

## Articles of Association

of

**TFW Innovation Services Limited**



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**ATTACHMENT**

**Articles of Association**

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COMPANY NO 13081802

THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY SHARES

**ARTICLES OF ASSOCIATION  
OF  
TFW INNOVATION SERVICES LIMITED**

(Adopted by special resolution passed on 22nd December 2020)

**INTRODUCTION**

**1 INTERPRETATION**

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

<b>Affiliate</b>	means, in relation to any undertaking, any subsidiary or holding company of that undertaking, or any subsidiary of any holding company of the relevant undertaking;
<b>Appointor</b>	has the meaning given in article 13.1;
<b>Articles</b>	the Company's articles of association for the time being in force;
<b>Business Day</b>	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
<b>CA 2006</b>	the Companies Act 2006;
<b>Commencement Date</b>	means the date on which these Articles are adopted;
<b>Compulsory Transfer Event</b>	has the meaning given to it in Article 17.1;
<b>Conflict Authorisation</b>	has the meaning given to it in Article 11.2 ( <i>Directors' Conflicts of Interest</i> );
<b>Conflict Authorisation Terms</b>	has the meaning given to it in Article 11.5 ( <i>Directors' Conflicts of Interest</i> );
<b>Conflict Situation</b>	has the meaning given to it in Article 11.2 ( <i>Directors' Conflicts of Interest</i> );
<b>Counterparty</b>	has the meaning given to it in Article 11.6.1 ( <i>Directors' Conflicts of Interest</i> );
<b>Default Transfer Notice</b>	has the meaning given to it in Article 17.2;
<b>Defaulting Shareholder</b>	has the meaning give to it in Article 17.1;

<b>Director</b>	means a director of the Company from time to time;
<b>DOTAS</b>	means the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HM Revenue & Customs, and or any relevant tax authority with jurisdiction in Wales of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992;
<b>Eligible Director</b>	any Director who would be entitled to vote on the matter at a meeting of directors (but excluding any Director whose vote is not to be counted in respect of the particular matter) or his/her Alternate;
<b>General Anti-Abuse Rule</b>	means: <ul style="list-style-type: none"> <li>(a) the legislation in Part 5 of the Finance Act 2013; and</li> <li>(b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;</li> </ul>
<b>Group</b>	means the Company and each of its subsidiaries from time to time and <b>Group Member</b> means any one of them;
<b>Halifax Abuse Principle</b>	means the principle explained in the CJEU Case C-255/02 Halifax and others;
<b>holding company</b>	has the meaning given in article 1.5;
<b>Material Breach</b>	means any material breach of the Shareholders' Agreement and includes a series of persistent breaches which cumulatively constitute a material breach of the Shareholders' Agreement;
<b>Model Articles</b>	the model articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the date of adoption of these Articles and

reference to a numbered Model Article is a reference to that article of the Model Articles;

**Non-Defaulting Shareholder**

has the meaning given to it in Article 17.2;

**Permitted Transferee**

has the meaning given to it in Article 16.1;

**Project Documents**

means the Shareholders' Agreement and any other project documents referred to as Project Document in the Shareholders' Agreement;

**Project Document Conflict Authorisation**

has the meaning given to it in Article 11.6.1 (*Directors' Conflicts of Interest*);

**Project Document Conflict Authorisation Terms**

has the meaning given to it in Article 11.7 (*Directors' Conflicts of Interest*);

**Relevant Director**

has the meaning given to it in Article 11.2 (*Directors' Conflicts of Interest*);

**Relevant Tax Authority**

means HM Revenue & Customs, or, if applicable, a tax authority in the jurisdiction in which the Company or, as the case may be, the relevant person is established;

**Restricted Person**

means either:

(a) any person who has a material interest in the manufacture, production, sale or distribution of pornography, or arms and weapons or the production of tobacco products and/or alcoholic beverages;

(b) a person who poses, or could pose (in the reasonable opinion of TfW) a threat to national security;

(c) any person whose tax returns submitted on or after 1 October 2012 have been found to be incorrect as a result of:

(i) HM Revenue and Customs successfully challenging it under the General Anti-Abuse Rule or the Halifax Abuse Principle;

(ii) the Relevant Tax Authority challenging it under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; and/or

(iii) the failure of an avoidance scheme which the person was involved in and which was, or should have been, notified under the DOTAS or any equivalent or

similar regime in a jurisdiction in which the person is established;

