

COMPANIES ACT 2006  
WRITTEN RESOLUTION

of

THE TOWN HOUSE COMPANY LIMITED

Company number: SC118669

(the "Company")

Circulation date: 23 March 2015

Pursuant to section 291 of the Companies Act 2006, the directors of the Company propose that the resolutions set out below are to be passed by the members of the Company.

We, the undersigned being the holder of the entire issued share capital of the Company hereby agree, pursuant to section 283 of the Companies Act 2006, that the following resolutions be passed as special resolutions, being for all purposes as valid and effective as if passed by us as special resolutions at a general meeting duly convened and held by the Company:

**Special Resolutions**

1. THAT the terms of, and the transaction contemplated by, the documents listed in the Annexure to this written resolution (the "**Documents**") and their execution (whether as a deed or under hand), delivery and performance by the Company be and are hereby approved (subject to such changes being made to the Documents as any director of the Company may, in his absolute discretion, think fit).
2. THAT the directors have authority to approve the terms of, and the transactions contemplated by, the Facility Agreement (as defined in the Annexure), and any related Document.
3. THAT the entry by the Company into the proposed transactions substantially on the terms set out in the Facility Agreement (including giving the guarantee and security) is in the best interests of the Company's business and will promote the success of the Company for the benefit of its members as a whole.
4. THAT the draft articles of association, attached to these resolutions, be adopted as the new articles of association of the Company in substitution for, and to the exclusion of, any existing articles of association of the Company.

Authorised signatory

For and on behalf of HSDL Nominees Limited

27281

*Mark Robinson* *Liam Molloy*

Full Name

Date: 25 March 2015

WEDNESDAY



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08/04/2015  
COMPANIES HOUSE  
#113

Notes to members:

1. If you agree with the above resolution, please indicate your agreement by signing and dating this document where indicated above and returning it to the Company:
  - (a) by delivering it by hand or by posting it to Ten Bishops Square, Eighth Floor, London E1 6EG, marked "For the attention of Usman Khan";
  - (b) by faxing it to 020 3023 5438 marked "For the attention of Usman Khan"; or
  - (c) by attaching a scanned copy to an email and sending it to [usmankhan@paulhastings.com](mailto:usmankhan@paulhastings.com).
2. A member's agreement to a written resolution, once signified, may not be revoked.
3. A written resolution is passed when the required majority of eligible members have signified their agreement to it.
4. The resolution set out above must be passed before the end of the 28th day following the circulation of this resolution otherwise it will lapse.
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.

## ANNEXURE

1. a facility agreement between, amongst others, Siena Bidco Limited as borrower, the Company as guarantor and Wells Fargo Bank, N.A., London Branch as agent and security agent (the "Bank") (the "Facility Agreement");
2. an English law governed subordination agreement between, amongst others, the Company and the Bank;
3. an English law governed BACs intercreditor agreement between, amongst others, the Company and the Bank;
4. an English law governed security agreement between, amongst others, the Company and the Bank;
5. a standard security to be granted by the Company in favour of the Bank;
6. a Scots law floating charge to be granted by the Company in favour of the Bank;
7. two deeds of release to be entered into between the Company and Bank of Scotland plc ("BoS") in relation to the release of the Company's existing indebtedness and security by BoS;
8. a formalities certificate confirming that, among other things, borrowing or guaranteeing or securing the total commitments would not cause any borrowing, guarantee, security or similar limit binding on the Company to be exceeded; and
9. any documents, deeds, instruments, agreements, powers of attorney, notices, requests (including any utilisation request), acknowledgements, memoranda, statements or certificates as may be ancillary, necessary, desirable, required or requested in connection with any Document.

**THE COMPANIES ACTS 1985 TO 1989**  
**PRIVATE COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION**  
**of**  
**THE TOWN HOUSE COMPANY LIMITED**  
**("the Company")**

**PRELIMINARY**

1. (a) The Regulations contained in Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 as amended by the Companies (Tables A to F)(Amendment) Regulations 1985 (such Table being hereinafter called "Table A") shall apply to the Company save in so far as they are excluded or varied hereby and such Regulations (save as so excluded or varied) and the Articles hereinafter contained shall be the regulations of the Company.
- (b) In these Articles the expression "the Act" means the Companies Act 1985, but so that any reference in these Articles to any provision of the Act shall be deemed to include a reference to any statutory modification or re-enactment of that provision for the time being in force.
- (c) In these Articles, the following words shall have the following meaning:
 

