

Company number 02304150

PRIVATE COMPANY LIMITED BY SHARES

COPY WRITTEN RESOLUTION

of

DTW ADVERTISING AND MARKETING LIMITED (**Company**)

**Date:** 26 September 2017

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the directors of the Company confirm that resolutions 1 and 2 below were passed as special resolutions on the Date.

### **SPECIAL RESOLUTIONS**

1. The articles of association attached to this written resolution (**Articles**) be adopted as the articles of association of the Company in substitution for, and to the exclusion of, the existing articles of association of the Company.

2. THAT the 16000 ordinary shares of £1.00 each in the capital of the Company be redesignated as follows:

- 2.1 4000 ordinary shares of £1.00 each held by Christopher Taylor as A Shares;
- 2.2 4000 ordinary shares of £1.00 each held by Carol Anne Lorna McAteer Bingham as B Shares;
- 2.3 4000 ordinary shares of £1.00 each held by Hayley Joanne Stewart as C Shares; and
- 2.4 4000 ordinary shares of £1.00 each held by Peter John Whelan as D Shares;

having the rights and restrictions attaching to them set out in the Articles.



Signed by a director of DTW Advertising  
and Marketing Limited

Date



26 September 2017

**COMPANY NUMBER:02304150**

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**THE COMPANIES ACT 2006**

**PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION OF  
DTW ADVERTISING AND MARKETING LIMITED**

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**THE COMPANIES ACT 2006**  
**PRIVATE COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION**  
**OF**  
**DTW ADVERTISING AND MARKETING LIMITED**  
**(Adopted by special resolution passed on .....)**

**INTRODUCTION**

**1. INTERPRETATION**

1.1 The following definitions and rules of interpretation apply in these Articles:

**Accepting Shareholder(s):** has the meaning given in article 18.5.

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

**Acting in Concert:** has the meaning given to it in the City Code on Takeovers and Mergers published by the Panel on Takeovers and Mergers (as amended from time to time).

**Allocation Notice:** has the meaning given in article 14.14.

**Applicant:** has the meaning given in article 14.14.

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

**A Shares:** ordinary shares of £1.00 each in the company that have been designated as A Shares.

**Bad Leaver:** a shareholder who becomes a Departing Employee in circumstances where he is not a Good Leaver

**Board:** the board of directors of the Company.

**B Shares:** ordinary shares of £1.00 each in the company that have been designated as B Shares.

**Business Day:** means any day other than a Saturday, Sunday or public holiday in England on which banks in London are open for business.

**Buyer:** has the meaning given in article 18.1.

**Called Shareholders:** has the meaning given in article 17.1.

**Called Shares:** has the meaning given in article 17.1.

**Completion Date:** has the meaning given in article 17.5.

**Compulsory Transfer Event:** the events listed in article 15.1 upon which a Deemed Transfer Notice is deemed served.

**Conflict:** has the meaning given in article 7.1.

**Consideration:** has the meaning given in article 14.14.

**Continuing Shareholders:** has the meaning given in article 14.7.

**Controlling Interest:** means an interest in shares giving to the holder or holders control of the Company within the meaning of section 1124 of the Corporation Tax Act 2010.

**Cross Option:** any agreement between the shareholders which grants options to buy and sell shares in the company exercisable upon the death of a shareholder.

**C Shares:** ordinary shares of £1.00 each in the company that have been designated as C Shares.

**Deemed Transfer Notice:** a Transfer Notice that is deemed to have been served under any provisions of these Articles.

**Defaulting Sale Price:** the price payable for any shares which are the subject of a Compulsory Transfer Notice calculated in accordance with article 15.5.

**Defaulting Shareholder:** a shareholder to who a Compulsory Transfer Event has occurred.

**Departing Employee:** a shareholder who ceases to be an employee of the company other than by death or due to illness or injury or ill health.

**Drag Along Option:** has the meaning given in article 17.1.

**Drag Along Notice:** has the meaning given in article 17.2.

**D Shares:** ordinary shares of £1.00 each in the company that have been designated as D Shares.

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

**Fair Value:** has the meaning given in article 16.

**First Offer Period:** has the meaning given in article 14.7.

**Good Leaver:** a shareholder who becomes a Departing Employee by reason of:-

- (i) retirement;
- (ii) in circumstances where he has been dismissed from employment and such dismissal is found to have been wrongful or unfair by any employment tribunal or any appellate body from such tribunal;
- (iii) redundancy (as defined in the Employment Rights Act 1996);
- (iv) the directors resolving that such Defaulting Shareholder shall be deemed to be a Good Leaver.