**Sale Shares**

has the meaning given in article 17.2;

**Share(s)**

means a share in the capital of the Company;

**Shareholders**

means the parties to the Shareholders' Agreement (except for the Company) and such other persons who may become shareholders in the Company from time to time as permitted by the Shareholders' Agreement and these Articles, and Shareholder means any one (1) of them;

**Shareholders' Agreement**

means the shareholders' agreement entered into or to be entered into on or around the Commencement Date between the Company and the Shareholders (as defined therein) (as amended, varied, supplemented, extended, restated, novated and/or replaced from time to time);

**Shareholder Group**

means in relation to each Shareholder, the Shareholder and any Affiliate of that Shareholder from time to time, excluding each Group Member and references to member or members of a Shareholder Group shall be construed accordingly provided that in the case of TfW it shall also include:

(a) the Welsh Ministers or any agency, subsidiary, or other body wholly owned or controlled by the Welsh Ministers; and/or

(b) any public sector body, third sector body or quasi autonomous non-governmental organisation who assumes and/or undertakes (whether as successor or otherwise) some or all of the functions exercised by TfW or the Welsh Ministers;

**subsidiary**

has the meaning given in article 1.5;

**TfW**

Transport for Wales, a company incorporated and registered in England and Wales with number 09476013 whose registered office is at 3 Ilys Cadwyn, Pontypridd, Wales, CF37 4TH;

**writing and written**

means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

- 1.2 Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the CA 2006 shall have those meanings in these Articles but excluding any statutory modification of them not in force on the date when these Articles become binding on the Company.
- 1.3 Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles.
- 1.4 A reference in these Articles to an article is a reference to the relevant article of these Articles unless expressly provided otherwise.
- 1.5 A reference to a **subsidiary** shall have the meaning given in section 1159 of the CA 2006. A reference to a **holding company** shall have the meaning given in section 1159 of the CA 2006 provided that for the purpose of that section a company shall be deemed to be a member of another when its shares in the other company are registered in the name of another person either in connection with the taking of security or as a nominee.
- 1.6 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.
- 1.7 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, 20, 22, 26(5), 27 to 29 (inclusive), 36, 38, 39, 43, 44(2), 49 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 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(1)(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.
- 3.3 Meetings of the directors shall take place on a monthly basis.
- 3.4 All decisions made at any meeting of the directors or of any committee of the directors shall be made only by resolution and resolutions at any meeting of the directors or committee of the directors shall be decided by a majority of votes.
- 3.5 The provisions of article 7 shall apply equally to meetings of any committee of the directors as to meetings of the 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 in accordance with article 7.

### **5 NUMBER OF DIRECTORS**

- 5.1 The number of directors shall not be less than 6.
- 5.2 No shareholding qualification for directors shall be required.

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

- 6.1 Any director may call a meeting of directors by giving not less than ten Business Days' notice of the meeting (or such shorter period of notice as agreed in writing by at least one director nominated by each Shareholder) to each director or by authorising the Company secretary (if any) to give such notice.
- 6.2 Notice of any directors' meeting must be accompanied by:
  - 6.2.1 an agenda specifying in reasonable detail the matters to be raised at the meeting; and
  - 6.2.2 copies of any papers to be discussed at the meeting.

- 6.3 Matters not on the agenda, or business conducted in relation to those matters, may not be raised at a meeting of directors without the consent of at least one (1) Eligible Director appointed by each Shareholder.

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

- 7.1 The quorum at any meeting of directors (including adjourned meetings) shall not be less than four (4) Eligible Directors and shall include at least one (1) Director nominated by each Shareholder.
- 7.2 No business shall be conducted at any meeting of the directors unless a quorum is present at the beginning of the meeting and also when that business is voted on.
- 7.3 If a quorum is not present within 30 minutes of the time specified for the relevant meeting in the notice of the meeting or, if during that meeting, there is no longer a quorum, then the meeting shall be adjourned until the same day in the following week at the same time and at the same place. If a quorum is not present at any such adjourned meeting within 30 minutes of the time specified, then those Eligible Directors present will constitute a quorum.

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

The chairman shall be appointed by the directors. The chairman shall have a casting vote. If the chairman for the time being is unable to attend any meeting of the board of directors, the Shareholder who appointed him shall be entitled to appoint another of its nominated directors to act as chairman at the meeting.

