

COMPANY NO. 10780249

THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

OF

BEACH RETREATS HOLIDAYS LIMITED

(Adopted by special resolution passed on 27 August 2021)

## INTRODUCTION

### 1. INTERPRETATION

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

**Articles:**

the Company's articles of association for the time being in force;

**A Share:**

an ordinary share of £1 in the capital of the Company designated as an A Ordinary Share;

**Bad Leaver:**

a Departing Employee Shareholder who becomes a Departing Employee Shareholder in circumstances where he is not a Good Leaver;

**Business Day:**

a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;

**CA 2006:**

the Companies Act 2006;

**Conflict:**

a situation in which a director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company;

**Controlling Shareholder:**

a registered holder for the time being of not less than 75% in nominal value of the equity share capital of the Company from time to time.

**D Share:**

an ordinary share of £1 in the capital of the Company designated as a D Share;

**D Shareholder:**

a holder of D Shares;

**Deemed Transfer Notice:**

a Transfer Notice that is deemed to have been served under any provision of these Articles;

**Departing Employee Shareholder:**

an Employee Shareholder who ceases to be a director or employee of the Company;

**Eligible Director:**

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);

**Employee Shareholder:**

a shareholder who is, or has been, a director and/or an employee of the Company;

**Fair Value:**

in relation to shares, as determined in accordance with article 16;

**Good Leaver:**

an Employee Shareholder who becomes a Departing Employee Shareholder by reason of:

- (a) death;
- (b) retirement after reaching the age of 63; or
- (c) permanent disability or permanent incapacity through ill-health;

**Group:**

the Company, any subsidiary or any holding company of the Company from time to time, and any subsidiary from time to time of a holding company and **member of the Group** shall mean any of them;

**holding company:**

has the meaning given in article 1.6.

**Interested Director:**

has the meaning given in article 9.1;

**Model Articles:**

the model articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (*SI 2008/3229*) as amended prior to the date of adoption of these Articles and reference to a numbered Model Article is a reference to that article of the Model Articles;

**Proposed Sale Price:**

has the meaning given in article 14.1;

**Sale Shares:**

has the meaning given in article 14.1;

**Seller:**

has the meaning given in article 14.1;

**subsidiary:**

has the meaning given in article 1.6;

**Termination Date:**

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

**Transfer Notice:**

has the meaning given in article 14.1;

**Transfer Price:**

has the meaning given in article 14.4;

**Valuers:**

the accountants for the time being of the Company or, if they decline the instruction, an independent firm of accountants jointly appointed by the Company and the Seller or, in the absence of agreement between the Company and the Seller on the identity of the expert within 10 Business Days of the expiry of the 20 Business Day period referred to in article 14.4, an independent firm of accountants appointed by the President, for the time being, of the Institute of Chartered Accountants in England and Wales (in each case acting as an expert and not as an arbitrator);

**Writing or written:**

the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise, save that, for the purposes of article 14, article 15 and article 17 "writing" or "written" shall not include the sending or supply of notices, documents or information in electronic form (other than by fax).

- 1.2 Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the CA 2006 shall have those meanings in these Articles but excluding any statutory modification of them not in force on the date when these Articles become binding on the Company.
- 1.3 Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles.
- 1.4 A reference in these Articles to an article is a reference to the relevant article of these Articles unless expressly provided otherwise.
- 1.5 Unless expressly provided otherwise, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.6 A reference to a **holding company** or **subsidiary** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Act and for the purposes only of the membership requirement contained in sections 1159(1)(b) and (c), a company shall be treated as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee), by way of security or in connection with the taking of security, or (b) its nominee.
- 1.7 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.8 Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.9 Where the context permits, **other** and **otherwise** are illustrative and shall not limit the sense of the words preceding them.

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

- 2.1 The Model Articles shall apply to the Company, except in so far as they are modified or excluded by these Articles or are inconsistent with these Articles, and, subject to any such modifications, exclusions or inconsistencies, shall together with these Articles constitute the articles of association of the Company to the exclusion of any other articles

or regulations set out in any statute or in any statutory instrument or other subordinate legislation.