**Initial Surplus Shares:** has the meaning given in article 14.9.

**Interested Director:** has the meaning given in article 7.1.

**Minimum Transfer Condition:** has the meaning given in article 14.2.

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

**Offer:** has the meaning given in article 18.2.

**Offer Notice:** has the meaning given in article 18.3.

**Offer Shares:** has the meaning given in article 18.3.

**Proposed Buyer:** has the meaning given in article 17.1.

**Proposed Transfer:** has the meaning given in article 18.1.

**Sale Date:** has the meaning given in article 18.3.

**Sale Shares:** has the meaning given in article 14.2.

**Second Offer Period:** has the meaning given in article 14.10.

**Second Surplus Shares:** has the meaning given in article 14.12.

**Seller:** has the meaning given in article 14.2.

**Sellers' Shares:** has the meaning given in article 17.1.

**Selling shareholders:** has the meaning given in article 17.1.

**Specified Price:** has the meaning given in article 18.2.

**Transfer Notice:** has the meaning given in article 14.2.

**Transfer Price:** has the meaning given in article 14.2.

**Valuers:** the auditors or accountants for the time being of the Company or, if they decline the instruction, an independent firm of accountants or valuers appointed by the Seller (or Defaulting Shareholder) and the directors or, in the absence of agreement between the Seller (or Defaulting Shareholder) and the directors on the identity of the expert within 20 Business Days of the Transfer Notice or Deemed Transfer Notice, an independent firm of accountants appointed by the President, for the time being, of the Institute of Chartered Accountants in England and Wales (in each case acting as an expert and not as an arbitrator).

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

1.3 Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles.



- 1.4 A reference in these Articles to an "article" is a reference to the relevant article of these Articles unless expressly provided otherwise.
- 1.5 Unless expressly provided otherwise, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.6 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.7 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.
- 1.8 Where the context permits, **other** and **otherwise** are illustrative and shall not limit the sense of the words preceding them.
- 1.9 The Model Articles shall apply to the company, except in so far as they are modified or excluded by, or are inconsistent with, these Articles.
- 1.10 Articles 8, 9(1), 11(2) and (3), 13, 14(1), (2), (3) and (4), 17(2), 26(5), 44(2), 49, 52 and 53 of the Model Articles shall not apply to the company.
- 1.11 Article 7 of the Model Articles shall be amended by:
- (a) the deletion of 'or a decision taken in accordance with article 8.' At the end of article 7(1);
  - (b) the insertion of the words "for the time being" at the end of article 7(2)(a); and
  - (c) the insertion in article 7(2) of the words "(for so long as he remains the sole director)" after the words "and the director may".
- 1.12 Article 17(3) of the Model Articles shall be amended by removing 'For the purposes of paragraph (2)' and replacing it with 'For the purposes of article 10 of the articles of association of the company.'
- 1.13 Article 20 of the Model Articles shall be amended by the insertion of the words "and the secretary" before the words "properly incur".
- 1.14 In article 25(2)(c) of the Model Articles, the words "evidence, indemnity and the payment of a reasonable fee" shall be deleted and replaced with the words "evidence and indemnity".

- 1.15 Article 27(3) of the Model Articles shall be amended by the insertion of the words "subject to article 10," after the word "But".
- 1.16 Article 29 of the Model Articles shall be amended by the insertion of the words "or the name of any person(s) named as the transferee(s) in an instrument of transfer executed under article 28(2) of the Model Articles," after the words "the transmittee's name".
- 1.17 Articles 31(1)(a) to (c) (inclusive) of the Model Articles shall be amended by the deletion, in each case, of the words "either" and "or as the directors may otherwise decide". Article 31(d) of the Model Articles shall be amended by the deletion of the words "either" and "or by such other means as the directors decide"

## **DIRECTORS**

### **2. UNANIMOUS DECISIONS**

- 2.1 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.
- 2.2 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.
- 2.3 A decision may not be taken in accordance with this article if the eligible directors would not have formed a quorum at such a meeting.

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

Any director may call a directors' meeting by giving not less than 5 Business Days notice of the meeting (or such lesser notice as all the directors may agree) to the directors or by authorising the company secretary (if any) to give such notice.

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

- 4.1 Subject to article 4.2 and article 7(2) of the Model Articles, the quorum for the transaction of business at a meeting of directors is any two eligible directors.
- 4.2 For the purposes of any meeting (or part of a meeting) held pursuant to article 7 to authorise a director's conflict, if there is only one eligible director in office other than the conflicted director(s), the quorum for such meeting (or part of a meeting) shall be one eligible director.