## **9 DIRECTORS' INTERESTS AND CONFLICTS**

- 9.1 A Director shall not be counted as participating for quorum and voting purposes in a decision at a Board meeting to authorise a matter for the purposes of section 175 of the CA 2006 if, in accordance with section 175(6) of the CA 2006, the matter is such that the authorisation would only be effective if:
- 9.1.1 any requirement as to the quorum at the Board meeting at which the matter is considered is met without him/her counting; and
  - 9.1.2 the matter was agreed to without him/her voting or would have been agreed to if his/her vote had not been counted.
- 9.2 Provided that a Director has disclosed any interest he/she may have in accordance with the CA 2006, and any conflict or potential conflict has been authorised under the provisions of Article 11 (*Directors' Conflicts of Interest*), then that Director may, subject to these Articles, vote at a meeting of the Board or of a committee of Board on a resolution or participate in any unanimous decision concerning any matter in which he/she is interested, and (whether or not he/she votes or participates) he/she may be counted in the quorum when that resolution or matter is considered.
- 9.3 A Director shall be entitled to abstain from voting or to absent himself/herself from all or any part of any meeting in relation to any matter where he/she considers that to vote for or against a matter may put him/her in breach of his/her duties to the Company (whether at Law or by

reference to any code of conduct, good governance procedures or otherwise) and if he/she so abstains or absents himself/herself then he/she shall not be in breach of his/her duties as a Director under sections 172 to 174 of the CA 2006 in relation to the matter in question.

## **10 Declaration of Directors' Interests**

10.1 A Director who to his/her knowledge is in any way, whether directly or indirectly, interested in a transaction or arrangement or proposed transaction or arrangement with the Company shall declare the nature of his/her interest at a meeting of the Board in accordance with the CA 2006.

10.2 Subject to compliance with the CA 2006 (including sections 177 (*Duty to declare interest in proposed transaction or arrangement*) and 182 (*Declaration of interest in existing transaction or arrangement*) of the CA 2006), a Director may be a party to, or otherwise (directly or indirectly) interested in, any transaction or arrangement with the Company.

## **11 Directors' Conflicts of Interest**

11.1 For the purposes of this Article 11 (*Directors' Conflicts of Interest*), a conflict of interest includes a conflict of interest and duty and a conflict of duties.

11.2 For the purposes of section 175 of the CA 2006, the Directors shall have the power to authorise, on such terms (including as regards duration and revocation) and subject to such limits or conditions (if any) as they may determine (a **Conflict Authorisation**), any matter proposed to them which would, or might, if not so authorised, constitute or give rise to a situation in which a Director (a **Relevant Director**) has, or can have, a direct or indirect interest which conflicts, or possibly may conflict, with the interests of the Company (a **Conflict Situation**). Any Conflict Authorisation shall extend to any actual or possible conflict of interest which may reasonably be expected to arise out of the Conflict Situation so authorised.

11.3 Unless otherwise agreed between the Shareholders in writing and notwithstanding Article 7, the quorum for any meeting (or part of a meeting) of the Board whilst it is considering the grant, alteration or revocation of a Conflict Authorisation shall be at least one (1) Director appointed by each of Shareholder provided that where all the Directors appointed by one Shareholder are Relevant Directors, no Director appointed by that relevant Shareholder is required for a quorum to be formed and any two (2) Directors shall constitute a quorum provided that none of them are Relevant Directors. A Relevant Director shall not be counted in the quorum for such meeting.

11.4 Where Directors give a Conflict Authorisation:

11.4.1 the terms of the Conflict Authorisation shall be recorded in writing (but the authorisation shall be effective whether or not the terms are so recorded);

11.4.2 the Directors may revoke or vary such authorisation at any time but this shall not affect anything done by the Relevant Director prior to such revocation or variation in accordance with the terms of such authorisation; and

11.4.3 the Relevant Director shall be obliged to act in accordance with any terms, limits or conditions to which such Conflict Authorisation is made subject.