- 2.2 Model Articles 6(2), 7, 8, 9(1), 11 to 14 (inclusive), 16, 17, 26(5), 36, 38, 39, 43, 44(2) and 50 to 53 (inclusive) shall not apply to the Company.
- 2.3 In Model Article 25(2)(c), the words "evidence, indemnity and the payment of a reasonable fee" shall be deleted and replaced with the words "evidence and indemnity".
- 2.4 Model Articles 27(2)(a) and (b) shall be amended by the insertion, in each case, of the words "and to any other agreement to which the holder was party at the time of his death" after the words "subject to the articles".
- 2.5 Model Article 28(2) shall be amended by the deletion of the word "If" and the insertion of the words "Subject to the articles and to any other agreement to which the holder was party at the time of his death, if" in its place.
- 2.6 Model Articles 31(1)(a) to (c) (inclusive) shall be amended by the deletion, in each case, of the words "either" and "or as the directors may otherwise decide". Model Article 31(d) shall be amended by the deletion of the words "either" and "or by such other means as the directors decide".

## **DIRECTORS**

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

- 3.1 Any decision of the directors must be taken at a meeting of directors in accordance with these Articles or must be a decision taken in accordance with article 4.
- 3.2 Subject as provided in these Articles, the directors may participate in directors' meetings for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. The directors will try to meet at least quarterly.
- 3.3 All decisions made at any meeting of the directors shall be made only by resolution, and no such resolution shall be passed unless more votes are cast for it than against it.
- 3.4 Each director has one vote at a meeting of directors.

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

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

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

The number of directors shall not be subject to any minimum number. No shareholding qualification for directors shall be required.

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

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

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

- 7.1 Subject to article 7.2, the quorum for the transaction of business at a meeting of directors is any two Eligible Directors or, where there is only one director in office for the time being, that director.
- 7.2 For the purposes of any meeting (or part of a meeting) held pursuant to article 9 to authorise a Conflict, if there is only one Eligible Director in office other than the Interested Director(s) (as defined in article 9.1), the quorum for such meeting (or part of a meeting) shall be one Eligible Director.

## **8. CHAIRING OF DIRECTORS' MEETINGS**

The chairman of meetings of Directors shall not have a casting vote.

## **9. DIRECTORS' INTERESTS**

- 9.1 The directors may, in accordance with the requirements set out in this article 9, authorise any Conflict 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.
- 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 Interested Director's vote 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) impose on the Interested Director such conditions or limitations, or be granted subject to such terms, as the directors may think fit for the purposes of dealing with the Conflict and the Interested Director will be obliged to conduct himself in accordance with any such terms and conditions.
- 9.4 The directors may revoke or vary such authorisation at any time, but this will not affect anything done by the Interested Director, before such revocation or variation, in accordance with the terms of such authorisation.
- 9.5 A director, notwithstanding his office, may be a director or other officer of, employed by, or otherwise interested (including by the holding of shares) in, any member of the Group and no further authorisation under article 9.1 shall be necessary in respect of any such interest.
- 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 that he derives from or in connection with a relationship involving a Conflict which has been authorised by the directors in accordance with these Articles, by the Company or by these Articles (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.

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

Where decisions of the directors are taken by electronic means, such decisions shall be recorded by the directors in a form that enables the Company to retain a copy of such decisions.

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

- 11.1 A Controlling Shareholder may at any time and from time to time by notice in writing to the Company appoint one or more persons to be a director or directors of the Company and to remove any director or directors from office (whether or not appointed pursuant to this article 11).
- 11.2 Model Article 18 shall be amended by the inclusion of the words "notification of the director's removal is received by the Company from a Controlling Shareholder pursuant to Article 11.1" as a new paragraph (g) at the end of that Model Article.
- 11.3 Any removal of a director pursuant to article 11.1 shall be without prejudice to any claim for breach of contract under any employment agreement between the Company and the director so removed.

