



Dated [ 25 February ] 201~~4~~<sup>5</sup>

**Lotus Cars Limited**

## **Articles of Association**

adopted by a special resolution passed on [ 25 February ] 201~~4~~<sup>5</sup>

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Company number: 00895081

Private company limited by shares

## Articles of Association

of

## Lotus Cars Limited

as adopted by a special resolution passed on [ 25<sup>th</sup> Feb - J ] 2014<sup>5</sup>

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### Interpretation

1 In these Articles the following words have the following meanings:

**Act** means the Companies Act 2006;

**Associate** means, in relation to a body corporate, any of its wholly-owned subsidiaries, any of its holding companies of which it is a wholly-owned subsidiary or any wholly-owned subsidiary of any of its holding companies;

**Business Day** means any day (other than a Saturday, Sunday or public holiday in the United Kingdom) on which clearing banks in the City of London are generally open for business;

**Control** has the meaning given in section 450 of the Corporation Tax Act 2010;

**Preference Shares** means the 2,173,700 redeemable non-voting preference shares of £1 each in the capital of the Company each designated as a Preference Share;

**Sale of the Company** means a disposal for valuable consideration (or the grant of a right to acquire or dispose for valuable consideration) of any of the shares in the capital of the Company (in one transaction or a series of transactions) whereby:

- (a) the holders of shares each have the opportunity to dispose of their respective holdings of such shares for a consideration in the form of cash and/or bank guaranteed loan notes; and
- (b) such disposal will result in the person or persons acquiring such shares (or grantee of that right), and persons acting in concert with such person or persons, together acquiring Control of the Company, except if the holders of shares and the proportion of shares held by each of them following completion of such

transaction or transactions are substantially the same as the holders of shares and their respective holdings of shares immediately before the sale (and for these purposes “substantially” shall mean not less than 90 per cent);

**Subscription Price** means, in respect of any share, the amount paid or credited as paid up on that share, including sums paid, or credited as paid, by way of premium.

### **Model Articles**

- 2 The model articles of association for private companies limited by shares contained in Schedule 1 to the Companies (Model Articles) Regulations 2008, as amended prior to the date of adoption of these Articles (the **Model Articles**), shall apply to the Company save in so far as they are excluded or varied hereby and such Model Articles (save as so excluded or varied) together with the following articles shall be the articles of association of the Company. References to **these articles** shall be to the following articles as amended from time to time together with such Model Articles as apply to the Company.

### **Objects clause**

- 3 The Company's objects are unrestricted.

### **Unanimous decisions**

- 4 A decision of the directors which takes the form of a resolution in writing may consist of several copies each signed by one or more eligible directors. Article 8 of the Model Articles shall be modified accordingly.

### **Calling a directors' meeting**

- 5 A director may waive the requirement that notice of a meeting of the directors or of a committee of the directors be given to him at any time before or after the date on which the meeting is held by notifying the Company to that effect. Where a director gives such notice to the Company after the meeting has been held, that does not affect the validity of the meeting or of any business conducted at it. Article 9(4) of the Model Articles shall be modified accordingly.
- 6 If all the directors participating in a meeting are not in the same place, the meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting is. Article 10(3) of the Model Articles shall not apply to the Company.

### **Quorum for directors' meetings**

- 7 The quorum for the transaction of business of the directors shall be [two] [unless there is a sole director, in which event, the sole director shall constitute a quorum]. A person who holds office only as an alternate director shall, if his appointor is not present, be counted in the quorum. Article 11(2) of the Model Articles shall be modified accordingly.

- 8 If the total number of directors for the time being is less than the quorum required, the directors must not take any decision other than a decision:
- 8.1 to appoint such number of further directors as are required to make up the quorum required; or
- 8.2 to call a general meeting so as to enable the shareholders to appoint further directors. Article 11(3) of the Model Articles shall not apply to the Company.

### **Conflicts of interest**

- 9 Provided that a director has disclosed his interest in an actual or proposed transaction or arrangement with the Company in accordance with the Companies Acts or the provisions of these articles, he may nevertheless be counted as participating in the decision-making process for quorum and voting purposes in respect of any such matter in which the director is in any way interested, and shall not, save as otherwise agreed, be accountable to the Company for any benefit which he derives under or in consequence of any such transaction or arrangement. Article 14 of the Model Articles shall be modified accordingly.