11.5 Any terms to which a Conflict Authorisation is made subject (**Conflict Authorisation Terms**) may include (without limitation to Article 11.2 (*Directors' Conflicts of Interest*)) provision that:

11.5.1 where the Relevant Director obtains (other than in his/her capacity as a Director of the Company or as its employee or agent or, if the Directors so decide, in any other capacity that would otherwise oblige him/her/it to disclose it to the Company) information that is confidential to a third party, he/she shall not be obliged to disclose it to the Company or to use it directly or indirectly for the benefit of the Company or in performing his/her duties as a Director of the Company in circumstances where to do so would amount to a breach of a duty of confidence owed to that third party;

11.5.2 the Relevant Director may (but shall be under no obligation to) absent himself/herself from the discussion of, and/or the making of decisions relating to, the relevant matter (whether at any meeting of the Board or otherwise) and be excused from reviewing documents and information prepared by or for the Board to the extent that they relate to that matter; and

11.5.3 the Relevant Director be excluded from the receipt of documents and information, the participation in discussion and/or the making of decisions (whether at Directors' meetings or otherwise) related to the relevant matter,

and anything done (or omitted to be done) by the Relevant Director in accordance with any such provision (or otherwise in accordance with any Conflict Authorisation Terms given under this Article 11.5 (*Directors' Conflicts of Interest*)) shall not constitute a breach by him/her of his/her duties under sections 172 to 174 of the CA 2006.

11.6 Subject to this Article 11.6 (*Directors' Conflicts of Interest*) but without prejudice to Article 11.2 (*Directors' Conflicts of Interest*) and 11.3 (*Directors' Conflicts of Interest*) (inclusive), authorisation is given by the Shareholders for the time being on the terms of the Shareholders' Agreement to each Director in respect of any Conflict Situation that exists as at the Commencement Date or that subsequently arises where (in either case):

11.6.1 the Director is an employee or director of, or shareholder or member with a substantial interest in, a counterparty to a Project Document with the Company (**Counterparty**);

11.6.2 the Director has been appointed as a director of the Company on the nomination of the Counterparty; or

11.6.3 the Director is an employee, director, appointee of, or member with a substantial interest in, a body (i) which holds a substantial interest in the Counterparty; or (ii) in which the Counterparty has a substantial interest; or (iii) which is an Affiliate of the Counterparty,

and on the basis that a **substantial interest** shall be taken to be an interest which confers an entitlement to twenty per cent (20%) or more of the voting rights at general meetings of the relevant body or twenty per cent (20%) or more of the distributable profits of the relevant body (**Project Document Conflict Authorisation**).

11.7 The Conflict Authorisation Terms applicable to the Project Document Conflict Authorisation (**Project Document Conflict Authorisation Terms**) are automatically set by this Article 11.7 (*Directors' Conflicts of Interest*) so that the Director concerned:

11.7.1 is not obliged to disclose to the Company information that is confidential to a third party obtained by him/her (other than in his/her capacity as a Director of the Company or as its employee or agent or, if the Directors so decide, in any other capacity that would otherwise oblige him/her to disclose it to the Company) in any situation to which the Project Document Conflict Authorisation applies, nor to use any such information directly or indirectly for the benefit of the Company or in performing his/her duties as a Director of the Company, in circumstances where to do so would amount to a breach of a duty of confidence owed to that third party; or

11.7.2 may (but shall be under no obligation to):

- (a) absent himself/herself from the discussions of, and/or the making of decisions; and/or
- (b) make arrangements not to receive documents and information,

relating to the Conflict Situation concerned,

and the Company shall not treat anything done (or omitted to be done) by the Director concerned in accordance with the Project Document Conflict Authorisation Terms as a breach by him/her of his/her duties under sections 172 to 174 of the CA 2006.

11.8 Any Director shall be entitled from time to time to disclose to the Shareholder responsible for his/her appointment such information concerning the business and affairs of the Company as he/she shall at his/her discretion see fit.

## 12 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.

## 13 ALTERNATE DIRECTORS

13.1 Any Director (other than an alternate director) (the **Appointor**) may appoint any person (whether or not a director) to be an alternate director to exercise the Appointor's powers, and carry out the Appointor's responsibilities, in relation to the taking of decisions by the Directors, in the absence of the Appointor. In these Articles, where the context so permits, the term "Director" shall include an alternate director appointed by a Director pursuant to this Article.

13.2 Any appointment or removal of an alternate director must be effected by notice in writing to the Company (and to the alternate, on removal) signed by the Appointor, or in any other manner approved by the Directors.