"Articles"	shall mean these Articles of Association;
"Company"	shall mean The Town House Company Limited (Company No. SC 118669);
"Employee Member"	means a person holding Shares in the capital of the Company who is a Director and/or an employee of the Company or any of its Subsidiaries, but always excluding Peter James Taylor of Foxfield, 10 Cramond Road North, Edinburgh EH4 6HS ("Mr Taylor") and Mhairi Joan Taylor, also of Foxfield, 10 Cramond Road North, Edinburgh EH4 6HS ("Mrs Taylor") and any Privileged Relation of either Mr Taylor or Mrs Taylor;
"Family Trust"	in relation to a Trustee means a trust which does not permit any of the settled property or the income therefrom to be applied otherwise than for the benefit of: <ol style="list-style-type: none"> <li>(i) that Trustee and/or a Privileged Relation of that Trustee; or</li> <li>(ii) any charity or charities as default beneficiaries (meaning that such charity or charities have no immediate beneficial interest in any of the settled property or the income therefrom when the trust is created but may become so interested if there are no other beneficiaries from time to time except another such charity or charities);</li> </ol> and under which no power of control is capable of being exercised over the votes of any Shares which are the subject of the trust by any person other than the trustees or the Trustee or the Privileged Relations of the Trustee. For purposes of this definition, 'Settlor' includes a testator or an intestate in relation to a Family Trust arising respectively under a testamentary disposition or an

	intestacy of a deceased member;
"Privileged Relation"	in relation to a Member means the spouse or widow or widower of the Member and the Member's children and grandchildren (including step and adopted children and their issue) and step and adopted children of the Member's children;
"Shares"	means ordinary shares in the capital of the Company; and
"Subsidiary"	shall have the meaning given by Sections 736 and 736A of the Act, and "Subsidiaries" shall be construed accordingly.

## ALLOTMENT OF SHARES

2. (a) Shares which are comprised in the authorised share capital with which the Company is incorporated shall be under the control of the Directors who may (subject to Section 80 of the Act and to paragraph (d) below) allot, grant options over or otherwise dispose of the same, to such persons, on such terms and in such manner as they think fit.
- (b) All shares which are not comprised in the authorised share capital with which the Company is incorporated and which the Directors propose to issue shall first be offered to the Members in proportion as nearly as may be to the number of the existing shares held by them respectively unless the Company in General Meeting shall by Special Resolution otherwise direct. The offer shall be made by notice specifying the number of shares offered, and limiting a period (not being less than fourteen days) within which the offer, if not accepted, will be deemed to be declined. After the expiration of that period, those shares so deemed to be declined shall be offered in the proportion aforesaid to the persons who have, within the said period, accepted all the shares offered to them; such further offer shall be made in like terms in the same manner and limited by a like period as the original offer. Any shares not accepted pursuant to such offer or further offer as aforesaid or not capable of being offered as aforesaid except by way of fractions and any shares released from the provisions of this Article by any such Special Resolution as aforesaid shall be under the control of the Directors, who may allot, grant options over or otherwise dispose of the same to such persons, on such terms, and in such manner as they think fit, provided that, in the case of shares not accepted as aforesaid, such shares shall not be disposed of on terms which are more favourable to the subscribers therefor than the terms on which they were offered to the Members. The foregoing provisions of this paragraph (b) shall have effect subject to Section 80 of the Act.
- (c) In accordance with Section 91(1) of the Act Sections 89(1) and 90(1) to (6) (inclusive) of the Act shall not apply to the Company.
- (d) The Directors are generally and unconditionally authorised for the purposes of Section 80 of the Act, to exercise any power of the Company to allot and grant rights to subscribe for or convert securities into shares of the Company up to the amount of the authorised share capital with which the Company is incorporated at any time or times during the period of five years from the date of incorporation and the Directors may, after that period, allot any shares or grant any such rights under this authority in pursuance of an offer or agreement so to do made by the Company within that period. The authority hereby given may at any time (subject to the said Section 80) be renewed, revoked or varied by Ordinary Resolution of the Company in General Meeting.

## SHARES

3. The lien conferred by Clause 8 in Table A shall attach also to fully paid-up shares, and the Company shall also have a first and paramount lien on all shares, whether fully paid or not, standing registered in the name of any person indebted or under liability to the Company, whether he shall be the sole registered holder thereof or shall be one of two or more joint holders, for all moneys presently payable by him or his estate to the Company. Clause 8 in Table A shall be modified accordingly.

4. The liability of any Member in default in respect of a call shall be increased by the addition at the end of the first sentence of Clause 18 in Table A of the words "and all expenses that may have been incurred by the Company by reason of such non-payment".
- 4A. Notwithstanding anything contained in these Articles, no lien conferred by these Articles shall attach to shares whether fully paid or not charged by way of security to any bank, financial institution, trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets or any nominee of such bank, financial institution, trust, fund or other entity (any such entity a "**Financial Institution**") and the transfer is as contemplated by, or pursuant to, any mortgage or charge of shares or any call or other share option granted in favour of a Financial Institution on its own or through its agent or trustee (in each case a "**Secured Party**").