### **Authorisation of directors' conflicts of interest**

- 10 For the purposes of section 175 of the Act, the board shall not have the power to authorise any matter which would or might otherwise constitute or give rise to a breach by a director of the duty to avoid conflicts of interest set out in that section of the Act (a **Conflict Situation**). Any reference in these articles to a conflict of interest includes a conflict of interest and duty and a conflict of duties. Conflict Situations are subject to approval by the members.
- 11 For the purposes of sections 175 and 180(4) of the Act and for all other purposes, it is acknowledged that a director may be or become subject to a Conflict Situation or Conflict Situations as a result of his also being or having been or being party to an agreement or arrangement or understanding or circumstances under which he may become an employee, director, trustee, member, partner, officer or representative of, or a consultant to, or a direct or indirect investor in and/or otherwise commercially involved with or economically interested in any member or Associate of the Company or any Associate of a member of the Company.
- 12 No director shall be in breach of the duty to avoid conflicts of interest in section 175 of the Act as a result of, and no authorisation is required in respect of, any Conflict Situation envisaged by article 11 having arisen or existing in relation to him.
- 13 Any authorisation of a matter under article 10 shall be on such terms and/or conditions as the members may determine, whether at the time such authorisation is given or subsequently and may be varied or terminated by the members at any time. Such terms or conditions may include (without limitation) terms and conditions as to duration, renewal and/or revocation of the authorisation [and/or the exclusion of the relevant director from all information and discussion of the matter in question].

- 14 If a director receives or has received any information otherwise than by virtue of his position as a director of the Company and in respect of which he owes a duty of confidentiality to another person, the director is under no obligation to:
- 14.1 disclose any such information to the Company, the directors or any other director or employee of the Company; or
- 14.2 use or apply any such information in connection with the performance of his duties as a director;
- provided that to the extent that such duty of confidentiality arises out of a Conflict Situation, this article shall apply only if such Conflict Situation has been authorised by the members of the Company or to the extent that it is envisaged by article 11.
- 15 A director shall not, save as otherwise agreed by him, be accountable to the Company for any benefit which he (or a person connected with him) derives from any matter authorised by the members under article 10 and any contract, transaction or arrangement relating thereto shall not be liable to be avoided on the grounds of any such benefit.

#### **Appointment and removal of directors**

- 16 Unless otherwise determined by ordinary resolution, the number of directors is not subject to any maximum and the minimum number is one.
- 17 Notwithstanding any other provision of these articles, the holder or holders of a majority in nominal value of the issued ordinary shares in the capital of the Company may at any time and from time to time:
- 17.1 appoint any person to be a director (provided that any such appointment does not cause the number of directors to exceed a number fixed by or in accordance with these articles as the maximum number of directors); or
- 17.2 remove any director from office.
- Every such appointment or removal shall be effected by notice in writing to the Company and shall take effect immediately (or on such later date, if any, specified in the notice). Any such notice of appointment or removal may consist of several documents in similar form, each signed by or on behalf of one or more holders.
- 18 In any case where, as a result of bankruptcy, the company has no shareholders and no directors, the trustee in bankruptcy or other transmittee(s) of the last shareholder to have a bankruptcy order made against him has the right, by notice in writing, to appoint a natural person (including himself) who is willing to act and is permitted to do so to be a director.

#### **Termination of a director's appointment**

- 19 [Notwithstanding any other provision of these articles, a person ceases to be a director as soon as he has for more than six consecutive months been absent without

permission of the directors from meetings of directors held during that period and the directors resolve that his office be vacated.]

#### **Appointment and removal of alternate directors**

- 20 Any director (the **appointor**) may appoint as an alternate any other director, or any other natural person:
- 20.1 to exercise that director's powers;
- 20.2 to carry out that director's responsibilities; and
- 20.3 generally to perform all the functions of his appointor as a director;

in the absence of the alternate's appointor. Any appointment or removal of an alternate must be effected by notice in writing to the Company signed by the appointor, or in any other manner approved by the directors. The notice must identify the proposed alternate and, in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the director giving the notice.