- 4.3 If the total number of directors in office for the time being is less than the quorum required, the directors must not take any decision other than a decision:
- (a) to appoint further directors: or
  - (b) to call a general meeting so as to enable the shareholders to appoint further directors.

**5. CASTING VOTE**

- 5.1 If the numbers of votes for and against a proposal at a meeting of directors are equal, the chairman or other director chairing the meeting has a casting vote.
- 5.2 Article 5.1 shall not apply in respect of a particular meeting (or part of a meeting) if, in accordance with the Articles, the chairman or other director is not an eligible director for the purposes of that meeting (or part of a meeting).

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

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

- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the company or in which the company is otherwise (directly or indirectly) interested;
- (b) shall be an eligible director for the purposes of any proposed decision of the directors (or committee of directors) in respect of such existing or proposed transaction or arrangement in which he is interested;
- (c) shall be entitled to vote at a meeting of directors (or of a committee of the directors) or participate in any unanimous decision, in respect of such existing or proposed transaction or arrangement in which he is interested;
- (d) may act by himself or his firm in a professional capacity for the company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a director;
- (e) may be a director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the company is otherwise (directly or indirectly) interested; and
- (f) shall not, save as he may otherwise agree, be accountable to the company for any benefit which he (or a person connected with him (as defined in section 252 of the Act)) derives from any such transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be

avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act.

## **7. DIRECTORS' CONFLICTS OF INTEREST**

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

7.2 Any authorisation under this article 7 will be effective only if:

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

7.3 Any authorisation of a Conflict under this article 7 may (whether at the time of giving the authorisation or subsequently):

- (a) extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised;
- (b) provide that the Interested Director be excluded from the receipt of documents and information and the participation in discussions (whether at meetings of the directors or otherwise) related to the Conflict;
- (c) provide that the Interested Director shall or shall not be an eligible director in respect of any future decision of the directors in relation to any resolution related to the Conflict;
- (d) impose upon the Interested Director such other terms for the purposes of dealing with the Conflict as the directors think fit;
- (e) provide that, where the Interested Director obtains, or has obtained (through his involvement in the Conflict and otherwise than through his position as a director of the company) information that is confidential to a third party, he will not be obliged to disclose that information to the company, or to use it in relation to the company's affairs where to do so would amount to a breach of that confidence; and

- (f) permit the Interested Director to absent himself from the discussion of matters relating to the Conflict at any meeting of the directors and be excused from reviewing papers prepared by, or for, the directors to the extent they relate to such matters.

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

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

7.6 A director is not required, by reason of being a director (or because of the fiduciary relationship established by reason of being a director), to account to the company for any remuneration, profit or other benefit which he derives from or in connection with a relationship involving a Conflict which has been authorised by the directors or by the company in general meeting (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.

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

Where decisions of the directors are taken by electronic means, such decisions shall be recorded by the directors in permanent form, so that they may be read with the naked eye.

## **9. NUMBER OF DIRECTORS**

Unless otherwise determined by ordinary resolution, the number of directors (other than alternate directors) shall not be subject to any maximum but shall not be less than one.

## **10. APPOINTMENT OF DIRECTORS**

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

## **SHARES**

## **11. SHARE CAPITAL**

11.1 The A Shares, B Shares, C Shares and D Shares shall rank *pari passu* in all respects but shall constitute separate classes of shares.

11.2 On the transfer of any share as permitted by these Articles:

- (a) a share transferred to a non-shareholder shall remain of the same class as before the transfer; and
- (b) a share transferred to a shareholder shall automatically be redesignated on transfer as a share of the same class as those shares already held by the shareholder.

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

11.3 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.

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

- (a) any alteration in the Articles;
- (b) any reduction, subdivision, consolidation, redenomination, or 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
- (c) any resolution to put the company into liquidation.

11.5 The company shall immediately cancel any shares acquired under Chapter 4 of Part 18 of the CA 2006

## **12. DIVIDENDS**

Subject to the Act and these Articles, the company may vary the dividend payable between the different classes of shares and for the avoidance of doubt, the company may declare a dividend in respect of one class of share and not declare a dividend on other classes of shares. No dividend shall exceed the amount recommended by the directors.

## **13. TRANSFER OF SHARES**

13.1 In these Articles, reference to the transfer of a share includes the transfer, assignment or other disposal of a beneficial or other interest in that share, or the creation of a trust or encumbrance over that share, and reference to a share includes a beneficial or other interest in a share.