## **GENERAL MEETINGS AND RESOLUTIONS**

5. (a) A notice convening a General Meeting shall be required to specify the general nature of the business to be transacted only in the case of special business and Clause 38 in Table A shall be modified accordingly.  

All business shall be deemed special that is transacted at an Extraordinary General Meeting, and also all that is transacted at an Annual General Meeting, with the exception of declaring a dividend, the consideration of the accounts, balance sheets, and the reports of the Directors and Auditors, and the appointment of, and the fixing of the remuneration of, the Auditors.
- (b) Every notice convening a General Meeting shall comply with the provisions of Section 372(3) of the Act as to giving information to Members in regard to their right to appoint proxies; and notices of and other communications relating to any General Meeting which any Member is entitled to receive shall be sent to the Directors and to the Auditors for the time being of the Company.
6. (a) Clause 40 in Table A shall be read and construed as if the words "at the time when the Meeting proceeds to business" were added at the end of the first sentence.
- (b) If a quorum is not present within half an hour from the time appointed for a General Meeting the General Meeting shall stand adjourned to the same day in the next week at the same time and place or to such other day and at such other time and place as the Directors may determine; and if at the adjourned General Meeting a quorum is not present within half an hour from the time appointed therefor such adjourned General Meeting shall be dissolved.
- (c) Clause 41 in Table A shall not apply to the Company.

## **APPOINTMENT OF DIRECTORS**

7. (a) Clause 64 in Table A shall not apply to the Company.
- (b) The maximum number and minimum number respectively of the Directors may be determined from time to time by Ordinary Resolution in General Meeting of the Company. Subject to and in default of any such determination there shall be no maximum number of Directors and the minimum number of Directors shall be one. Whensoever the minimum number of the Directors shall be one, a sole Director shall have authority to exercise all the powers and discretions by Table A and by these Articles expressed to be vested in the Directors generally, and Clause 89 in Table A shall be modified accordingly.
- (c) The Directors shall not be required to retire by rotation and Clauses 73 to 80 (inclusive) in Table A shall not apply to the Company.
- (d) No person shall be appointed a Director at any General Meeting unless either:
  - (i) he is recommended by the Directors; or
  - (ii) not less than fourteen nor more than thirty-five clear days before the date appointed for the General Meeting, notice executed by a Member qualified to vote at the General Meeting has been given to the Company of the intention to

propose that person for appointment, together with notice executed by that person of his willingness to be appointed.

- (e) Subject to paragraph (d) above, the Company may by Ordinary Resolution in General Meeting appoint any person who is willing to act to be a Director, either to fill a vacancy or as an additional Director.
- (f) The Directors may appoint a person who is willing to act to be a Director, either to fill a vacancy or as an additional Director, provided that the appointment does not cause the number of Directors to exceed any number determined in accordance with paragraph (b) above as the maximum number of Directors and for the time being in force.

### **BORROWING POWERS**

- 8. The Directors may exercise all the powers of the Company to borrow money without limit as to amount and upon such terms and in such manner as they think fit, and subject (in the case of any security convertible into shares) to Section 80 of the Act to grant any mortgage, charge or standard security over its undertaking, property and uncalled capital, or any part thereof, and to issue debentures, debenture stock, and other securities whether outright or as security for any debt, liability or obligation of the Company or of any third party.

### **ALTERNATE DIRECTORS**

- 9. (a) An alternate Director shall not be entitled as such to receive any remuneration from the Company, save that he may be paid by the Company such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company from time to time direct, and the first sentence of Clause 66 in Table A shall be modified accordingly.
- (b) A Director, or any such other person as is mentioned in Clause 65 in Table A, may act as an alternate Director to represent more than one Director, and an alternate Director shall be entitled at any meeting of the Directors or of any committee of the Directors to one vote for every Director whom he represents in addition to his own vote (if any) as a Director, but he shall count as only one for the purpose of determining whether a quorum is present.

### **DISQUALIFICATION OF DIRECTORS**

- 10. The office of a Director shall be vacated if he becomes incapable by reason of illness or injury of managing and administering his property and affairs, and Clause 81 in Table A shall be modified accordingly.

### **GRATUITIES AND PENSIONS**

- 11. (a) The Directors may exercise the powers of the Company conferred by Clause 3(t) of the Memorandum of Association of the Company and shall be entitled to retain any benefits received by them or any of them by reason of the exercise of any such powers.
- (b) Clause 87 in Table A shall not apply to the Company.