#### **Rights and responsibilities of alternate directors**

- 21 An alternate director has the same rights, in relation to any directors' meeting or directors' written resolution, as the alternate's appointor. Alternate directors are deemed for all purposes to be directors, are liable for their own acts and omissions, are subject to the same restrictions as their appointors, and are not deemed to be agents of or for their appointors. A person who is an alternate director but not a director may be counted as participating for the purposes of determining whether a quorum is participating (but only if that person's appointor is not participating), and may sign a written resolution (but only if it is not signed or to be signed by that person's appointor). No alternate may be counted as more than one director for such purposes.
- 22 An alternate director is not entitled to receive any remuneration from the Company for serving as an alternate director except such part of the alternate's appointor's remuneration as the appointor may direct by notice in writing made to the Company.

#### **Termination of alternate directorship**

- 23 An alternate director's appointment as an alternate terminates:
- 23.1 when the alternate's appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate;
- 23.2 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;
- 23.3 on the death of the alternate's appointor; or

- 23.4 when the alternate's appointor's appointment as a director terminates, except that an alternate's appointment as an alternate does not terminate when the appointor retires by rotation at a general meeting and is then re-appointed as a director at the same general meeting.

#### **Company secretary**

- 24 The directors may appoint a company secretary for such term, at such remuneration and upon such conditions as they think fit. Any company secretary may be removed or replaced by the directors.

#### **Share rights**

##### *Capital rights*

- 25 The rights as regards return of capital attaching to each class of shares shall be as set out in this article.

- 25.1 On a return of capital on liquidation or otherwise (except on a redemption or purchase by the Company of any shares), the surplus assets of the Company remaining after the payment of its liabilities shall be applied in the following order of priority:

25.1.1 first, in paying to each holder of Preference Shares in respect of each Preference Share of which it is the holder, an amount equal to 100% of the Subscription Price thereof and, if there is a shortfall of assets remaining to satisfy the entitlements of the holders of the Preference Shares in full, the proceeds shall be distributed to the holders of the Preference Shares in proportion to the numbers of Preference Shares held by them respectively;

25.1.2 the balance of such assets (if any) shall be distributed amongst the holders of the ordinary shares pro rata according to the number of ordinary shares held by them respectively.

##### *Rights on a Sale of the Company*

- 25.2 In the event of a Sale of the Company, the shareholders shall exercise the rights attaching to the shares held by each such shareholder, and take all such other actions as may be necessary or appropriate, to procure that the aggregate amount or value of the consideration paid or payable for the disposal of ordinary shares and Preference Shares is divided between, and paid to, the respective holders of ordinary shares and Preference Shares on the basis that:

25.2.1 first, an amount equal to 100% of the Subscription Price thereof, and is paid to the holder of each Preference Share and, if there is a shortfall of assets remaining to satisfy the entitlements of the holders of the Preference Shares in full, the proceeds shall be distributed to the holders of the Preference Shares in proportion to the numbers of Preference Shares held by them respectively;

- 25.2.2 thereafter the balance of the consideration shall be paid to the holders of the ordinary shares pro rata according to the number of ordinary shares held by them respectively.

*Redemption Rights*

- 25.3 The following rights of redemption apply to the Preference Shares.

25.3.1 [The Preference Shares may, subject to the Act, be redeemed as follows the Company may, at any time on not less than 5 Business Days' notice in writing to the holders of Preference Shares, redeem, in multiples of not less than [10,000] Preference Shares, such total number of Preference Shares as is specified in such notice, at their Subscription Price.]

25.3.2 For the purposes of this article, the date on which the Preference Shares are redeemed in accordance with article 25.3.1 is the Redemption Date.