13.2 No share shall be transferred unless the transfer is made in accordance with these Articles, the Cross Option or with the prior written consent of all shareholders for the time being.

13.3 Subject to article 13.4, the directors must register any duly stamped transfer made in accordance with these Articles or the Cross Option and shall not have any discretion to register any transfer of shares which has not been made in compliance with these Articles or the Cross Option.

13.4 The directors may, as a condition to the registration of any transfer of shares in the Company require the transferee to provide the company with the required particulars under section 790K of the CA 2006 if the transferee is a registrable person or relevant legal entity within the meaning of section 790C of the CA 2006 and to execute and deliver to the company a deed under which the transferee agrees to be bound by the terms of any written shareholders' agreement in force between the shareholders in such form as the directors may reasonably require (but not so as to oblige the transferee to have any obligations or liabilities greater than those of the proposed transferor under any such agreement or other document). If any such condition is imposed in accordance with this article 13.4, the transfer may not be registered unless that deed has been executed and delivered to the Company's registered office by the transferee and the company has received all of the required particulars under section 790K of the CA 2006 if the transferee is a registrable person or relevant legal entity within the meaning of section 790C of the CA 2006.

13.5 To enable the directors to determine whether or not there has been a transfer of shares in the company in breach of these Articles, the directors of any class may from time to time require any shareholder to provide the company with such information and evidence as they may reasonably require relevant to that purpose. If a shareholder fails to provide information or evidence in respect of any shares registered in its name

to the reasonable satisfaction of such directors within 10 Business Days of their request, such directors may serve a notice on the shareholder stating that the shareholder shall not in relation to those shares be entitled to be present or to vote in person or by proxy at any general meeting of the Company or any meeting of the holders of shares of that class, or to vote on a written resolution of the shareholders or to receive dividends on the shares until such evidence or information has been provided to the directors' satisfaction. Such directors may reinstate these rights at any time.

- 13.6 Any transfer of shares by way of a sale that is required to be made under article 15, article 17 or article 19 shall be deemed to include a warranty that the transferor sells the shares with full title guarantee

#### 14. PRE-EMPTION RIGHTS

- 14.1 Except where the Cross Option or the provisions of article 17.6 or article 18.6 apply, any transfer of shares by a shareholder shall be subject to the pre-emption rights in this Article.

- 14.2 A shareholder (**Seller**) wishing to transfer his shares (**Sale Shares**) must give notice in writing (a **Transfer Notice**) to the company giving details of the proposed transfer including:

- (a) the number of Sale Shares;
- (b) if the Seller wishes to sell the Sale Shares to a third party, the name of the proposed buyer;
- (c) the price (in cash) at which he wishes to sell the Sale Shares (which will be deemed to be Fair Value of the Sale Shares if no cash price is agreed between the Seller and the Board (**Transfer Price**)); and
- (d) whether the Transfer Notice is conditional on all, or a specific number of, the Sale Shares being sold to shareholders (**Minimum Transfer Condition**).

- 14.3 Once given under these Articles, a Transfer Notice may (subject to article 15.2(c)) be withdrawn.

- 14.4 A Transfer Notice (or Deemed Transfer Notice) constitutes the Company as agent of the Seller for the sale of the Sale Shares in accordance with the provisions of these Articles.

- 14.5 Following receipt of a Transfer Notice (or Deemed Transfer Notice) the Board will take no action for 56 days to give the company the opportunity to purchase the relevant shares by way of a valid company purchase of own shares. If the Company



purchases the Sale Shares by entering into and completing a valid agreement for the purchase of own shares, the remaining provisions of this article 14 shall not take effect but, if the company does not so purchase the Sale Shares the remaining provision of this article 14 shall apply.

14.6 As soon as practicable following the end of the period in article 14.5 and the agreement or determination of the Transfer Price, the Board shall offer the Sale Shares for sale in the manner set out in the remaining provisions of this Article at the Transfer Price. Each offer shall be in writing and give details of the number and Transfer Price of the Sale Shares offered.

14.7 The Board shall offer the Sale Shares to all shareholders other than the Seller (the **Continuing Shareholders**), inviting them to apply in writing within the period from the date of the offer to the date 28 Business Days after the offer (both dates inclusive) (the **First Offer Period**) for the maximum number of Sale Shares they wish to buy.

14.8 If the Sale Shares are subject to a Minimum Transfer Condition, any allocation made under article 14.9 to article 14.12 shall be conditional on the fulfilment of the Minimum Transfer Condition.