### **PROCEEDINGS OF DIRECTORS**

- 12. (a) A Director may vote, at any meeting of the Directors or of any committee of the Directors, on any resolution, notwithstanding that it in any way concerns or relates to a matter in which he has, directly or indirectly, any kind of interest whatsoever, and if he shall vote on any such resolution as aforesaid his vote shall be counted; and in relation to any such resolution as aforesaid he shall (whether or not he shall vote on the same) be taken into account in calculating the quorum present at the meeting.
- 13. (a) Every Director or other officer of the Company shall be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the execution of the duties of his office or otherwise in relation thereto, including any liability incurred by him in defending any proceedings, whether civil or criminal, in which

judgment is given in his favour or in which he is acquitted or in connection with any application under Section 144 or Section 727 of the Act in which relief is granted to him by the Court, and no Director or other officer shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in the execution of the duties of his office or in relation thereto. But this Article shall only have effect in so far as its provisions are not avoided by Section 310 of the Act.

- (b) Clause 118 in Table A shall not apply to the Company.

## **TRANSFER OF SHARES**

14. (a) The Directors shall refuse to register any transfer of Shares made in contravention of the provisions of these Articles but (subject to Regulation 24 of Table A) shall not otherwise be entitled to refuse to register any transfer of Shares. For the purpose of ensuring that a particular transfer of Shares is permitted under the provisions of these Articles, the Directors may request the transferor, or the person named as transferee in any transfer lodged for registration, to furnish the Company with such information and evidence as the Directors may reasonably think necessary or relevant. Failing such information or evidence being furnished to the satisfaction of the Directors within a period of 28 days after such request the Directors shall be entitled to refuse to register the transfer in question.
- (b) No Member shall dispose of any interest in, or right attaching to, or renounce or assign any right to receive or subscribe for any Share (save as may be required in pursuance of his obligations under these Articles) or create or permit to exist any charge, lien, encumbrance or trust over any Share or agree (whether subject to any condition precedent, condition subsequent or otherwise) to do any of such things except in accordance with these Articles.
- (c) Notwithstanding anything else contained in these Articles no Share shall be issued or transferred to any infant, bankrupt or person of unsound mind.
- (d) Notwithstanding anything otherwise provided in these Articles (whether by way of or in relation to pre-emption rights, restrictions on, or conditions applicable to, share transfers, or otherwise), Article 16 (Pre-emption rights) will not apply and the directors of the Company shall not decline to register any transfer of shares nor suspend registration thereof:
- (i) where such transfer is in favour of a Secured Party; or
  - (ii) where such transfers is delivered to a company or other entity at the direction of a Financial Institution and/or any administrative receiver, administrator, receiver or receiver and manager or similar entity (a "Receiver") pursuant to powers granted to it under the security;
  - (iii) where such transfer is delivered to the Company for registration by or on behalf of a Secured Party or its nominee in order to register the Secured Party as legal owner of the shares or in order to transfer the shares to a third party upon disposal or realisation of shares following the Secured Party having become entitled to exercise or enforce its rights under any such mortgage, charge and/or call or other option; or
  - (iv) where such transfer is executed by a Secured Party or its nominee or a Receiver pursuant to the power of sale or the power under such security,
- and a certificate by any officer of the Secured Party that the relevant transfer is within paragraph (i), (ii), (iii) or (iv) above shall be conclusive evidence of that fact.

## **PERMITTED AND MANDATORY TRANSFERS**

### ***Permitted Transfers***

#### **Permitted transfers to relations and Family Trusts**



15. (a) Notwithstanding any other provision in these Articles any Member may at any time transfer (or by will bequeath or otherwise dispose of on death) all or any Shares held by him to a Privileged Relation or to trustees to be held upon a Family Trust of which he is the Settlor provided that any transfer of Shares to trustees to be held upon a Family Trust made during the lifetime of such Member may only be made with the consent in writing of the holders of 75% of the Shares.

**Criteria for consents to Family Trusts**

- (b) Where the consent of a holder of the Shares is requested to a transfer to a Family Trust such consent shall be given when the holder is satisfied:-
- (i) with the terms of the trust instrument and in particular with the powers of the trustees;
  - (ii) with the identity of the proposed trustees;
  - (iii) that the proposed transfer will not result in 50% or more in the aggregate of the Company's share capital being held by trustees of that and any other trusts; and
  - (iv) that no costs incurred in connection with the setting up or administration of the Family Trust in question are to be paid by the Company.

**Permitted transfers by Family Trusts**

- (c) Where any Shares are held by trustees upon a Family Trust:-
- (i) on any change of trustees such Shares may be transferred to the new trustees of that Family Trust;
  - (ii) such Shares may be transferred at any time to the Settlor or to another Family Trust of which he is the Truster or to any Privileged Relation of the Truster.
- and any such transfer shall be registered by the Directors.