25.3.3 On any Redemption Date, the Company shall pay to each registered holder of Preference Shares the amount payable in respect of such redemption. On receipt of that amount, each such holder shall surrender to the Company the certificate for the shares that are to be redeemed (or an indemnity in a form reasonably satisfactory to the directors in respect of any lost share certificate) to be cancelled. If any certificate (or indemnity) so surrendered includes any shares that are not redeemable at that time, the Company shall issue a new share certificate for the balance of the shares not redeemable to the holder. If there is more than one holder of Preference Shares, any redemption shall be made among such holders pro rata (as nearly as possible) to their respective holdings.

25.3.4 If, on any Redemption Date, the Company is prohibited from redeeming some or all of the Preference Shares then due to be redeemed, the Company shall redeem such number of Preference Shares as it is lawfully able to redeem. If there is more than one holder whose Preference Shares are due to be redeemed, those Preference Shares shall be redeemed in proportion as nearly as possible to their existing holdings of Preference Shares and the Company shall redeem the balance of those shares as soon as practicable.

- 25.4 Except as otherwise provided in these articles, the ordinary shares and the Preference Shares shall rank *pari passu* in all respects but shall constitute separate classes of shares.

- 25.5 No variation of the rights attaching to any class of shares shall be effective except with the sanction of a special resolution of the holders of the relevant class of shares. Where a special resolution to vary the rights attaching to a class of shares is proposed at a separate general meeting of that class of shares, all the provisions of these articles as to general meetings of the Company shall *mutatis mutandis* apply, but so that the necessary quorum shall be one holder of the relevant class present in person or by proxy or (being a corporation) by a duly authorised representative. For the



purpose of this Article, one holder present in person or by proxy or (being a corporation) by a duly authorised representative may constitute a meeting.

25.6 Each of the following shall be deemed to constitute a variation of the rights attached to each class of shares:

25.6.1 any alteration in these articles;

25.6.2 any reduction, subdivision, consolidation, redenomination, purchase or redemption by the Company of its own shares or other alteration in the share capital of the Company or any of the rights attaching to any share capital; and

25.6.3 any resolution to put the Company into liquidation.

#### **Nil- or partly-paid shares permitted**

26 Article 21 of the Model Articles shall not apply to the Company. If the Company at any time has nil or partly-paid shares in issue, articles 52 to 62 (inclusive) of the model articles of association for public companies contained in Schedule 3 to the Companies (Model Articles) Regulations 2008, as amended prior to the date of adoption of these articles, shall apply to the Company and form part of these articles as if the text of such provisions was set out in full in these articles.

#### **Purchase of own shares**

27 Subject to the provisions of the Act but without prejudice to any other provision of these articles, the Company may purchase its own shares in accordance with Chapter 4 of Part 18 of the Act, including (without limitation) with cash up to any amount in a financial year not exceeding the lower of:

27.1 £15,000; or

27.2 the value of 5% of its share capital.

#### **Treasury shares**

28 Subject to the provisions of the Act, the Company may hold shares as treasury shares. References in these articles to a holder of shares shall include the Company in respect of shares held as treasury shares except where to do so would otherwise conflict with the provisions of the Act.

#### **Allotment of shares: exclusion of pre-emption rights**

29 Sections 561 and 562 of the Act shall not apply to any allotment of equity securities (as defined in section 560 of the Act) by the Company.

#### **Payment of commissions on subscription for shares**

30 Article 44 of the model articles of association for public companies contained in Schedule 3 to the Companies (Model Articles) Regulations 2008, as amended prior to

the date of adoption of these articles, shall apply to the Company and form part of these articles as if the text of such provisions was set out in full in these articles.

#### **Share certificates**

- 31 Every share certificate must specify the amount paid up on the shares to which it relates. Article 24(2)(c) of the Model Articles shall not apply to the Company.

#### **Share transfers**

- 32 The instrument of transfer of any share taken on formation of the Company by a subscriber to the company's memorandum of association need not be executed by or on behalf of the transferee even where the share is not fully paid.

#### **Calculation of dividends**

- 33 Except as otherwise provided by these articles or the rights attached to shares, all dividends must be:
- 33.1 declared and paid according to the amounts paid up on the shares on which the dividend is paid; and
- 33.2 apportioned and paid proportionately to the amounts paid up on the shares during any portion or portions of the period in respect of which the dividend is paid.