14.9 If:

(a) at the end of the First Offer Period, the total number of Sale Shares applied for is equal to or exceeds the number of Sale Shares, the Board shall allocate the Sale Shares to each Continuing Shareholder who has applied for Sale Shares in the proportion which his existing holding of shares bears to the total number of shares held by those Continuing Shareholders who have applied for Sale Shares. Fractional entitlements shall be rounded down to the nearest whole number (save where such rounding would result in not all Sale Shares being allocated, in which case the allocation of any such fractional entitlements among the Continuing Shareholders who have applied for Sale Shares shall be determined by the Board). No allocation shall be made to a Continuing Shareholder of more than the maximum number of Sale Shares which he has stated he is willing to buy.

(b) not all Sale Shares are allocated following allocations in accordance with article 14.9(a), but there are applications for Sale Shares that have not been satisfied, the Board shall allocate the remaining Sale Shares to such applicant(s) in accordance with the procedure set out in article 14.9(a). The procedure set out in this article 14.9(b) shall apply on any number of consecutive occasions until either all Sale Shares have been allocated or all applications for Sale Shares have been satisfied; and

(c) at the end of the First Offer Period, the total number of Sale Shares applied for is less than the number of Sale Shares, the Board shall allocate the Sale Shares to the Continuing Shareholders in accordance with their applications.

The balance (the **Initial Surplus Shares**) shall be dealt with in accordance with article 14.10.

- 14.10 At the end of the First Offer Period, the Board shall offer the Initial Surplus Shares (if any) to all the Continuing Shareholders, inviting them to apply in writing within the period from the date of the offer to the date 28 Business Days after the offer (both dates inclusive) (the **Second Offer Period**) for the maximum number of Initial Surplus Shares they wish to buy.
- 14.11 If, at the end of the Second Offer Period, the number of Initial Surplus Shares applied for is equal to or exceeds the number of Initial Surplus Shares, the Board shall allocate the Initial Surplus Shares to each Continuing Shareholder who has applied for Initial Surplus Shares in the proportion that his existing holding of shares (including any Sale Shares) bears to the total number of shares (including any Sale Shares) held by those Continuing Shareholders who have applied for Initial Surplus Shares during the Second Offer Period. Fractional entitlements shall be rounded down to the nearest whole number (save where such rounding would result in not all Initial Surplus Shares being allocated, in which case, the allocation of any such fractional entitlements among the Continuing Shareholders shall be determined by the Board). No allocation shall be made to a Continuing Shareholder of more than the maximum number of Initial Surplus Shares which he has stated he is willing to buy.
- 14.12 If, at the end of the Second Offer Period, the number of Initial Surplus Shares applied for is less than the number of Initial Surplus Shares, the Board shall allocate the Initial Surplus Shares to the Continuing Shareholders in accordance with their applications. The balance (the **Second Surplus Shares**) shall be dealt with in accordance with article 14.17.
- 14.13 If the Transfer Notice includes a Minimum Transfer Condition and the total number of Sale Shares applied for is less than the number of Sale Shares specified in the Minimum Transfer Condition, the Board shall notify the Seller and all those to whom Sale Shares have been conditionally allocated under article 14.9 to article 14.12, stating that the Minimum Transfer Condition has not been met and that the relevant Transfer Notice has lapsed with immediate effect.
- 14.14 If:
- (a) the Transfer Notice includes a Minimum Transfer Condition and such Minimum Transfer Condition has been satisfied, or the Transfer Notice does not include a Minimum Transfer Condition; and
  - (b) allocations under article 14.9 to article 14.12 have been made in respect of some or all of the Sale Shares,

the Board shall give written notice of allocation (an **Allocation Notice**) to the Seller and each Continuing Shareholder to whom Sale Shares have been allocated (each an **Applicant**). The Allocation Notice shall specify the number of Sale Shares allocated to each Applicant, the amount payable by each Applicant for the number of Sale Shares allocated to him (**Consideration**) and the place and time for completion of the transfer of the Sale Shares (which shall be at least 20 Business Days, but not more than 40 Business Days, after the date of the Allocation Notice).

14.15 On the date specified for completion in the Allocation Notice, the Seller shall, against payment of the Consideration (or relevant part of it), execute and deliver a transfer of the Sale Shares allocated to such Applicant, in accordance with the requirements specified in the Allocation Notice.