**Permitted transfers with shareholder approval**

- (d) Notwithstanding any other provisions of these Articles any transfer of Shares approved by the holders of 75% of the Shares may be made without restriction as to price or otherwise and any such transfer shall be registered by the Directors.
- (e) If a Member at any time attempts to deal with or dispose of any Shares or any interest therein or right attaching thereto otherwise than as permitted by these Articles, a notice from the Member desiring to transfer such Shares shall be deemed to have been given (hereinafter referred to as a "Deemed Transfer Notice") immediately prior to such attempt in respect of:-
- (i) all Shares then held by the Member; and
  - (ii) all Shares then held by his Privileged Relations and/or Family Trusts at the time of such attempt to deal with or dispose of any Shares (other than Shares which the Directors are satisfied were not acquired by such holders either directly or indirectly from the Member or by reason of their connection with the Member, and the decision of the board of Directors in this respect will be final).

**Mandatory Transfers**

**Mandatory transfer if trust ceases to be a 'Family Trust'**

- (f) If and whenever any Shares held by trustees upon a Family Trust cease to be so held upon a Family Trust (otherwise than in consequence of a transfer to the Truster or to any Privileged Relation of the Truster) or there cease to be any beneficiaries of the Family Trust other than a charity or charities a Deemed Transfer Notice shall be deemed to have been given in respect of the relevant Shares (as hereinafter defined) by the holders thereof and such Shares may not otherwise be transferred.

For the purposes of this Sub-Article the expression 'relevant Shares' means and includes the Shares originally transferred to the trustees and any additional Shares

issued or transferred to the trustees by virtue of the holding of the relevant Shares or any of them."

**Mandatory transfer on cessation of employment**

- (g) If any person holding Shares in the capital of the Company and being an Employee Member ceases to be an employee or Director of the Company or its Subsidiaries (other than by reason of death) and does not forthwith become or continue to be an employee or Director of any of the Company or its Subsidiaries a Deemed Transfer Notice shall be deemed to have been served forthwith upon such cessation (unless otherwise agreed by the Board of Directors of the Company) in respect of:-
- (i) all Shares then held by the Employee Member; and
  - (ii) all Shares then held by his Privileged Relations and/or Family Trusts at the time of such cessation (other than Shares which the Directors are satisfied were not acquired by such holders either directly or indirectly from the Employee Member or by reason of their connection with the Employee Member, and the decision of the board of Directors in this respect will be final).

**Mandatory transfer on death, Insolvency etc. of a Member**

- (h) In this paragraph a "Relevant Event" means
- (i) in relation to a Member being an individual:-
    - (1) such Member being apparently insolvent; or
    - (2) such Member dying; or
    - (3) the happening of any such event as is referred to in paragraph (c) of Regulation 81;
    - (4) a Member becoming bankrupt or making any voluntary arrangement or composition with his creditors;
  - (ii) in relation to a Member being a body corporate:-
    - (1) Receiver, Manager, Administrative Receiver or Administrator being appointed of such member or over all or any part of its undertaking or assets; or
    - (2) such Member entering into liquidation (other than a voluntary liquidation for the purpose of a bona fide scheme of solvent amalgamation or reconstruction); or
    - (3) such Member ceasing to be controlled (as defined by Section 840 of the Income and Corporation Taxes Act 1988) by the person(s) who controlled such Member on the date on which it became a Member of the Company or on the date of adoption of these Articles (whichever shall be the later) other than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction, including the creation of a new holding company in respect of the Member's group of companies.
- (i) Upon the happening of any Relevant Event the Member in question shall be deemed to have immediately given a Deemed Transfer Notice in respect of:-
- (i) all Shares then held by the Member; and
  - (ii) all Shares then held by his Privileged Relations and/or Family Trusts at the time of such Relevant Event (other than Shares which the Directors are satisfied were not acquired by such holders either directly or indirectly from the Member or by reason of their connection with the Member, and the decision of the board of Directors in this respect will be final).
- (j) Where a Deemed Transfer Notice in respect of any Share is deemed to have been given under any provision of these Articles and the circumstances are such that the Directors (as a whole) are unaware of the facts giving rise to the same, such Deemed Transfer Notice shall be deemed to have been received by the Company on the date

on which the Directors (as a whole) actually become aware of such facts and the provisions of this Article shall apply accordingly.

- (k) If a Member becomes aware of any event which is deemed to give rise to an obligation to serve a Transfer Notice he shall forthwith give notice thereof to the Directors.
- (l) A Deemed Transfer Notice shall not be revocable.