13.3 The notice must:

13.3.1 identify the proposed alternate; and

- 13.3.2 in the case of a notice of appointment, contain a statement signed by the proposed alternate that he is willing to act as the alternate of the Director giving the notice.
- 13.4 An alternate director has the same rights, in relation to any decision of the Directors, as the alternate's Appointor.
- 13.5 Except as the Articles specify otherwise, alternate directors:
  - 13.5.1 are deemed for all purposes to be Directors;
  - 13.5.2 are liable for their own acts and omissions;
  - 13.5.3 are subject to the same restrictions as their Appointors; and
  - 13.5.4 are not deemed to be agents of or for their Appointors,and, in particular (without limitation), each alternate director shall be entitled to receive notice of all meetings of Directors and of all meetings of committees of Directors of which his Appointor is a member.
- 13.6 A person who is an alternate director but not a Director may, subject to him being an Eligible Director:
  - 13.6.1 be counted as participating for the purposes of determining whether a quorum is present at a meeting of directors (but only if that person's Appointor is an Eligible Director and is not participating); and
  - 13.6.2 participate in a unanimous decision of the directors (but only if his Appointor is an Eligible Director in relation to that decision, and does not himself participate).
- 13.7 A Director who is also an alternate director is entitled, in the absence of his Appointor(s), to a separate vote on behalf of each Appointor (provided that an Appointor is an Eligible Director in relation to that decision), in addition to his own vote on any decision of the directors.
- 13.8 An alternate director may be indemnified by the Company to the same extent as if he were a Director but shall not be entitled to receive from the Company any remuneration in his capacity as an alternate director.
- 13.9 An alternate director's appointment as an alternate (in respect of a particular Appointor) terminates:
  - 13.9.1 when the alternate's Appointor revokes the appointment by notice to the Company and the alternate in writing specifying when it is to terminate; or
  - 13.9.2 on the occurrence, in relation to the alternate, of any event which, if it occurred in relation to the alternate's Appointor, would result in the termination of the Appointor's appointment as a Director; or
  - 13.9.3 when the alternate director's Appointor ceases to be a Director for whatever reason.

## SHARES

### 14 SHARE CAPITAL

- 14.1 The Directors shall have power to allot shares in accordance with section 550 of the CA 2006.
- 14.2 In accordance with section 567(1) of the CA 2006, sections 561 and 562 of the CA 2006 shall not apply to an allotment of equity securities (as defined in section 560(1) of the CA 2006) made by the company.

### 15 SHARE TRANSFER RESTRICTIONS

- 15.1 In these Articles, a reference to the transfer of a Share shall mean either or both:
- 15.1.1 the transfer of either or both of the legal and beneficial ownership in the Share; and
  - 15.1.2 the grant of an option to acquire either or both of the legal and beneficial ownership in the Share.
- 15.2 The following shall be deemed, without limitation, to be a transfer of a Share:
- 15.2.1 any sale or other disposition of any legal or equitable interest in a Share (including any voting right attached thereto) and whether or not by the registered holder thereof and whether or not for consideration or otherwise and whether or not effected by an instrument in writing;
  - 15.2.2 any direction (by way of renunciation or otherwise) by a Shareholder entitled to an allotment or issue of any Share that such Share be allotted or issued to some person other than itself; and
  - 15.2.3 any grant of a legal or equitable mortgage or charge over any Share.
- 15.3 Notwithstanding any other provision of these Articles, no Shareholder will transfer or dispose of any Share or any interest in any Share without the prior written consent of the other Shareholder or unless in accordance with any shareholders' agreement or similar document in force between the Shareholders, save solely for transfers permitted or required under Article 16.
- 15.4 The Company shall procure that each share certificate issued by it will carry the following statement:
- "Any disposition, transfer, charge of or dealing in any other manner in the securities represented by this certificate is restricted by the Articles of Association of TFW Innovation Services Limited and by a Shareholders' Agreement dated [to be inserted] and made between the Shareholders (as defined therein) and TFW Innovation Services Limited".*
- 15.5 A Shareholder may not transfer any Share to any person who is, at the time of transfer, a Restricted Person.
- 15.6 Subject to Article 15.7, the directors shall be obliged to register any duly stamped transfer made in accordance with these Articles or any agreement between the Shareholders in force

from time to time, but any transfer or purported transfer of any Shares made otherwise than in accordance with these Articles or any agreement between the Shareholders in force from time to time shall be void and of no effect and the directors shall refuse to register that transfer.