14.16 If the Seller fails to comply with article 14.15:

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

14.17 If an Allocation Notice does not relate to all of the Sale Shares or the Transfer Notice lapses pursuant to article 14.13 then, subject to article 14.18 and within 13 weeks following service of the Allocation Notice or the date of the lapse of the Transfer Notice (as the case may be), the Seller may transfer the Second Surplus Shares or the Sale Shares (in the case of a lapsed offer) (as the case may be) to the person listed in the Transfer Notice at a price at least equal to the Transfer Price. The sale of the Sale Shares (following the lapse of a Transfer Notice) in accordance with this article 14.17 shall continue to be subject to any Minimum Transfer Condition.

14.18 The Seller's right to transfer Sale Shares under article 14.17 does not apply if the Board reasonably considers that:

- (a) the sale of the Sale Shares is not bona fide or the price is subject to a deduction, rebate or allowance to the transferee; or
- (b) the Seller has failed or refused to provide promptly information available to the Seller and reasonably requested by the Board to enable it to form the opinion mentioned above.

14.19 The restrictions imposed by this Article may be waived in relation to any proposed transfer of Sale Shares with the consent of shareholders who, but for the waiver, would or might have been entitled to have such Sale Shares offered to them in accordance with this Article

## **15. COMPULSORY TRANSFER EVENTS**

15.1 A shareholder is deemed to have served a Transfer Notice under article 14 immediately before any of the following events:

- (a) any shareholder attempts to deal with or dispose of any Share or any interest in it otherwise than a transmission to his or her personal representatives on death or otherwise in accordance with these Articles or the Cross Option;
- (b) any shareholder shall have a bankruptcy order made against him or shall be declared bankrupt by any court of competent jurisdiction;
- (c) the Board serves notice on a shareholder at any time when by reason of illness, ill health or injury or other cause (other than death) he or she has been unable to perform his or her duties as a director or employee of the company and has been so unable throughout the period of at least 15 months prior to the date of the notice (including where he or she has been dismissed during this period) or for an aggregate period of at least 15 months during an 16 month period prior to such notice (including where he or she has been dismissed during this period); and
- (d) any shareholder becomes a Departing Employee.

15.2 The Deemed Transfer Notice has the same effect as a Transfer Notice, except that:

- (a) the Deemed Transfer Notice takes effect on the basis that it does not identify a proposed buyer or state a price for the Sale Shares and the price for the Sale Shares shall be the Defaulting Sale Price;
- (b) there will be no Minimum Transfer Condition;
- (c) the Defaulting Shareholder shall not be entitled to withdraw from the process;
- (d) the Seller shall be the Defaulting Shareholder;

such instalments as agreed between the Defaulting Shareholder and the company or (in the absence of such agreement):

- (i) 50% of such Defaulting Sale Price on completion; and
  - (ii) 50% of such Defaulting Sale Price on the date falling 6 calendar months following the date of completion.
- (f) the Sale Shares will be all of the Shares held by the Defaulting Shareholder in the company; and
- (g) the Defaulting Shareholder does not have the right to sell the Sale Shares to a third party.

15.3 A Deemed Transfer Notice under article 15.1 shall automatically revoke any Transfer Notices for such shares served under article 14.

15.4 A Deemed Transfer Notice:

- (a) under article 15.1(b) shall immediately and automatically revoke any other Deemed Transfer Notice (under which the sale of shares has not been completed) served under article 15.1; and
- (b) under article 15.1(d) revoke any other Deemed Transfer Notice (under which the sale of shares has not been completed) served under article 15.1 other than under 15.1(b)

15.5 The Defaulting Sale Price payable for any Shares which are the subject of a Compulsory Transfer Notice shall be:

- (a) in respect of the Compulsory Transfer Event listed in Article 15.1(b) the par or nominal value;
- (b) in respect of the Compulsory Transfer Events listed in article 15.1(a) or 15.1(c), a price per Share agreed between the Defaulting Shareholder and the directors or, in default of agreement within 20 Business Days after the Compulsory Transfer Event, the Fair Value;
- (c) in respect of the Compulsory Transfer Events listed in article 15.1(d):
  - (i) if the Defaulting Shareholder becomes a Departing Employee as a result of being Good Leaver, a price per Share agreed between the Defaulting Shareholder and the directors or, in default of agreement within 20 Business Days after the Compulsory Transfer Event, the Fair Value; and
  - (ii) if the Defaulting Shareholder becomes a Departing Employee as a result of being a Bad Leaver the sum of £15.00 per share.