## PRE-EMPTION RIGHTS

### Transfer Notices

16. (a) Save as otherwise provided in these Articles, every Member who desires to transfer any Shares (who, together with every holder of Shares which are the subject of a Deemed Transfer Notice, is hereinafter called "the Vendor") shall give to the Company notice in writing of such desire (hereinafter called a "Transfer Notice"). Where the Transfer Notice is deemed to have been given it is referred to as a Deemed Transfer Notice. Transfer Notices and Deemed Transfer Notices shall constitute the Company the Vendor's agent for the sale of the Shares specified therein (hereinafter called "the Sale Shares") in one or more lots at the discretion of the Directors at the Sale Price (calculated as set out below).

### Calculation of the Sale Price

- (b) The Price of the Sale Shares ("the Sale Price") shall be the price agreed between the Vendor and the Directors or, failing such agreement within 14 days of the Transfer Notice or Deemed Transfer Notice being served on the Company, the price shall be determined as set out below.
- (c) In this Article 16, the following words and expressions shall have the following meanings:

(i)	"Good Leaver"	means an Employee Member who ceases to be a Director or employee of the Company or any of its Subsidiaries and does not continue as either a Director or employee in relation to any of them where such cessation occurs for one of the following reasons:
		(1) death,
		(2) illness or disablement,
		(3) retirement at normal retirement age being the age at which he is either bound or entitled to retire in accordance with his contract of employment,
		(4) redundancy within the meaning of the Employment Rights Act 1996, or
		(5) any other reason which the Board decides in its sole and unfettered discretion should result in the Vendor being categorised as a "Good Leaver";
(ii)	"Market Value"	means the value of the Sale Shares; and
(iii)	"Valuers"	means the auditors of the Company, unless the Company decides otherwise.

- (d) If the Vendor and the Directors are unable to agree a price, the Sale Price will instead be the price which, subject to Article 16(e) below, the Valuers (acting as experts and not as arbiters) shall certify to be in their opinion to be the Market Value of the Sale Shares, taking into account:-
  - (i) any reduction in value which may be ascribed to the Sale Shares by virtue of the fact that they represent a minority interest; and
  - (ii) any directions which the Valuers receive from the Directors (as they, in their absolute discretion, think fit).

- (e) The Sale Price shall be the higher of the Market Value and the price which the Vendor paid for the Sale Shares unless the Vendor is not a Good Leaver, in which case (provided the Directors have not decided to the contrary) the Sale Price shall be restricted to price which the Vendor paid for the Sale Shares.
- (f) The price per Sale Share ("the Price") shall be a sum equal to the Market Value of the Sale Shares determined as aforesaid divided by the number of Sale Shares. The Company will use its reasonable endeavours to procure that the Valuers deliver their written opinion of the Market Value to the Board and to the Vendor within 28 days of being requested to do so. The Valuers need not give their reasons for reaching such opinion. The decision of the Valuers as to the Sale Price shall be final and binding on all parties.
- (g) Where the Transfer Notice is not a Deemed Transfer Notice, the Vendor may, within 7 days of the date on which the Sale Price is determined and intimated to both the Vendor and the Directors, by notice in writing to the Directors withdraw the Transfer Notice, and in such event the whole cost of having the Sale Price determined in terms of Article 16 shall be borne by the Vendor. Save as provided in this paragraph, a Transfer Notice shall not be revocable other than with the written consent of the holders of 75% of the Shares of the Company.

**Right of Vendor to reject partial sales**

- (h) A Transfer Notice (but not a Deemed Transfer Notice) may contain a condition ("a Total Transfer Condition") that unless all the Shares comprised therein are sold by the Company pursuant to this Article none shall be sold. Any such provision shall be binding on the Company.

**Pre-emptive offers - general**

- (i) Within 7 days of the Sale Price being determined the Sale Shares shall be offered for sale as set out below:-

**Invitation of Offer from the Company**

- (j) The Secretary shall send a written notice (an "Offer"), enclosing a copy of the Transfer Notice, to the Company inviting it submit an offer to purchase the Sale Shares within a period which shall be not less than 14 days nor more than 21 days from the date of the Offer ("the First Offer Period"). In the case of a Deemed Transfer Notice, the Secretary shall send an Offer to the Company inviting it to offer to purchase the Sale Shares pursuant to the provisions of Chapter VII of Part V of the Act and a written notice to the Vendor notifying him that a Deemed Transfer Notice has been deemed to have been given.

**Invitation of Offer from Mr Taylor**

- (k) If the Company notifies the Secretary following receipt of an Offer under Article 16 (j) above that it only wishes to purchase some of the Sale Shares, or it fails to submit a notice in the form required under Article 16 (n) within the First Offer Period, the Secretary shall send an Offer enclosing a copy of the Transfer Notice to Mr Taylor inviting him to submit an offer to purchase, within a period which shall be not less than 14 days nor more than 21 days from the end of the First Offer Period ("the Second Offer Period"), those Sale Shares for which an offer to purchase has not been made by the Company. In the case of a Deemed Transfer Notice, the Secretary shall send an Offer to Mr Taylor inviting him to purchase those Sale Shares for which an offer to purchase has not been made by the Company and a written notice to the Vendor notifying him that a Deemed Transfer Notice has been deemed to have been given.

