

Company number 10746420

PRIVATE COMPANY LIMITED BY SHARES

WRITTEN RESOLUTION

of

SAMPLE TRACKER LTD (Company)

.....19/1/18.....2018 (Circulation Date)



Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the directors of the Company propose that the following resolutions are passed (**Resolutions**).

#### **Special Resolution**

##### **1. NEW ARTICLES OF ASSOCIATION**

That the articles of association attached hereto be adopted as the articles of association of the Company in substitution for and to the exclusion of the existing articles of association.

##### **2. SUB-DIVISION**

Subject to the passing of resolution 1, that the issued share capital of the Company be subdivided so that the single ordinary share of £1 held by Andrew Davidson at the date hereof becomes 100 ordinary shares of £0.01 each.

#### **Ordinary Resolution**

##### **3. AUTHORITY TO ALLOT**

THAT, subject to the passing of resolution 3 and in accordance with section 551 of the Companies Act 2006 (**CA 2006**), the directors of the Company (**Directors**) be generally and unconditionally authorised to allot shares in the capital of the Company up to an aggregate nominal value of £100,000 provided that this authority shall, unless renewed, varied or revoked by the Company, expire on 31 December 2018 save that the Company may, before such expiry, make an offer or agreement which would or might require shares to be allotted and the Directors may allot shares in pursuance of such offer or agreement notwithstanding that the authority conferred by this resolution has expired.

This authority is in substitution for all previous authorities conferred on the Directors in accordance with section 551 of the CA 2006 but without prejudice to any allotment of shares already made or offered or agreed to be made pursuant to such authorities.

**4. DISAPPLICATION OF PRE-EMPTION RIGHTS**

THAT, subject to the passing of resolution 4 and in accordance with section 570 of the CA 2006, the Directors be generally empowered to allot equity securities (as defined in section 560 of the CA 2006) pursuant to the authority conferred by resolution 4, as if section 561(1) of the CA 2006 did not apply to any such allotment and on the basis that each member signing this resolution consents to such allotment notwithstanding any pre-emption rights they may have pursuant to the articles of association and/or Subscription Agreement in respect of the Company, provided that this power shall:

- 4.1 be limited to the allotment of shares in the capital of the Company up to an aggregate nominal value of £100,000; and
- 4.2 expire on 31 December 2018 (unless renewed, varied or revoked by the Company prior to or on that date), save that the Company may, before such expiry make an offer or agreement which would or might require shares to be allotted after such expiry and the Directors may allot shares in pursuance of any such offer or agreement notwithstanding that the power conferred by this resolution has expired.

**5. EQUITY WARRANT**

That, subject to the passing of resolution 5, the Directors be generally and unconditionally authorised to issue warrants which confers the right on the holder thereof to subscribe for that number of ordinary shares of £0.01 each in the capital of the Company that is equal to 5% of the issued shares of the Company on the date upon which the warrant is exercised on the terms and conditions set out in the warrant instrument.

The persons named below, being the persons eligible to vote on the above resolutions on the circulation date, irrevocably agree to each of those resolutions.

Andrew Davidson



**NOTE:**

1. If you agree with the resolutions, please sign and date this document and return it to the Company using one of the following methods:
  - **By hand:** delivering the signed copy to the registered office of the Company.
  - **Post:** returning the signed copy by post to the registered office of the Company.

If you do not agree with the resolutions, you do not need to do anything: you will not be deemed to agree if you fail to reply.
2. Once you have indicated your agreement to the resolutions, you may not revoke your agreement.
3. The resolutions set out above will lapse if the required majority of eligible members have not signified their agreement to them by the end of the period of 28 days beginning with the circulation date set out above. If you agree to the resolutions, please ensure that your agreement reaches us before that date.
4. In the case of joint holders of shares, only the vote of the senior holder who votes will be counted by the Company. Seniority is determined by the order in which the names of the joint holders appear in the register of members.
5. If you are signing this document on behalf of a person under a power of attorney or other authority please send a copy of the relevant power of attorney or authority when returning this document.

**THE COMPANIES ACT 2006**

**PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**

**OF**

**SAMPLE TRACKER LTD**

**(ADOPTED BY SPECIAL RESOLUTION PASSED ON ..... 2018)**

**INTRODUCTION**

**1. INTERPRETATION**

**1.1** In these Articles, unless the context otherwise requires:

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

**Alternate Director:** has the meaning given in article 13.1.

**Appointor:** has the meaning given in article 13.1.

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

**Business Day:** any day (except Saturdays and Sundays) when clearing banks are open for business in London.

**Conflict:** has the meaning given in article 9.1.

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

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

**Relevant Securities:** means any shares or other securities convertible into, or carrying the right to subscribe for shares, issued by the Company after the date of adoption of these Articles.