## **SHARES**

### **12. SHARE CAPITAL**

- 12.1 Except as otherwise provided in these Articles, the A Shares and the D Shares shall rank *pari passu* in all respects but shall constitute separate classes of shares. Dividends may be declared in respect of both or either classes of share, at the directors' absolute discretion.
- 12.2 On the transfer of any share as permitted by these Articles:
  - (a) a share transferred to a non-shareholder shall remain of the same class as before the transfer; and
  - (b) a share transferred to a shareholder shall automatically be redesignated on transfer as a share of the same class as those shares already held by the shareholder.

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

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

### **13. SHARE TRANSFERS: GENERAL**

- 13.1 In these Articles, reference to the transfer of a share includes the transfer, assignment or other disposal of a beneficial or other interest in that share, or the creation of a trust or encumbrance over that share, and reference to a share includes a beneficial or other interest in a share.
- 13.2 No shareholder shall transfer any share except:
  - (a) a shareholder may transfer all (but not some only) of his shares in the Company for cash (and not on deferred terms) in accordance with the procedure set out in article 14; or
  - (b) with the written consent of the Controlling Shareholder; or
  - (c) in accordance with article 15; or

- (d) in accordance with article 17.
- 13.3 Subject to article 13.4, the directors must register any duly stamped or certified exempt transfer made in accordance with these Articles and shall not have any discretion to register any transfer of shares which has not been made in compliance with these Articles.
- 13.4 Save for where articles 13.8 to 13.10 (inclusive) apply, the directors may, as a condition to the registration of any transfer of shares in the Company require the transferee to provide the Company with the required particulars under section 790K of the CA 2006 if the transferee is a registrable person or relevant legal entity within the meaning of section 790C of the CA 2006 and to execute and deliver to the Company a deed under which the transferee agrees to be bound by the terms of any shareholders' agreement (or similar document) in force between the shareholders in such form as the directors may reasonably require (but not so as to oblige the transferee to have any obligations or liabilities greater than those of the proposed transferor under any such agreement or other document). If any such condition is imposed in accordance with this article 13.4, the transfer may not be registered unless that deed has been executed and delivered to the Company's registered office by the transferee and the Company has received all of the required particulars under section 790K of the CA 2006 if the transferee is a registrable person or relevant legal entity within the meaning of section 790C of the CA 2006.
- 13.5 To enable the directors to determine whether or not there has been a transfer of shares in the Company in breach of these Articles, the directors may from time to time require any shareholder to provide the Company with such information and evidence as they may reasonably require relevant to that purpose. If a shareholder fails to provide information or evidence in respect of any shares registered in his name to the reasonable satisfaction of such directors within 14 days of their request or, as a result of the information and evidence provided such directors are reasonably satisfied that a breach has occurred, then such directors may serve a notice on the shareholder stating that the shareholder shall not in relation to all shares held by that shareholder be entitled to be present or to vote in person or by proxy at any general meeting of the Company or any meeting of the holders of shares of that class, or to vote on a written resolution of the shareholders or to receive dividends on the shares. Such directors may reinstate these rights at any time.
- 13.6 Any transfer of shares by way of a sale under these Articles shall be deemed to include a warranty that the transferor sells the shares with full title guarantee.
- 13.7 Any Transfer Notice served in respect of the transfer of any shares which has not completed before the date of service of a Deemed Transfer Notice shall automatically be revoked by the service of the Deemed Transfer Notice.
- 13.8 Notwithstanding anything contained in these Articles, the Directors of the Company may not decline to register any transfer of shares in the Company and may not suspend any registration thereof:
- (a) where such transfer is to a bank or institution to which such shares have been mortgaged or charged by way of security (whether as lender, or agent and trustee for a group of banks or institutions or otherwise) (a **Secured Institution**), or to any nominee of such Secured Institution, pursuant to any such security;
  - (b) where such transfer is executed by a receiver or manager appointed by or on behalf of any Secured Institution or its nominee, under any such security;
  - (c) where such transfer is executed by a Secured Institution or its nominee pursuant to the power of sale or other power under any such security;
  - (d) if the transfer otherwise arises from enforcement of the Secured Institution's rights in or to the shares; or
  - (e) if the Secured Institution has consented to the transfer as a condition of the release of its security over the shares.