**Invitation of Offer from the Members**

- (l) If Mr Taylor notifies the Secretary following receipt of an Offer under Article 16 (k) above that he only wishes to purchase some of the remaining Sale Shares, or he fails to submit a notice in the form required under Article 16 (n) within the Second Offer Period, the Secretary shall send an Offer enclosing a copy of the Transfer Notice to all the Members of the Company other than the Vendor inviting them to submit offers to purchase, within a period which shall be not less than 14 days nor more than 21 days

from the end of the Second Offer Period ("the Third Offer Period"), those Sale Shares for which an offer to purchase has not been made by the Company or by Mr Taylor. In the case of a Deemed Transfer Notice, the Secretary shall also send an Offer to all the Members (excluding the Vendor) inviting offers to purchase the Sale Shares for which an offer to purchase has not been made by the Company or by Mr Taylor and a written notice to the Vendor notifying him that a Deemed Transfer Notice has been deemed to have been given.

- (m) Any Offer sent to the Company, Mr Taylor or the Members (excluding the Vendor) shall specify the number of Shares for sale and the Price, shall state whether the Transfer Notice contained a Total Transfer Condition shall set out the period of time comprised in the First Offer Period, the Second Offer Period or the Third Offer Period as the case may be and shall, in addition to Article 16(n) below, prescribe any other requirements which offers to purchase all or some of the Sale Shares must fulfil.
- (n) An offer to purchase all or some of the Sale Shares submitted by the Company, Mr Taylor or the Members, excluding the Vendor (as the case may be) (hereinafter referred to as "the Offeror") must be given in writing to the Secretary specifying the maximum number of Shares which that Offeror wishes to purchase, which may be all the Sale Shares or some smaller number, but if the Offeror fails to specify the number of Sale Shares which he wishes to purchase, then, unless he shall have submitted a written notice which does so specify within the relevant Offer Period, he shall be deemed not to have accepted any Offer and shall not be taken into account in any allocation of the Sale Shares hereunder.
- (o) If the Company shall within the First Offer Period offer to purchase any or all of the Sale Shares at the Price, the Secretary shall within 28 days of the expiry of the First Offer Period allocate for transfer such Shares to the Company. If Mr Taylor shall within the Second Offer Period offer to purchase any or all of the remaining Sale Shares at the Price, the Secretary shall within 28 days of the expiry of the Second Offer Period allocate for transfer such Shares to Mr Taylor. If any Member or Members shall within the Third Offer Period offer to purchase any or all of the remaining Sale Shares at the Price, the Secretary shall within 28 days of the expiry of the Third Offer Period allocate for transfer such Shares to or among the Member or Members and (if more than one) as nearly as may be pro rata according to the number of Shares already held by them respectively without involving fractions and provided that a Member shall not be obliged to accept a transfer of more Shares than he has specified.
- (p) If any of the Sale Shares shall not be capable of being allocated as aforesaid without involving fractions the same shall be offered in such proportions or in such manner as may be determined by lots drawn in respect thereof and the lots shall be drawn in such manner as the Secretary shall think fit.
- (q) If any Offeror shall within the relevant Offer Period offer to purchase all of the Sale Shares or, where the Transfer Notice did not contain a Total Transfer Condition, some of the Sale Shares, the Directors shall forthwith give notice in writing ("the Purchase Notice") to the Vendor and the Vendor shall thereupon become bound to transfer to each purchaser those Sale Shares accepted by him upon payment of the Price in respect thereof.
- (r) The Purchase Notice shall state the name and address of each purchaser, the number of Sale Shares to be purchased by him and the place and time appointed by the Directors for the completion of the purchase being not less than 7 days nor more than 42 days after the date of the Purchase Notice and not being at a place outside Scotland. Subject to the giving of the Purchase Notice, the purchase shall be completed at the time and place appointed by the Directors.
- (s) If the Vendor, having become bound to transfer any Sale Shares pursuant to the provisions of this Article, makes default in transferring the same, the Directors may appoint and authorise some person (who shall be deemed to be the attorney of the Vendor) to execute the necessary instrument of transfer of such Sale Shares and to deliver it on his behalf and the Company may hold or receive the purchase money and shall thereupon (subject to such instrument being duly stamped) cause the transferee to be registered as the holder of such Sale Shares and shall hold the purchase money

on behalf of the Vendor. The Company shall not be bound to earn or pay interest on any money so held. The receipt of the Company for such purchase money shall be a good discharge to the transferee who shall not be bound to see to the application thereof, and after the shares have been cancelled (in the case of a purchase by the Company) or the name of the transferee has been entered in the Register of Members (in any other case) in purported exercise of the aforesaid power the validity of the proceedings shall not be questioned by any person.