If any share is issued on terms providing that it ranks for dividend as from a particular date, that share ranks for dividend accordingly. For the purposes of calculating dividends, no account is to be taken of any amount which has been paid up on a share in advance of the due date for payment of that amount. Article 30 of the Model Articles shall be modified accordingly.

- 33.3 There shall be no right to receive a dividend attached to the Preference Shares.

#### **Appropriation of capitalised sums**

- 34 For the purposes of article 36 of the Model Articles:
- 34.1 the Company shall be deemed to be a "person entitled" in relation to any shares held as treasury shares which, if not so held, would have ranked for any such distribution by way of dividend, but only insofar as the appropriated sum is to be applied in paying up in full new shares of the Company; and
- 34.2 a capitalised sum which was appropriated from profits available for distribution may be applied in or towards paying up any amounts unpaid on existing shares held by the persons entitled.

#### **Proceedings at general meetings**

- 35 If a general meeting is adjourned, then notice of the time and place to which it is adjourned shall be given to all the members of the Company. Article 41(5) of the Model Articles shall be modified accordingly.

## **Voting**

- 36 At a general meeting, on a show of hands every holder of ordinary shares 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 holder of ordinary shares present in person or by proxy shall have one vote for each ordinary share of which he is the holder; and on a vote on a written resolution every shareholder has one vote for each ordinary share of which he is the holder.
- 37 Preference Shares shall not carry the right to vote.

## **Poll votes**

- 38 A poll may be demanded by any member (present in person or by proxy) having the right to attend and vote at the meeting or by a duly authorised representative of a corporation. Article 44(2)(c) of the Model Articles shall be modified accordingly.
- 39 A demand for a poll may, before the poll is taken, be withdrawn. A demand so withdrawn shall not invalidate the result of a vote on a show of hands declared before the demand was made. Article 44(3) of the Model Articles shall not apply to the Company.

## **Proxies and corporate representatives**

- 40 The failure of any proxy or corporate representative to vote in accordance with any instructions given by the member by whom such proxy or corporate representative is appointed shall not invalidate the result of any vote in which the proxy or corporate representative has participated and the Company and the directors shall be under no duty to enquire as to the instructions given to any such proxy or corporate representative.

## **Means of communication to be used**

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

- 41.4 if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website.

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

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

### **Indemnity**

- 43 The Company may indemnify any relevant officer out of the assets of the Company from and against any loss, liability or expense incurred by him or them in relation to the Company (including any liability incurred in connection with the activities of the Company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Act)) **provided that** this article shall have effect, and any indemnity provided by or pursuant to it shall apply, only to the extent permitted by, and subject to the restrictions of, the Act. This article does not allow for or provide (to any extent) an indemnity which is more extensive than as permitted by the Act and any such indemnity is limited accordingly. This article is also without prejudice to any indemnity to which any person may otherwise be entitled. Article 52 of the Model Articles shall not apply to the Company.

- 44 To the extent permitted by, and subject to the restrictions in, the Act and without prejudice to any indemnity to which he may otherwise be entitled, the board shall have the power to provide funds to meet any expenditure incurred or to be incurred by any relevant officer in defending any criminal or civil (including regulatory) proceedings, or in connection with an application under the Act, or to enable him to avoid incurring such expenditure.

- 45 Without prejudice to the provisions of article 53 of the Model Articles, the directors may exercise all the powers of the Company to purchase and maintain insurance for the benefit of any person who is a relevant officer or an employee or former employee of the Company or any associated company or who is or was a trustee of a retirement benefits scheme or another trust in which a relevant officer or an employee or former employee is or has been interested, indemnifying him against liability for negligence, default, breach of duty or breach of trust or any other liability which may lawfully be insured against by the Company.

- 46 In these articles:

- 46.1 companies are **associated** if one is a subsidiary of the other or both are subsidiaries of the same body corporate;

- 46.2 **relevant officer** means any current or former director, alternate director, secretary or other officer of the Company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined in section 235(6) of

the Act)), other than any person (whether an officer or not) engaged by the Company (or associated company) as an auditor, to the extent he acts as an auditor.