment, the proposed date of sale and the number of Shares to be acquired by the Proposed Purchaser provided always that no other Shareholder shall not be required to give any warranties, covenants, indemnities or undertakings other than in respect of their respective title to the relevant Shares held by them.
- 17.3 Any other Shareholder (not being a Proposed Seller) (a "**Tag Seller**") shall then be entitled by written notice given to the Proposed Sellers within five Business Days of receipt of the Proposed Sale Notice to sell all of his Shares to the Offeror on the same terms subject to article 17.5, including as to price per Share and timing as to completion, as apply to the Proposed Sale as set out in the Proposed Sale Notice.
- 17.4 Each Tag Seller will be required, in order to sell his Shares as part of a Proposed Sale, to transfer the legal and beneficial title to his Shares together with all rights attaching to them, with full title guarantee and free from all encumbrances and third party rights.
- 17.5 The provisions of articles 17.1 and 17.2 shall not apply to any Proposed Sale which is a Permitted Transfer or which is to take place pursuant to a Drag Along Notice under article 16. Subject to the immediately preceding sentence, if any Shareholder is not given the rights given to him under this article 17 no transfer shall take place.
- 17.6 The consideration arising in connection with any Proposed Sale shall be allocated in a manner consistent with the principles set out in article 6 (*Return of capital and Exit Events*).
- 17.7 Each Tag Seller shall pay his pro-rata share (as a deduction from the gross pre-tax proceeds to be received, without prejudice to any other deductions lawfully required to be made) of the costs incurred by the Proposed Sellers in connection with the relevant Proposed Sale and the transfer of the Shares held by the Tag Sellers, to the extent that such costs have been incurred on behalf of the Proposed Sellers and all of the Tag Sellers.

## **18. Appointment, removal and retirement of Directors**

- 18.1 Subject to the Investment Agreement, the Company may by ordinary resolution appoint a person to be a Director either to fill a vacancy or as an additional Director and to remove any person as a director.
- 18.2 Unless otherwise determined by ordinary resolution, the number of Directors (other than alternate directors) shall not be subject to any maximum but shall not be less than two.
- 18.3 A person willing to so act may be appointed as a Director at any time by a notice (or notices) in writing to the Company signed by all the then Directors and such appointment shall take effect upon the notice being received at the Office or such later date as may be specified in the notice.

## **19. Alternate Directors**

- 19.1 A Director (other than an alternate director) may appoint any other Director to be an alternate director of the Company and may remove from office an alternate director so appointed.
- 19.2 Any appointment or removal of an alternate director shall be by notice to the Company signed by the Director making or revoking the appointment or in any other manner approved by the Directors.
- 19.3 The appointment of an alternate director shall require approval by VDM Consent (unless such person is being appointed as an alternate by a VDM Director).
- 19.4 A person who holds office only as an alternate director shall, if his appointor is not present, be counted in the quorum.
- 19.5 An alternate director shall be entitled to:
- (a) (subject to article 19.6) receive notice of all meetings of Directors and of all meetings of committees of Directors of which his appointor is a member;
  - (b) attend and vote at any such meeting at which his appointor is not personally present and sign a Directors' written resolution (if his appointor is an Eligible Director in relation to that resolution and does not participate); and
  - (c) generally perform all the functions of his appointor as a Director in his absence, but an alternate shall not be entitled to receive any remuneration from the Company for his services as an alternate director.
- 19.6 It shall be necessary to give notice of such a meeting to an alternate director who is absent from the United Kingdom.
- 19.7 An alternate may act as alternate to more than one Director and for the purposes of determining the quorum shall be counted, in addition to himself, as representing each appointor (in that absence of that appointor).
- 19.8 A Director who is also an alternate director is entitled, in the absence of his appointor, to a separate vote on behalf of each appointor.
- 19.9 An alternate director shall cease to be an alternate director if his appointor ceases to be a Director or as a result of a VDM Direction.
- 19.10 Save as otherwise provided in these articles, an alternate director:
- (a) shall be deemed for all purposes to be a Director;
  - (b) shall alone be responsible for his own acts and defaults;
  - (c) is subject to the same restrictions as the Director appointing him; and
  - (d) shall not be deemed to be the agent of the Director appointing him.

## **20. Proceedings of Directors**

- 20.1 The Directors may meet together for the dealing of business and otherwise regulate their meetings as they think fit.