#### **Transfers free of pre-emption**

- (t) The Vendor may within a period of six months after the date of the Transfer Notice sell so many of the Sale Shares as shall not have been agreed to be purchased by a Offeror in accordance with the provisions of these Articles to any person or persons including any Offeror at any price which is not less than the Price after deducting, where appropriate, any net dividend or other distribution declared paid or made after the date of the Transfer Notice in respect of the Sale Shares and which has been or is to be retained by the Vendor. However if the Sale Shares were the subject of a Total Transfer Condition such a sale may only be made of all the Shares and not part only.

#### **Effect of non-compliance**

- (u) Any purported transfer of Shares otherwise than in accordance with the foregoing provisions of these Articles shall be void and have no effect.

### **SALE BY THE MAJORITY HOLDER OF SHARES**

- 17. (a) Any Member, either alone or together with his/her Privileged Relations and Family Trusts, holding a majority of the Shares ("a Majority Holder") shall have the right ("the Drag Along Right") to require all of the other Members ("the Called Shareholders") to transfer all of the Shares held by the Called Shareholders to any person ("the Third Party") to whom the Majority Holder has agreed to transfer all its Shares ("the Transfer Shares") in a bona fide transaction at arm's length (provided such Third Party is not a Member) or as the Third Party directs in accordance with the following provisions of this Article.

In the case only of those Members who have, in terms of rule 4 of the scheme noted below, received their Shares as a result of the deemed exercise of options granted to them under The Town House Company Limited 2000 Share Option Scheme, as amended from time to time, the application of paragraphs (b) to (g) of this Article 17 to those Members ("the New Members") shall be subject to paragraph (h) below.

- (b) The Drag Along Right may be exercised by the Majority Holder serving notice to that effect ("the Drag Along Notice") on the Called Shareholders specifying that each Called Shareholder is required to transfer his shares (the "Called Shares").
- (c) A Drag Along Notice once given shall be irrevocable but shall lapse (and the obligations thereunder shall lapse) in the event that for any reason the Majority Holder does not transfer the Transfer Shares to the Third Party within 42 days from the date of the Drag Along Notice.
- (d) The Called Shareholders shall only be obliged to sell the Called Shares on terms that they be entitled to receive for their holding of Shares a consideration ("the Drag Along Price") equal in value to an amount for each Share equal to the price per Share payable to the Majority Holder by the Third Party for the Transfer Shares. For the avoidance of doubt this Article 17 shall not be construed as requiring the Called Shareholders to give any representations, indemnities or warranties other than warranties as to title to the Called Shares owned by them.
- (e) Upon the exercise of the Drag Along Right in accordance with this Article 17, each of the Called Shareholders shall be bound to sell his Called Shares for the Drag Along Price.
- (f) Completion of the sale of the Called Shares shall take place on a date that is not less than 14 days nor more than 42 days after the date of the Drag Along Notice, save that the date for the completion of the sale of the Called Shares shall be the same date as the date proposed for completion of the sale of the Transfer Shares.

- (g) In the event that any Called Shareholder fails to carry out the sale of any of the Called Shares, the Directors may authorise some person to execute a transfer of the Called Shares to a Third Party (or as it may direct) and the Directors may give a good receipt for the purchase price of such Called Shares and may register the Third Party (or as it may direct) as holder thereof and issue to it (or as it may direct) certificates for the same whereupon the Third Party (or the person directed by the Third Party) shall be indefeasibly entitled thereto. The Called Shareholder shall in such case be bound to deliver up its certificate for the Called Shares to the Directors whereupon the Called Shareholders will be entitled to receive the Drag Along Price which shall in the meantime be held by the Directors on trust for the Called Shareholder but without interest. If such certificate shall comprise any Shares which the Called Shareholder has not become bound to transfer as aforesaid the Directors shall issue to the Called Shareholder a balance certificate for such Shares.

- (h) The completion of the sale of any Called Shares held by a New Member shall take place on the same date and at the same time as the completion of the sale of all the other Called Shares irrespective of whether the Majority Holder has served a Drag Along Notice on the New Members, and the provisions of this Article shall be construed accordingly.

Names and addresses of Subscribers

1. Andrew Cockburn  
24 Castle Street  
Edinburgh  
Company Registration Agent

2. Karen Davidson  
24 Castle Street  
Edinburgh  
Company Registration Agent

Dated this 1st day of February, 1989

Witness to the above signatures

William Angold  
24 Castle Street  
Edinburgh

Company Registration Agent