**1.2** Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the Act shall have the same meanings in these Articles.

- 1.3 Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles.
- 1.4 A reference in these Articles to an "article" is a reference to the relevant article of these Articles unless expressly provided otherwise.
- 1.5 Unless expressly provided otherwise, a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of:
- (a) any subordinate legislation from time to time made under it; and
  - (b) any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.
- 1.6 Any phrase introduced by the terms "**including**", "**include**", "**in particular**" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.7 The Model Articles shall apply to the company, except in so far as they are modified or excluded by these Articles.
- 1.8 Articles 8, 9(1) and (3), 11(2) and (3), 13, 14(1), (2), (3) and (4), 17(2), 44(2), 49, 52 and 53 of the Model Articles shall not apply to the company.
- 1.9 Article 7 of the Model Articles shall be amended by:
- (a) the insertion of the words "for the time being" at the end of article 7(2)(a); and
  - (b) the insertion in article 7(2) of the words "(for so long as he remains the sole director)" after the words "and the director may".
- 1.10 Article 20 of the Model Articles shall be amended by the insertion of the words "(including Alternate Directors)" before the words "properly incur".
- 1.11 In article 25(2)(c) of the Model Articles, the words "evidence, indemnity and the payment of a reasonable fee" shall be deleted and replaced with the words "evidence and indemnity".
- 1.12 Article 27(3) of the Model Articles shall be amended by the insertion of the words ", subject to article 12," after the word "But".

- 1.13 Article 29 of the Model Articles shall be amended by the insertion of the words ", or the name of any person(s) named as the transferee(s) in an instrument of transfer executed under article 28(2)," after the words "the transmittee's name".
- 1.14 Articles 31(1)(a) to (d) (inclusive) of the Model Articles shall be amended by the deletion, in each case, of the words "either" and "or as the directors may otherwise decide".

## **SHARE CAPITAL**

### **2. EXCLUSION OF STATUTORY PRE-EMPTION RIGHTS**

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

### **3. CONTRACTUAL PRE-EMPTION RIGHTS ON ISSUE OF FURTHER SHARES**

- 3.1 Save with the prior written consent of the Investor (as such term is defined in the Shareholders Agreement in respect of the Company entered into on or around the date of adoption of these articles) if the Company proposes to allot any Relevant Securities, those Relevant Securities shall not be allotted to any person unless the Company has first offered them to the holders (on the date of the offer) of the shares in the Company (each an "Offeree") on a pari passu basis (as if they constituted shares of the same class) and in the respective proportions that the number of shares held by each such holder bears to the total number of shares held by all such holders (as nearly as possible without involving fractions) and on the same terms, and at the same price, as those Relevant Securities are being, or are to be, offered to any other person.
- 3.2 An offer made under Article 3.1 shall:
- (a) be in writing and give details of the number, class and subscription price (including any share premium) of the Relevant Securities being offered;
  - (b) remain open for a period of at least 20 Business Days from the date of service of the offer; and
  - (c) stipulate that any Offeree who wishes to subscribe for a number of Relevant Securities in excess of the number to which he is entitled under Article 3.1 shall, in his acceptance, state the number of excess Relevant Securities ("Excess Securities") for which he wishes to subscribe.
- 3.3 If, on the expiry of an offer made in accordance with Article 3.1, the total number of Relevant Securities applied for is less than the total number of Relevant Securities so offered, the Directors shall allot the Relevant Securities to the Offerees in accordance

with their applications, subject to a maximum of each Offeree's proportionate entitlement.

- 3.4 Any Relevant Securities not accepted by Offerees pursuant to an offer made in accordance with Article 3.1 shall be used to satisfy any requests for Excess Securities made pursuant to Article 3.2 (c). If there are insufficient Excess Securities to satisfy such requests, the Excess Securities shall be allotted to the applicants in the respective proportions that the number of shares held by each such applicant bears to the total number of such shares held by all applicants (as nearly as possible without involving fractions or increasing the number of Excess Securities allotted to any Shareholder beyond that applied for by him). After those allotments, any Excess Securities shall, subject to Article 3.6, be offered to any other person(s) as the Directors may determine (with the consent of the Investor), at the same price and on the same terms as the offer to the Shareholders.
- 3.5 If, after completion of the allotments referred to in articles 3.3 and 3.4, not all of the Relevant Securities have been allotted, the balance of such Relevant Securities shall, subject to Article 3.6 be offered to any other person(s) as the Directors may, with the consent of the Investor, determine, at the same price and on the same terms as the offer to the Shareholders.
- 3.6 No shares shall be allotted to any current or prospective employee or director of any the Company unless such person shall first have entered into a joint election with the Company under section 431 of the Income Tax (Earnings and Pensions) Act 2003.

## **DIRECTORS**

### **4. UNANIMOUS DECISIONS**

- 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 such a meeting.

**5. CALLING A DIRECTORS' MEETING**

- 5.1 Any director may call a directors' meeting by giving not less than 1 Business Days' notice of the meeting (or such lesser notice as all the directors may agree) to the directors to give such notice.
- 5.2 Notice of a directors' meeting shall be given to each director in writing.