- 20.2 If all the Directors participating in a meeting are not physically present in the same place, the meeting shall be deemed to take place where the largest number of participators is assembled or, if no such group can be identified, at the location of the chairman.
- 20.3 Notice of a Directors' meeting need not be given to Directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the Company at any time before or after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.
- 20.4 A decision of the Directors 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 (including confirmation given by electronic means).
- 20.5 A chairman may be elected pursuant to a VDM Direction, but if no such chairman has been appointed, or if at any meeting the chairman is not present within 10 minutes of the time appointed for holding such meeting, the Directors present may choose one of their number to be the chairman of the meeting.
- 20.6 The Directors may delegate any of their powers to committees with VDM Consent, consisting of such member or members of their body as they think fit. Any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Directors.
- 20.7 The committee may elect a chairman of its meetings; if no such chairman is elected, or if at any meeting the chairman is not present within 10 minutes after the time appointed for holding such meeting, the members present may choose one of their number to be chairman of the meeting.
- 20.8 A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, but in the case of an equality of votes the chairman shall not have a second or casting vote.

## **21. Quorum and voting**

- 21.1 Any two Directors (including at least one VDM Director) shall constitute a quorum and a quorum of Directors must be present throughout all meetings of the Board.
- 21.2 Questions arising at a meeting of the Directors shall (subject always to the Investment Agreement) be decided by a majority of votes and the chairman of the meeting shall not have a second or casting vote, in the case of an equality of votes.

## **22. Directors' interests**

### **22.1 *Specific interests of a Director***

Subject to the provisions of the Act and provided that he has declared to the Directors, in accordance with the provisions of these articles, the nature and extent of his interest, a Director may (save as to the extent not permitted by law from time to time), notwithstanding his office, have an interest of the following kinds:

- (a) where a Director (or a person Connected with him) is party to or in any way directly or indirectly interested in, or has any duty in respect of, any existing or proposed contract, arrangement or transaction with the Company or any other undertaking in which the Company is in any way interested;

- (b) where a Director (or a person Connected with him) is a director, employee or other officer of, or a party to any contract, arrangement or transaction with, or in any way interested in, any Body Corporate promoted by the Company or in which the Company is in any way interested;
- (c) where a Director (or a person Connected with him) is a Shareholder or a shareholder in, employee, director, member or other officer of, or consultant to, a Group Undertaking of the Company;
- (d) where a Director (or a person Connected with him) holds and is remunerated in respect of any office or place of profit (other than the office of auditor) in respect of the Company or any Body Corporate in which the Company is in any way interested;
- (e) where a Director is given a guarantee, or is to be given a guarantee, in respect of an obligation incurred by or on behalf of the Company or any Body Corporate in which the Company is in any way interested;
- (f) where a Director (or a person Connected with him or of which he is a member or employee) acts (or any Body Corporate promoted by the Company or in which the Company is in any way interested of which he is a director, employee or other officer may act) in a professional capacity for the Company or any Body Corporate promoted by the Company or in which the Company is in any way interested (other than as auditor) whether or not he or it is remunerated for this;
- (g) an interest which cannot reasonably be regarded as likely to give rise to a conflict of interest; or
- (h) any other interest authorised by ordinary resolution.

## 22.2 *Interests of a VDM Director*

In addition to the provisions of article 22.1, subject to the provisions of the Act, where a Director is a VDM Director he may (save as to the extent not permitted by law from time to time), notwithstanding his office, have an interest arising from any duty he may owe to, or interest he may have as an employee, director, trustee, member, partner, officer or representative of, or a consultant to, or direct or indirect investor (including without limitation by virtue of remuneration or incentive arrangements or the holding of securities) in VDM or any Shareholder in VDM.

## 22.3 *Interests of which a Director is not aware*

For the purposes of this article 22, an interest of which a Director is not aware and of which it is unreasonable to expect him to be aware shall not be treated as an interest of his.

## 22.4 *Accountability of any benefit and validity of a contract*

In any situation permitted by this article 22 (save as otherwise agreed by him) a Director shall not by reason of his office be accountable to the Company for any benefit which he derives from that situation and no such contract, arrangement or transaction shall be avoided on the grounds of any such interest or benefit.