- 13.9 Notwithstanding anything to the contrary contained in these Articles:
- (a) no transferor of any shares in the Company or proposed transferor of such shares to a Secured Institution or its nominee;
  - (b) no transferor of shares arising from the enforcement of a Secured Institution's rights in or to any shares;
  - (c) no transferor of shares where a Secured Institution has consented to the transfer as a condition of the releases of its security over any shares;
  - (d) no Secured Institution or its nominee; and
  - (e) no receiver or manager appointed by or on behalf of a Secured Institution or its nominee,

shall be required to offer shares which are the subject of any transfer aforesaid to any shareholders for the time being of the Company or any of them, and no such shareholder shall have any right under these Articles or otherwise howsoever to require such shares to be transferred to them for consideration or not.

- 13.10 Notwithstanding anything contained in these Articles, the Company shall have no lien over any shares which have been mortgaged or charged by way of security to a Secured Institution.
- 13.11 Notwithstanding anything contained in these Articles, the Company shall not be entitled to send a notice to any member of the Company whose shares have been mortgaged or charged by way of security to a Secured Institution requiring that member to pay any sum which is payable in respect of such shares or to exercise any powers of forfeiture or sale which may flow from the non-payment of any such amounts.

#### 14. PRE-EMPTION RIGHTS ON THE TRANSFER OF SHARES

- 14.1 Except where the provisions of article 13.2(b), articles 13.8 to 13.10 (inclusive), article 15 or article 17 apply, a shareholder (**Seller**) wishing to transfer his shares (**Sale Shares**) must give notice in writing (a **Transfer Notice**) to the Company giving details of the proposed transfer including:
- (a) if he wishes to sell the Sale Shares to a third party, the name of the proposed buyer; and
  - (b) the price (in cash) at which he wishes to sell the Sale Shares (**Proposed Sale Price**).
- 14.2 A Transfer Notice (or Deemed Transfer Notice) constitutes the Company the agent of the Seller for the sale of the Sale Shares in accordance with the provisions of these Articles.
- 14.3 Once given, a Transfer Notice may only be withdrawn by the Seller where the Transfer Price of the Sale Shares comprised within a Transfer Notice is to be the Fair Value and such Fair Value is less than the Proposed Sale Price. In such case, the Seller may, within 10 Business Days of receipt of notification of the Fair Value, withdraw the Transfer Notice. A Deemed Transfer Notice may not be withdrawn.
- 14.4 The Transfer Price for each Sale Share the subject of a Transfer Notice shall, save where expressly provided otherwise in these Articles, be the price per Sale Share (in cash) agreed between the Seller and the board of directors of the Company or, in default of agreement within 20 Business Days of the date of service of the Transfer Notice, the Fair Value of each Sale Share determined in accordance with article 16.
- 14.5 As soon as practicable following the agreement or determination of the Transfer Price (as the case may be), the directors shall (unless the Transfer Notice is withdrawn in accordance with article 14.3) offer the Sale Shares for sale in the manner set out in the



remaining provisions of this article 14 at the Transfer Price. Each offer shall be in writing and give details of the number and Transfer Price of the Sale Shares offered.