- 15.7 The directors may, as a condition to the registration of any transfer of Shares, require the transferee to execute and deliver to the Company a deed agreeing 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 (provided that the transferee's obligations or liabilities thereunder are not greater than those of the proposed transferor). If any such condition is imposed, the transfer may not be registered unless that deed has been executed and delivered to the Company's registered office by the transferee.
- 15.8 The Directors may at any time require any Shareholder to provide the Company with such information and evidence relating to the Shares registered in its name as such Directors may reasonably require to determine whether there has been a transfer of any such Shares in breach of these Articles. If such information or evidence is not provided to the Board to the reasonable satisfaction of such directors within thirty days of the request being made, such directors may refuse to register the transfer in question.

## **16 PERMITTED SHARE TRANSFERS**

- 16.1 Any Shareholder (the **Transferor**) may at any time transfer all (but not some only) of its Shares to any member of its Shareholder Group (the **Permitted Transferee**). If the Permitted Transferee is to cease to be a member of the Transferor's Shareholder Group at any time, the Permitted Transferee shall immediately prior to the time at which it ceases to be a member of its Shareholder Group transfer all such Shares back to the Transferor or to another member of the same Shareholder Group as the Transferor (which in either case is not in liquidation). If the Permitted Transferee fails to effect such transfer before it ceases to be a member of such Shareholder Group, the Company may execute a transfer of the relevant Shares on behalf of the Permitted Transferee and register the Transferor as the holder of such Shares.

## **17 COMPULSORY TRANSFERS**

- 17.1 A Compulsory Transfer Event shall be deemed to have occurred in relation to KAJV (or any Affiliate of KAJV which has acquired Shares and acceded to the Shareholders' Agreement) (the **Defaulting Shareholder**), if that Defaulting Shareholder:
- 17.1.1 commits a material breach of the Shareholders' Agreement to which it is a party and fails to remedy such breach (if capable of remedy) within 20 Business Days of being given written notice by the other Shareholder or the Company to do so (or within such longer period as may be specified in such note);
  - 17.1.2 or any permitted transferee of it, disposes of, or attempts to dispose of, any Shares or any interests in Shares without the consent of the other Shareholder other than as permitted by the Shareholders' Agreement or by these Articles which cannot be effectively remedied or which the Defaulting Shareholder fails effectively to remedy within 20 Business Days from the receipt of a written notice by the other Shareholder or the Company specifying the breach and requiring remedy (or within such longer period as may be specified in such notice);



- 17.1.3 has an order made against it by a court of competent jurisdiction, or a resolution is passed, for its liquidation or administration or a notice of appointment of an administrator is filed with a court of competent jurisdiction which has not been withdrawn within ten Business Days of such filing or which cannot reasonably be shown to be frivolous or vexatious (otherwise than, in any case, in the course of a reorganisation or restructuring previously approved in writing by the other Shareholders (such consent not to be unreasonably withheld)); or
  - 17.1.4 has a liquidator, manager, receiver, administrative receiver, administrator, trustee or other similar officer in respect of it or any of its assets (which include either: (i) the Shares held by it; or (ii) shares or other securities in it), appointed (otherwise than, in any case, in the course of a reorganisation or restructuring previously approved in writing by the other Shareholders (such consent not to be unreasonably withheld)); or
  - 17.1.5 convenes a meeting of its creditors or makes or proposes any arrangement, compromise or composition with, or any assignment for the benefit of, its creditors (otherwise than, in any case, in the course of a reorganisation or restructuring previously approved in writing by the other Shareholders (such consent not to be unreasonably withheld)); or
  - 17.1.6 is, for the purposes of section 123 of the Insolvency Act 1986, deemed to be unable to pay its debts (on the basis that the words "proved to the satisfaction of the court" are deemed to be omitted from sections 123(1)(e) and 123(2) of that act); or
  - 17.1.7 has moratorium declared or take effect in respect of any of its indebtedness; or
  - 17.1.8 is dissolved or a reorganisation of the relevant party occurs (whether by way of voluntary arrangement, scheme of arrangement or otherwise).
- 17.2 If a Compulsory Transfer Event occurs in relation to a Defaulting Shareholder, then that Defaulting Shareholder shall be deemed to have given the Company and the Shareholder who is not a Defaulting Shareholder (**the Non-Defaulting Shareholder**) irrevocable notice (a **Default Transfer Notice**) offering to transfer all of the Shares held by it (**Sale Shares**) to the Non-Defaulting Shareholder in accordance with Article 17.3.
- 17.3 The Non-Defaulting Shareholder shall be entitled, within 20 Business Days of receipt of the Default Transfer Notice, to accept the offer of the Sale Shares comprised in the Default Transfer Notice at a price per Sale Share equal to its nominal value, at which time the Defaulting Shareholder will be bound to sell and the Non-Defaulting Shareholder will be bound to buy all of the Sale Shares on such terms.
- 17.4 If the Defaulting Shareholder defaults in transferring any of the Sale Shares pursuant to this Article 17, the Company:
- 17.4.1 may receive the relevant purchase money;
  - 17.4.2 may nominate some person to execute an instrument of transfer of the Sale Shares in the name of, and on behalf of, the Defaulting Shareholder;