## 22.5 *Terms and conditions of Board authorisation*

Any authority given in accordance with section 175(5)(a) of the Act in respect of a Director ("**Interested Director**") who has proposed that the Directors authorise his interest ("**Relevant Interest**") pursuant to that section may, for the avoidance of doubt:

- (a) be given on such terms and subject to such conditions or limitations as may be imposed by the authorising Directors as they see fit from time to time, including without limitation:
  - (i) restricting the Interested Director from voting on any resolution put to a meeting of the Directors or of a committee of the Directors in relation to the Relevant Interest;
  - (ii) restricting the Interested Director from being counted in the quorum at a meeting of the Directors or of a committee of the Directors where such Relevant Interest is to be discussed; or
  - (iii) restricting the application of the provisions in article 22.6, so far as is permitted by law, in respect of such Interested Director;
- (b) be withdrawn, or varied at any time by the Directors entitled to authorise the Relevant Interest as they see fit from time to time; and

an Interested Director must act in accordance with any such terms, conditions or limitations imposed by the authorising Directors pursuant to section 175(5)(a) of the Act and this article 22.

#### 22.6 *Director's duty of confidentiality to a person other than the Company*

Without prejudice to any equitable principle or rule of law which may excuse or release the Director from disclosing information (in circumstances where disclosure may otherwise be required under this article 22), if a Director, otherwise than by virtue of his position as director, receives information in respect of which he owes a duty of confidentiality to a person other than the Company, he shall not be required:

- (a) to disclose such information to the Company or to any Director, or to any officer or employee of the Company; or
- (b) otherwise to use or apply such confidential information for the purpose of or in connection with the performance of his duties as a Director.

#### 22.7 *Additional steps to be taken by a Director to manage a conflict of interest*

Where a Director has an interest which can reasonably be regarded as likely to give rise to a conflict of interest, the Director may take such additional steps as may be necessary or desirable for the purpose of managing such conflict of interest, including compliance with any procedures laid down from time to time by the Directors for the purpose of managing conflicts of interest generally and/or any specific procedures approved by the Directors for the purpose of or in connection with the situation or matter in question, including without limitation:

- (a) absenting himself from any discussions, whether in meetings of the Directors or otherwise, at which the relevant situation or matter falls to be considered; and
- (b) excluding himself from documents or information made available to the Directors generally in relation to such situation or matter and/or arranging for such documents or information to be reviewed by a professional adviser to ascertain the extent to which it might be appropriate for him to have access to such documents or information.

## **22.8 Requirement of a Director to declare an interest**

Subject to section 182 of the Act, a Director shall declare the nature and extent of any interest permitted by article 22.1 or article 22.2 at a meeting of the Directors, or by general notice in accordance with section 184 (notice in writing) or section 185 (general notice) of the Act or in such other manner as the Directors may determine, except that no declaration of interest shall be required by a Director in relation to an interest:

- (a) falling under article 22.1(g);
- (b) if, or to the extent that, the other Directors are already aware of such interest (and for this purpose the other Directors are treated as aware of anything of which they ought reasonably to be aware); or
- (c) if, or to the extent that, it concerns the terms of his service contract (as defined by section 227 of the Act) that have been or are to be considered by a meeting of the Directors, or by a committee of Directors appointed for the purpose under these articles.

## **22.9 Shareholder approval**

Subject to section 239 of the Act, the Company may by ordinary resolution ratify any contract, transaction or arrangement, or other proposal, not properly authorised by reason of a contravention of any provisions of this article 22.

## **22.10 Voting**

For the avoidance of doubt nothing contained in these articles shall preclude a VDM director from voting on any matter in which he may be interested in any capacity.

## **22.11 Interpretation**

For the purposes of this article 22:

- (a) a conflict of interest includes a conflict of interest and duty and a conflict of duties;
- (b) the provisions of section 252 of the Act shall determine whether a person is connected with a Director; and
- (c) a general notice to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the Director has an interest in any such transaction of the nature and extent so specified.

## **23. Proceedings of Shareholders**

23.1 No business shall be transacted at any general meeting unless a quorum of Shareholders is present at the time when the meeting proceeds to business and, subject to article 23.4, for its duration.

23.2 Subject to article 23.3, two persons entitled to vote upon the business to be transacted, each being a Shareholder or a proxy for a Shareholder or a duly authorised representative of a Shareholder that is a corporation, shall be a quorum.

23.3 Save with VDM Consent, a meeting of the Shareholders held in the absence of VDM (or a duly appointed proxy or representative of VDM) shall not be quorate.