- 14.6 The directors shall offer the Sale Shares to the shareholders other than:
- (a) the Seller;
  - (b) any shareholder whose shares are, at the date of the Transfer Notice, the subject of a Transfer Notice or Deemed Transfer Notice,
- (the **Offerees**).
- 14.7 When offering the Sale Shares in accordance with article 14.6, the directors shall, invite the Offerees to apply in writing within the period from the date of the offer to the date which is three calendar months after the offer (both dates inclusive) (the **Offer Period**) for the maximum number of Sale Shares they wish to buy.
- 14.8 If:
- (a) at the end of the Offer Period, the total number of Sale Shares applied for is equal to or exceeds the number of Sale Shares, the directors shall allocate the Sale Shares to each of the Offerees who has applied for Sale Shares in the proportion which his existing holding of shares bears to the total number of shares (excluding those held by the Seller). Fractional entitlements shall be rounded down to the nearest whole number (save where such rounding would result in not all Sale Shares being allocated, in which case, the allocation of any such fractional entitlements among the Offerees shall be determined by the directors). No allocation shall be made to a shareholder of more than the maximum number of Sale Shares which he has stated he is willing to buy;
  - (b) not all the Sale Shares are allocated following allocation in accordance with article 14.8(a), but there are applications for Sale Shares that have not been satisfied, the directors shall allocate the remaining Sale Shares to such applicants in accordance with the procedure set out in article 14.8(a). The procedure set out in this article 14.8(b) shall apply on any number of consecutive occasions until either all Sale Shares have been allocated or all applications for Sale Shares have been satisfied; and
  - (c) at the end of the Offer Period, the total number of Sale Shares applied for is less than the number of Sale Shares, the directors shall allocate the Sale Shares to the Offerees in accordance with their applications. The balance (the **Surplus Shares**) may, with the prior written consent of the Offerees, be transferred to the buyer identified in the Transfer Notice (if any) in accordance with article 14.12.
- 14.9 The directors shall, when no further offers or allocations are required to be made under article 14.6 to article 14.8 (inclusive), give notice in writing of the allocations of Sale Shares (an **Allocation Notice**) to the Seller and each shareholder to whom Sale Shares have been allocated (each an **Applicant**). The Allocation Notice shall specify the number of Sale Shares allocated to each Applicant and the place and time for completion of the transfer of the Sale Shares (which shall be at least 2 Business Days, but not more than 20 Business Days, after the date of the Allocation Notice).
- 14.10 On the date specified for completion in the Allocation Notice, the Seller shall, against payment from an Applicant, execute and deliver a transfer of the Sale Shares allocated to such Applicant, in accordance with any requirements specified in the Allocation Notice, together with the relevant share certificate(s) (or an indemnity in lieu thereof) and such other documents as the Applicant may reasonably require to show good title to the Sale Shares, or to enable him to be registered as the holder of the Sale Shares.
- 14.11 If the Seller fails to comply with article 14.10:

- (a) the Chairman (or, failing him, any other director or some other person nominated by a resolution of the directors) may, as agent on behalf of the Seller:
  - (i) complete, execute and deliver in his name all documents necessary to give effect to the transfer of the relevant Sale Shares to the Applicants;
  - (ii) receive the Transfer Price and give a good discharge for it (and no Applicant shall be obliged to see to the distribution of the Transfer Price); and
  - (iii) (subject to the transfers being duly stamped) enter the Applicants in the register of shareholders as the holders of the Sale Shares purchased by them; and
- (b) the Company shall pay the Transfer Price into a separate bank account in the Company's name on trust (but without interest) for the Seller until he has delivered his certificate(s) for the relevant Sale Shares or an indemnity, in a form reasonably satisfactory to the directors, in respect of any lost certificate, together, in either case, with such other evidence (if any) as the board may reasonably require to prove good title to those Sale Shares, to the Company.

14.12 Where an Allocation Notice does not relate to all the Sale Shares, then the Seller may, at any time during the 25 Business Days following the date of service of the Allocation Notice, transfer the Surplus Shares (subject to article 14.8(c)) to the buyer identified in the Transfer Notice (if any) at a price at least equal to the Transfer Price. The Seller shall not be permitted to transfer any such Surplus Shares to a third party buyer if that buyer was not identified in the Transfer Notice.