- 17.4.3 shall cause the name of the Non-Defaulting Shareholder to be entered in the register of members as the holder of such Sale Shares when the instrument of transfer has been duly stamped (if required); and
- 17.4.4 shall hold the purchase money on trust (without interest) for the Defaulting Shareholder, the receipt of the Company for the purchase money being a good discharge to the Non-Defaulting Shareholder (who shall not be bound to see to the application of the purchase money).

## **DECISION MAKING BY SHAREHOLDERS**

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

- 18.1 The quorum at any general meeting of the Company, or adjourned general meeting, shall be each Shareholder (together with any Affiliate) holding at least 25% of the Shares (present in person, by corporate representative or proxy).
- 18.2 If the quorum is not present within 30 minutes of the time when the meeting should have begun or, if during that meeting, there is no longer a quorum, the meeting shall be adjourned for until the same day in the following week at the same time and at the same place at which adjourned meeting the Shareholders present shall constitute a quorum.
- 18.3 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 shareholder who appointed him shall be entitled to appoint another of its nominated directors 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**

- 20.1 The voting rights attached to Shares shall be:
  - 20.1.1 on a written resolution, every Shareholder holding one or more Shares shall have one vote for each Share held by it; and
  - 20.1.2 on a resolution to be passed at a general meeting of the Company, every Shareholder present in person or by proxy or by a representative shall have:
    - (a) on a show of hands, one vote each; and
    - (b) on a poll, one vote for each Share of which it 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 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.

## **22 PROXIES**

- 22.1 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 general meeting (or adjourned meeting) to which they relate".
- 22.2 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" 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:
- 23.1.1 if delivered by hand, on signature of a delivery receipt; or
  - 23.1.2 if sent by pre-paid United Kingdom first class post or another next working day delivery service providing proof of postage to an address in the United Kingdom, at 9.00 am on the second Business Day after posting; or
  - 23.1.3 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
  - 23.1.4 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
  - 23.1.5 if sent or supplied by email, at the time of transmission; or
  - 23.1.6 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
  - 23.1.7 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:
- 23.2.1 if delivered by hand or by reputable international overnight courier, the notice was delivered to the correct address; or

- 23.2.2 if sent by post or by airmail, the envelope containing the notice was properly addressed, paid for and posted; or
- 23.2.3 if sent by email, the notice was properly addressed and sent to the email address of the recipient.
- 23.3 Any notice, document or other information served on, or delivered to, an intended recipient under article 15.8, article 16 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.
- 23.4 In proving that any notice, document or information was properly addressed, it will suffice to show that the notice, document or information was addressed to an address permitted for the purpose by the CA 2006.
- 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:
- 24.1.1 each relevant officer of the Company shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer:
- (a) in the actual or purported execution and/or discharge of his duties, or in relation to them; and
  - (b) in relation to the Company's activities as a trustee of an occupational pension scheme (as defined in section 235(6) of the CA 2006),
- including (in each case) any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him, in his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the Company's affairs; and
- 24.1.2 the Company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in article 24.1.1 and otherwise may take action to enable any such relevant officer to avoid incurring such expenditure.
- 24.2 This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the CA 2006 or by any other provision of law.
- 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:

- 24.4.1 a "relevant officer " means any director or other officer or former director or other officer of the Company but excluding in each case any person engaged by the Company as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor; and
- 24.4.2 a "relevant loss" means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the Company or any pension fund of the Company