- 23.4 If within half an hour from the time appointed for the meeting a quorum is not present, or if during a meeting a quorum ceases to be present for a period exceeding 10 minutes, the meeting shall stand adjourned to the same day in the next week, at the same time and place, or to such other time and place as the Shareholders present may decide.
- 23.5 If a chairman of the Board has been appointed, that person shall chair general meetings if present and willing to do so. If no such chairman has been appointed, or if the chairman is unwilling to chair the general meeting or is not present within 10 minutes of the time at which a meeting was due to start:
- (a) the Directors present; or
  - (b) (if no Directors are present), the meeting,
- must appoint a Director or Shareholder to chair the meeting, and the appointment of the chairman of the meeting must be the first business of the meeting. The person chairing a meeting in accordance with this article is referred to in these articles as the "**chairman of the meeting**".
- 23.6 If any two or more Shareholders (or Qualifying Persons representing two or more Shareholders) attend the meeting in different locations, the meeting shall be treated as being held at the location specified in the notice of the meeting, save that if no one is present at that location so specified, the meeting shall be deemed to take place where the largest number of Qualifying Persons is assembled or, if no such group can be identified, at the location of the chairman.
- 23.7 The instrument appointing a proxy and any authority under which it is executed or a certified copy of such authority or in some other way approved by the Board must be delivered to the Office not less than 48 hours before the time appointed for the holding of the meeting or delivered to the place of the meeting at any time before the time appointed for the holding of the meeting.
- 23.8 Proxies may only validly be appointed by a notice in writing (a "**proxy notice**") which:
- (a) states the name and address of the Shareholder appointing the proxy;
  - (b) identifies the person appointed to be that Shareholder's proxy and the general meeting in relation to which that person is appointed;
  - (c) is signed by or on behalf of the Shareholder appointing the proxy and accompanied by any authority under which it is signed (or a certified copy of such authority or a copy of such authority in some other way approved by the Directors); and
  - (d) is delivered to the Company in accordance with these articles and any instructions contained in the notice of the general meeting to which they relate.
- 23.9 A resolution put to the vote of a meeting shall be decided on a show of hands unless before, or on the declaration of the result of, the show of hands, a poll is duly demanded.
- 23.10 Subject to the provisions of the Act a poll may be demanded at any general meeting by the chairman, or by any Shareholder present in person or by proxy and entitled to vote or by a duly authorised representative of a corporation which is a Shareholder entitled to vote.
- 23.11 The chairman of the meeting shall not, in the case of an equality of votes, whether on a show of hands or on a poll, be entitled to exercise any second or casting vote.

23.12 If a demand for a poll is withdrawn under article 44(3) of the Model Articles, the demand shall not be taken to have invalidated the result of a show of hands declared before the demand was made and the meeting shall continue as if the demand had not been made.

23.13 Subject always to article 8 (*Variation of rights*) the provisions of these articles relating to general meetings of the Company or to the proceedings thereat shall, with the necessary changes being made, apply to every separate meeting of the holders of any class of Share, except:

- (a) the necessary quorum shall be two persons, present in person or by proxy or by duly authorised representative (if a corporation), who together hold or represent at least 75% in nominal value of the issued shares of the relevant class (unless all the Shares of that class are registered in the name of a single Shareholder, in which case the quorum shall be that Shareholder, his proxy or duly authorised representative (if a corporation));
- (b) any holder of Shares of the relevant class present in person or by proxy or by duly authorised representative (if a corporation) may demand a poll; and
- (c) the holders of the Shares of the relevant class shall, on a poll, have one vote in respect of every Share of that class held by each of them.

## **24. Notices**

24.1 Any notice given under or in connection with these articles shall be in writing.

24.2 Subject to the requirements set out in the Act, any notice given or document sent or supplied to or by any person under these articles, or otherwise sent by the Company under the Act, may be given, sent or supplied:

- (a) in Hard Copy Form; or
- (b) in Electronic Form,

or partly by one of these means and partly by the other of these means.

Notices shall be given and documents supplied in accordance with the procedures set out in the Act, except to the extent that a contrary provision is set out in this article 24.

### *Notices in Hard Copy Form*

24.3 Any notice or other document in Hard Copy Form given or supplied under these articles may be delivered or sent by first class post (airmail if overseas):

- (a) to the Company or any other company at its registered office; or
- (b) to the address notified to or by the Company for that purpose; or
- (c) in the case of an intended recipient who is a Shareholder or his legal personal representative or trustee in bankruptcy, to such Shareholder's address as shown in the Company's register of members; or
- (d) in the case of an intended recipient who is a Director or alternate, to his address as shown in the register of directors; or
- (e) to any other address to which any provision of the Act authorises the document or information to be sent or supplied; or

- (f) where the Company is the sender, if the Company is unable to obtain an address falling within one of the addresses referred to in articles 24.3(a) to 24.3(e) inclusive, to the intended recipient's address last known to the Company.