## 15. COMPULSORY TRANSFERS

15.1 A D shareholder is deemed to have served a Transfer Notice under article 14.1 immediately before any of the following events:

- (a) the death of such D Shareholder;
- (b) an order being made for such D Shareholder's bankruptcy; or
- (c) an arrangement or composition with any of such D Shareholder's creditors being made; or
- (d) the D Shareholder convening a meeting of his creditors, or taking any other steps with a view to making an arrangement or composition in satisfaction of his creditors generally; or
- (e) the D Shareholder being unable to pay his debts as they fall due within the meaning of section 268 of the Insolvency Act 1986; or
- (f) any encumbrancer taking possession of, or a receiver being appointed over or in relation to, all or any material part of the D Shareholder's assets; or
- (g) the happening in relation to a D Shareholder of any event analogous to any of the above in any jurisdiction in which he is resident, carries on business or has assets; or
- (h) the D Shareholder lacking capacity (under section 2 of the Mental Capacity Act 2005) to make decisions in relation to the Company or his shareholding; or
- (i) the D shareholder (being an Employee Shareholder) becoming a Departing Employee Shareholder (a **Compulsory Employee Transfer**);
- (j) the shareholder committing a material or persistent breach of any shareholders' agreement to which he is a party in relation to the shares in the Company which, if

capable of remedy, has not been so remedied within 20 Business Days of the holder(s) of a majority of the shares of the other class requiring such remedy.

- 15.2 The Deemed Transfer Notice has the same effect as a Transfer Notice, except that:
- (a) the Deemed Transfer Notice takes effect on the basis that it does not identify a proposed buyer or state a price for the Sale Shares and, subject to article 15.2(b) and article 15.2(c), the Transfer Price for the Sale Shares shall be the aggregate Fair Value of those shares, determined by the Valuers in accordance with article 16;
  - (b) the Transfer Price in respect of a Compulsory Employee Transfer shall, where the Departing Employee Shareholder is:
    - (i) a Bad Leaver, be restricted to a maximum of the lower of the aggregate subscription price paid in respect of the Sale Shares, including any share premium, and the aggregate Fair Value of such Sale Shares; and
    - (ii) a Good Leaver, be the aggregate Fair Value of such Sale Shares;
  - (c) if the Seller is deemed to have given a Transfer Notice as a result of article 15.1(j), the Transfer Price shall be restricted to a maximum of the lower of the aggregate subscription price paid in respect of the Sale Shares, including any share premium, and the aggregate Fair Value of such Sale Shares;
- 15.3 A Deemed Transfer Notice under article 15.1(i) or article 15.1(j) shall, save where the relevant D Shareholder is a Good Leaver immediately and automatically revoke:
- (a) a Transfer Notice served by the relevant shareholder before the occurrence of the relevant event giving rise to the Deemed Transfer Notice under article 15.1(i) or article 15.1(j) (as the case may be); and
  - (b) a Deemed Transfer Notice deemed to be served by the relevant shareholder under any of the events set out in article 15.1(a) to article 15.1(h) (inclusive) before the occurrence of the relevant event giving rise to the Deemed Transfer Notice under article 15.1(i) or article 15.1(j) (as the case may be).

## **16. VALUATION**

- 16.1 The Valuers shall be requested to determine the Fair Value within 25 Business Days of their appointment and to notify the Company and the Seller in writing of their determination.
- 16.2 The Fair Value for any Sale Share shall be the price per share determined in writing by the Valuers on the following bases and assumptions:
- (a) valuing each of the Sale Shares as a proportion of the total value of all the issued shares in the capital of the Company without any premium or discount being attributable to the percentage of the issued share capital of the Company which they represent or for the rights or restrictions applying to the Sale Shares;
  - (b) if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so;
  - (c) the sale is to be on arms' length terms between a willing seller and a willing buyer;
  - (d) the Sale Shares are sold free of all encumbrances;
  - (e) the sale is taking place on the date the Valuers were requested to determine the Fair Value; and
  - (f) to take account of any other factors that the Valuers reasonably believe should be taken into account.