**6. QUORUM FOR DIRECTORS' MEETINGS**

- 6.1 Subject to article 6.2, the quorum for the transaction of business at a meeting of directors is any two Eligible Directors.
- 6.2 For the purposes of any meeting (or part of a meeting) held pursuant to article 9 to authorise a director's Conflict, if there is only one Eligible Director in office other than the conflicted director(s), the quorum for such meeting (or part of a meeting) shall be one Eligible Director.
- 6.3 If the total number of directors in office for the time being is less than the quorum required, the directors must not take any decision other than a decision:
- (a) to appoint further directors; or
  - (b) to call a general meeting so as to enable the shareholders to appoint further directors.

**7. CASTING VOTE**

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

**8. TRANSACTIONS OR OTHER ARRANGEMENTS WITH THE COMPANY**

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

- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the company or in which the company is otherwise (directly or indirectly) interested;
- (b) shall be an Eligible Director for the purposes of any proposed decision of the directors (or committee of directors) in respect of such contract or proposed contract in which he is interested;



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

## 9. DIRECTORS' CONFLICTS OF INTEREST

9.1 The directors may, in accordance with the requirements set out in this article, authorise any matter or situation proposed to them by any director which would, if not authorised, involve a director (an **Interested director**) breaching his duty under section 175 of the Act to avoid conflicts of interest (**Conflict**).

9.2 Any authorisation under this article 9 will be effective only if:

- (a) to the extent permitted by the Act, the matter in question shall have been proposed by any director for consideration in the same way that any other matter may be proposed to the directors under the provisions of these Articles or in such other manner as the directors may determine;
- (b) any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested director; and
- (c) the matter was agreed to without the Interested director voting or would have been agreed to if the vote of the Interested director had not been counted.

9.3 Any authorisation of a Conflict under this article 9 may (whether at the time of giving the authorisation or subsequently):

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

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

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

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

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 directors or by the company in general meeting (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.

## **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 permanent form, so that they may be read with the naked eye.

**11. NUMBER OF DIRECTORS**

Unless otherwise determined by ordinary resolution, the number of directors (other than Alternate Directors) shall not be more than six and shall not be less than two.

**12. APPOINTMENT OF DIRECTORS**

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

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

- 13.1 Any director (**Appointor**) may appoint any other director, or any other person approved by resolution by the directors as an alternate (**Alternate Director**), to:

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

in relation to the taking of decisions by the directors, in the absence of the Alternate Director's Appointor.

- 13.2 Any appointment or removal of an Alternate Director must be effected by notice in writing to the company signed by the Appointor, or in any other manner approved by the directors.

- 13.3 The notice must:

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

**14. RIGHTS AND RESPONSIBILITIES OF ALTERNATE DIRECTORS**

- 14.1 An Alternate Director may act as Alternate Director to more than one director and has the same rights in relation to any decision of the directors as the Alternate Director's Appointor.

- 14.2 Except as the Articles specify otherwise, Alternate Directors:

- (a) are deemed for all purposes to be directors;
- (b) are liable for their own acts and omissions;

- (c) are subject to the same restrictions as their Appointor; and
- (d) are not deemed to be agents of or for their Appointor,

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

14.3 A person who is an Alternate Director but not a director:

- (a) may be counted as participating for the purposes of determining whether a quorum is present (but only if that person's Appointor is not participating);
- (b) may participate in a unanimous decision of the directors (but only if his Appointor is an Eligible Director in relation to that decision, but does not participate); and
- (c) shall not be counted as more than one director for the purposes of article 14.3(a) and article 14.3(b).

14.4 A director who is also an Alternate Director is entitled, in the absence of his Appointor, to a separate vote on behalf of his Appointor, in addition to his own vote on any decision of the directors (provided that his Appointor is an Eligible Director in relation to that decision).

14.5 An Alternate Director may be paid expenses and may be indemnified by the company to the same extent as his Appointor but shall not be entitled to receive any remuneration from the company for serving as an Alternate Director except such part of the remuneration of the Alternate Director's Appointor as the Appointor may direct by notice in writing made to the company.

## **15. TERMINATION OF ALTERNATE DIRECTORSHIP**

An Alternate Director's appointment as an Alternate Director terminates:

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

## **DECISION MAKING BY SHAREHOLDERS**

## **16. POLL VOTES**

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

## **17. PROXIES**

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

## **ADMINISTRATIVE ARRANGEMENTS**

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

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

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

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

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

## **19. INDEMNITY**

- 19.1 Subject to article 19.2 but without prejudice to any indemnity to which a relevant officer is otherwise entitled:

- (a) each relevant officer shall be indemnified out of the assets of the company 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, 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 affairs of the company (or any affairs of an associated company); and
- (b) the company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in article 19.1(a) and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.

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

- 19.3 In this article:

- (a) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate; and
- (b) a "relevant officer" means any director or other officer or former director or other officer of the company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act), but excluding in each case any person engaged by the company (or associated company) as auditor (whether or not

he is also a director or other officer), to the extent he acts in his capacity as auditor).

**20. INSURANCE**

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

20.2 In this article:

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