24.4 Any notice or other document in Hard Copy Form given or supplied under these articles shall be deemed to have been served and be effective:

- (a) if delivered, at the time of delivery; and
- (b) if posted, on receipt or 24 hours after the time it was posted, whichever occurs first.

*Notices in Electronic Form*

24.5 Subject to the provisions of the Act, any notice or other document in Electronic Form given or supplied under these articles may:

- (a) if sent by fax or email (provided that a fax number or an address for email has been notified to or by the Company for that purpose), be sent by the relevant form of communication to that address; or
- (b) if delivered or sent by first class post (airmail if overseas) in an Electronic Form (such as sending a disk by post), be so delivered or sent as if in Hard Copy Form under article 24.3.

24.6 Any notice or other document in Electronic Form given or supplied under these articles shall be deemed to have been served and be effective:

- (a) if sent by facsimile or email (where a fax number or an address for email has been notified to or by the Company for that purpose), on receipt or 24 hours after the time it was sent, whichever occurs first;
- (b) if posted in an Electronic Form, on receipt or 24 hours after the time it was posted, whichever occurs first;
- (c) if delivered in an Electronic Form, at the time of delivery.

24.7 Where the Company is able to show that any notice or other document given or sent under these articles by Electronic Means was properly addressed with the Electronic Address supplied by the intended recipient, the giving or sending of that notice or other document shall be effective notwithstanding any receipt by the Company at any time of notice either that such method of communication has failed or of the intended recipient's non-receipt.

24.8 In the case of joint Shareholders all notices shall be given to the joint Shareholder whose name stands first in the register of members of the company in respect of the joint holding (the "**Primary Holder**"). Notice so given shall constitute notice to all the joint Shareholders.

24.9 Anything agreed or specified by the Primary Holder in relation to the service, sending or supply of notices, documents or other information shall be treated as the agreement or specification of all the joint Shareholders in their capacity as such (whether for the purposes of the Act or otherwise).

## **25. Indemnities and insurance**

25.1 Subject to the provisions of and so far as may be permitted by the Act:

- (a) every Director or other officer of the Company (excluding the Auditors) shall be entitled to be indemnified by the Company (and the Company shall also be able to indemnify directors of any associated company (as defined in section 256 of the Act)) out of the Company's assets against all liabilities incurred by him in the actual or purported execution or discharge of his duties or the exercise or purported exercise of his powers or otherwise in relation to or in connection with his duties, powers or office, provided that no director of the Company or any associated company is indemnified by the Company against:
  - (i) any liability incurred by the director to the Company or any associated company; or
  - (ii) any liability incurred by the director to pay a fine imposed in criminal proceedings or a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirements of a regulatory nature; or
  - (iii) any liability incurred by the director:
    - (A) in defending any criminal proceedings in which he is convicted;
    - (B) in defending civil proceedings brought by the Company or any associated company in which final judgment (within the meaning set out in section 234 of the Act) is given against him; or
    - (C) in connection with any application under sections 661(3) or 661(4) or 1157 of the Act (as the case may be) for which the court refuses to grant him relief,

save that, in respect of a provision indemnifying a director of the Company or an associated company where that company is a trustee of an occupational pension scheme (as that term is used in section 235 of the Act) against liability incurred in connection with that company's activities as trustee of the scheme, the Company shall also be able to indemnify any such director without the restrictions in articles 25.1(a)(i), 25.1(a)(iii)(B) and 25.1(a)(iii)(C) applying;
- (b) the Company may, provided that it is done so on the terms specified in section 205 of the Act, provide any director of the Company or an associated company with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings in connection with any alleged negligence, default, breach of duty or breach of trust by him in relation to the Company or any associated company and otherwise may take any action to enable any such director to avoid incurring such expenditure; and
- (c) the Directors may exercise all the powers of the Company to purchase and maintain insurance for any such Director or other officer against any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the Company or any associated company including (if he is a director of a company which is a trustee of an occupational pension scheme) in connection with that company's activities as trustee of an occupational pension scheme.



- 25.2 The Company shall (at the cost of the Company) effect and maintain for each Director policies of insurance insuring each Director against risks in relation to his office as each Director may reasonably specify including without limitation any liability which by virtue of any rule of law may attach to him in respect of any negligence, default of duty or breach of trust of which he may be guilty in relation to the Company.