- 16.3 The shareholders are entitled to make submissions to the Valuers including oral submissions and will provide (or procure that the Company provides) the Valuers with such assistance and documents as the Valuers reasonably require for the purpose of reaching a decision, subject to the Valuers agreeing to give such confidentiality undertakings as the shareholders may reasonably require.
- 16.4 To the extent not provided for by this article 16, the Valuers may, in their reasonable discretion, determine such other procedures to assist with the valuation as they consider just or appropriate, including (to the extent they consider necessary) instructing professional advisers to assist them in reaching their valuation.
- 16.5 The Valuers shall act as expert and not as arbitrator and their written determination shall be final and binding on the shareholders in the absence of manifest error or fraud.
- 16.6 The cost of obtaining the Valuers' valuation shall be borne by the Company unless the Seller withdraws the relevant Transfer Notice in accordance with article 14.3, in which case the Seller shall bear the cost.
- 17. DRAG ALONG**
- 17.1 If the Controlling Shareholder wishes to transfer all (but not some only) of its shares to a bona fide purchaser on arm's length terms (**Proposed Buyer**), the Controlling Shareholder may require all other holders of shares in the Company to sell and transfer their shares (**Called Shares**) to the Proposed Buyer (or as the Proposed Buyer directs) in accordance with the provisions of this article (**Drag Along Option**).
- 17.2 The Controlling Shareholder may exercise the Drag Along Option by giving written notice to that effect to the Called Shareholders (**Drag Along Notice**) at any time before the transfer of the Controlling Shareholder's shares to the Proposed Buyer. The Drag Along Notice shall specify:
- (a) that the relevant Called Shareholder is required to transfer all of his Called Shares pursuant to this article 17;
  - (b) the person to whom the Called Shares are to be transferred;
  - (c) the purchase price payable for the Called Shares which shall, for each Called Share, be an amount at least equal to the price per share offered by the Proposed Buyer for the Controlling Shareholder's shares; and
  - (d) the proposed date of the transfer.
- 17.3 Once issued, a Drag Along Notice shall be irrevocable. However, a Drag Along Notice shall lapse if, for any reason, the Controlling Shareholder has not sold its shares to the Proposed Buyer within 40 Business Days of serving the Drag Along Notice. The Controlling Shareholder may serve further Drag Along Notices following the lapse of any particular Drag Along Notice.
- 17.4 No Drag Along Notice shall require the Called Shareholder to agree to any terms except those specifically set out in this article 17.
- 17.5 Completion of the sale of the Called Shares shall take place on the Completion Date. Completion Date means the date proposed for completion of the sale of the Controlling Shareholder's shares unless the Controlling Shareholder and the Called Shareholder agree otherwise in which case the Completion Date shall be the date agreed in writing by them.
- 17.6 Neither the proposed sale of the Controlling Shareholder's shares to the Proposed Buyer nor the sale of the Called Shares by the Called Shareholder shall be subject to the rights of pre-emption set out in article 14.

- 17.7 On or before the Completion Date, the Called Shareholder shall execute and deliver a stock transfer form(s) for the Called Shares, together with the relevant share certificate(s) (or a suitable indemnity for any lost share certificate(s)) to the Company. On the Completion Date, the Company shall pay the Called Shareholders, on behalf of the Proposed Buyer, the amounts due pursuant to article 17.2 to the extent that the Proposed Buyer has put the Company in the requisite funds. The Company's receipt for the price shall be a good discharge to the Proposed Buyer. The Company shall hold the amounts due to the Called Shareholder in trust for the Called Shareholder without any obligation to pay interest.
- 17.8 To the extent that the Proposed Buyer has not, on the Completion Date, put the Company in funds to pay the purchase price due in respect of the Called Shares, the Called Shareholders shall be entitled to the return of the stock transfer form(s) and share certificate(s) (or suitable indemnity) for the relevant Called Shares and the Called Shareholders shall have no further rights or obligations under this article 17 in respect of their shares.
- 17.9 If the Called Shareholder does not, on or before the Completion Date, execute and deliver (in accordance with article 17.7) transfer(s) in respect of all of the Called Shares held by him, that Called Shareholder shall be deemed to have irrevocably appointed any person nominated for the purpose by the Controlling Shareholder to be his agent to execute all necessary transfer(s) on his behalf, against receipt by the Company (on trust for such holder) of the purchase price payable for the Called Shares, and to deliver such transfer(s) to the Proposed Buyer (or as he may direct) as the holder thereof. After the Proposed Buyer (or its nominee) has been registered as the holder of the Called Shares, the validity of such proceedings shall not be questioned by any such person. Failure to produce a share certificate shall not impede the registration of shares under this article 17.9.

## **DECISION MAKING BY SHAREHOLDERS**

### **18. QUORUM FOR GENERAL MEETINGS**

- 18.1 The quorum shall be a Controlling Shareholder present in person, by proxy or by authorised representative.
- 18.2 No business shall be transacted by any general meeting unless a quorum is present at the commencement of the meeting and also when that business is voted on.

### **19. CHAIRING GENERAL MEETINGS**

The chairman of the board of directors shall chair general meetings. If the chairman is unable to attend any general meeting, the shareholders present at the meetings shall be entitled to appoint another director present at the meeting to act as chairman at the meeting, and the appointment of the chairman of the meeting must be the first business of the meeting.

### **20. VOTING**

At a general meeting, on a show of hands every shareholder who is present in person or by proxy shall have one vote, unless the proxy is himself a shareholder entitled to vote; on a poll every shareholder present in person or by proxy shall have one vote for each share of which he is the holder; and on a vote on a written resolution every shareholder has one vote for each share of which he is the holder.

### **21. POLL VOTES**

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

- 21.2 Model Article 44(3) shall be amended by the insertion of the words "A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made" as a new paragraph at the end of that article.

## **22. PROXIES**

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

## **ADMINISTRATIVE ARRANGEMENTS**

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

- 23.1 Subject to article 23.3, any notice, document or other information shall be deemed served on, or delivered to, the intended recipient:
- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice, document or other information is left at the address; or
  - (b) if sent by fax, at the time of transmission; or
  - (c) if sent by pre-paid United Kingdom first class post or another next working day delivery service to an address in the United Kingdom, at 9.00 am on the second Business Day after posting; or
  - (d) if sent by pre-paid airmail to an address outside the country from which it is sent, at 9.00 am on the fifth Business Day after posting; or
  - (e) if sent by reputable international overnight courier to an address outside the country from which it is sent, on signature of a delivery receipt or at the time the notice, document or other information is left at the address; or
  - (f) if sent or supplied by email, at the time of transmission; or
  - (g) if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website; and
  - (h) if deemed receipt under the previous paragraphs of this article 23.1 would occur outside business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of deemed receipt), at 9.00 am on the day when business next starts in the place of deemed receipt. For the purposes of this article, all references to time are to local time in the place of deemed receipt.
- 23.2 To prove service, it is sufficient to prove that:
- (a) if delivered by hand or by reputable international overnight courier, the notice was delivered to the correct address; or
  - (b) if sent by fax, a transmission report was received confirming that the notice was successfully transmitted to the correct fax number; or
  - (c) if sent by post or by airmail, the envelope containing the notice was properly addressed, paid for and posted; or

- (d) if sent by email, the notice was properly addressed and sent to the e-mail address of the recipient.
- 23.3 Any notice, document or other information served on, or delivered to, an intended recipient under article 14, article 15 or article 17 (as the case may be) may not be served or delivered in electronic form (other than by fax), or by means of a website.
- 24. INDEMNITY AND INSURANCE**
- 24.1 Subject to article 24.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:
  - (a) each relevant officer of the Company shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer in the actual or purported execution and/or discharge of his duties, or in relation to them including any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him, in his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the Company's affairs; and
  - (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 24.1(a) and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.
- 24.2 This article does not authorise any indemnity to the extent that such indemnity would be prohibited or rendered void by any provision of the CA 2006 or by any other provision of law and any such indemnity is limited accordingly.
- 24.3 The directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant officer in respect of any relevant loss.
- 24.4 In this article:
  - (a) a "relevant officer" means any director or other officer or former director or other officer of the Company, but excluding in each case any person engaged by the Company as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor; and
  - (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 or any pension fund of the Company.