**16. FAIR VALUE**

- 16.1 As soon as practicable after deemed service of a Transfer Notice under article 15 or at any time following the serving of a Transfer Notice, the company shall appoint the Valuers to determine the Fair Value of the Sale Shares.
- 16.2 The Valuers shall be requested to determine the Fair Value within 20 Business Days of their appointment and to notify the shareholders in writing of their determination.
- 16.3 The Fair Value for any Sale Share shall be the price per share determined by the Valuers on the following bases and assumptions:
- (a) valuing each of the Sale Shares as a proportion of the total value of all the issued shares in the capital of the Company without any premium or discount being attributable to the percentage of the issued share capital of the Company which they represent or for the rights or restrictions applying to the Sale Shares;
  - (b) the minimum value of each Sale Share shall be £15.00 per share;
  - (c) if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so;
  - (d) the sale is to be on arms' length terms between a willing seller and a willing buyer;
  - (e) the Sale Shares are sold free of all encumbrances;
  - (f) the sale is taking place on the date the Valuers were requested to determine the Fair Value; and
  - (g) to take account of any other factors that the Valuers reasonably believe should be taken into account.
- 16.4 The shareholders are entitled to make submissions to the Valuers including oral submissions and will provide (or procure that the Company provides) the Valuers with such assistance and documents as the Valuers reasonably require for the purpose of reaching a decision, subject to the Valuers agreeing to give such confidentiality undertakings as the shareholders may reasonably require.
- 16.5 To the extent not provided for by this article 16, the Valuers may, in their reasonable discretion, determine such other procedures to assist with the valuation as they consider just or appropriate[, including (to the extent they consider necessary) instructing professional advisers to assist them in reaching their valuation.
- 16.6 The Valuers shall act as expert and not as arbitrator and their written determination shall be final and binding on the shareholders in the absence of manifest error or fraud.

- 16.7 Each shareholder shall bear its own costs in relation to the reference to the Valuers. The Valuers' fees and costs properly incurred by them in arriving at their valuation (including any fees and costs of any advisers appointed by the Valuers) shall be borne by the company or in such other manner as the Valuers shall direct

**17. DRAG ALONG**

- 17.1 After first giving a Transfer Notice and going through the procedure set out in article 14. If the holders of 75% of the shares in issue for the time being (**Selling Shareholders**) wish to transfer all (but not some only) of their shares (**Sellers' Shares**) to a bona fide purchaser on arm's length terms (**Proposed Buyer**), the Selling Shareholders may require all other shareholders (**Called Shareholders**) to sell and transfer all their shares (**Called Shares**) to the Proposed Buyer (or as the Proposed Buyer directs) in accordance with the provisions of this Article (**Drag Along Option**).
- 17.2 The Selling Shareholders may exercise the Drag Along Option by giving written notice to that effect to the Called Shareholders (**Drag Along Notice**) at any time before the transfer of the Sellers' Shares to the Proposed Buyer. The Drag Along Notice shall specify:
- (a) that the Called Shareholders are required to transfer all their Called Shares pursuant to this article 17;
  - (b) the person to whom the Called Shares are to be transferred;
  - (c) the purchase price payable for the Called Shares which shall, for each Called Share, be an amount at least equal to the price per share offered by the Proposed Buyer for the Sellers' Shares; and
  - (d) the proposed date of the transfer.
- 17.3 Once issued, a Drag Along Notice shall be irrevocable. However, a Drag Along Notice shall lapse if, for any reason, the Selling Shareholders have not sold the Sellers' Shares to the Proposed Buyer within 40 Business Days of serving the Drag Along Notice. The Selling Shareholders may serve further Drag Along Notices following the lapse of any particular Drag Along Notice.
- 17.4 No Drag Along Notice shall require a Called Shareholder to agree to any terms except those specifically set out in this article 17.
- 17.5 Completion of the sale of the Called Shares shall take place on the Completion Date. Completion Date means the date proposed for completion of the sale of the Sellers' Shares unless:

- (a) all of the Called Shareholders and the Selling Shareholders agree otherwise in which case the Completion Date shall be the date agreed in writing by all of the Called Shareholders and the Selling Shareholders; or
  - (b) that date is less than 10 Business Days after the date on which the Drag Along Notice is served, in which case the Completion Date shall be the tenth Business Day after service of the Drag Along Notice.
- 17.6 The proposed sale of the Sellers' Shares by the Selling Shareholders to the Proposed Buyer is subject to the rights of pre-emption set out in Article 14, but the sale of the Called Shares by the Called Shareholders shall not be subject to those provisions.
- 17.7 On or before the Completion Date, the Called Shareholders shall execute and deliver stock transfer forms for the Called Shares, together with the relevant share certificates (or a suitable indemnity for any lost share certificates) to the company. On the Completion Date, the company shall pay the Called Shareholders, on behalf of the Proposed Buyer, the amounts due pursuant to article 17.2(c) to the extent that the Proposed Buyer has put the company in the requisite funds. The company's receipt for the price shall be a good discharge to the Proposed Buyer. The company shall hold the amounts due to the Called Shareholders in trust for the Called Shareholders without any obligation to pay interest.
- 17.8 To the extent that the Proposed Buyer has not, on the Completion Date, put the company in funds to pay the purchase price due in respect of the Called Shares, the Called Shareholders shall be entitled to the return of the stock transfer forms and share certificates (or suitable indemnity) for the relevant Called Shares and the Called Shareholders shall have no further rights or obligations under this article 17 in respect of their Shares.
- 17.9 If any Called Shareholder does not, on or before the Completion Date, execute and deliver (in accordance with article 17.7) transfer(s) in respect of all of the Called Shares held by it, each defaulting Called Shareholder shall be deemed to have irrevocably appointed any person nominated for the purpose by the Selling Shareholders to be its agent to execute all necessary transfer(s) on its behalf, against receipt by the company (on trust for such holder) of the purchase price payable for the Called Shares, and to deliver such transfer(s) to the Proposed Buyer (or as it may direct) as the holder thereof. After the Proposed Buyer (or its nominee) has been registered as the holder of the Called Shares, the validity of such proceedings shall not be questioned by any person. Failure to produce a share certificate shall not impede the registration of shares under this article 17.
- 18. **TAG ALONG**
- 18.1 Except in the case of transfers pursuant to Article 15 or the Cross Option, and after going through the pre-emption procedure set out in Article 14, the provisions of



article 18.2 to article 18.6 shall apply if, in one or a series of related transactions, one or more Sellers propose to transfer any of the shares (**Proposed Transfer**) which would, if carried out, result in any person (**Buyer**), and any person Acting in Concert with the Buyer, acquiring a Controlling Interest in the company.

- 18.2 Before making a Proposed Transfer, the Sellers shall procure that the Buyer makes an offer (**Offer**) to the other shareholders to purchase all of the shares held by them for a consideration in cash per share that is at least equal to the highest price per share offered or paid by the Buyer, or any person Acting in Concert with the Buyer, in the Proposed Transfer or in any related previous transaction in the 6 months preceding the date of the Proposed Transfer (**Specified Price**).
- 18.3 The Offer shall be made by written notice (**Offer Notice**), at least 30 Business Days before the proposed sale date (**Sale Date**). To the extent not described in any accompanying documents, the Offer Notice shall set out:
- (a) the identity of the Buyer;
  - (b) the Specified Price and other terms and conditions of payment;
  - (c) the Sale Date; and
  - (d) the number of shares proposed to be purchased by the Buyer (**Offer Shares**).
- 18.4 If the Buyer fails to make the Offer to all of the holders of shares in the company in accordance with article 18.2 and article 18.3, the Sellers shall not be entitled to complete the Proposed Transfer and the company shall not register any transfer of Shares effected in accordance with the Proposed Transfer.
- 18.5 If the Offer is accepted by any shareholder (**Accepting Shareholder**) in writing within 20 Business Days of receipt of the Offer Notice, the completion of the Proposed Transfer shall be conditional on completion of the purchase of all the Offer Shares held by Accepting Shareholders.
- 18.6 The Proposed Transfer is subject to the provisions of Article 14, but the purchase of Offer Shares from Accepting Shareholders shall not be subject to those provisions

## 19. PURCHASE OF OWN SHARES

Subject to 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) out of capital up to any amount in a financial year not exceeding the lower of:

- (a) £15,000; and

- (b) the nominal value of 5% of the Company's fully paid share capital at the beginning of each financial year of the Company.

## **DECISION MAKING BY SHAREHOLDERS**

### **20. POLL VOTES**

- 20.1 A poll may be demanded at any general meeting by any qualifying person (as defined in section 318 of the Act) present and entitled to vote at the meeting.
- 20.2 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.

### **21. PROXIES**

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

## **ADMINISTRATIVE ARRANGEMENTS**

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

- 22.1 Subject to article 22.2, any notice, document or other information shall be deemed served on, or delivered to, the intended recipient:
  - (a) if delivered by hand, on signature of a delivery receipt or at the time the notice, document or other information is left at the address; or
  - (b) if sent by fax, at the time of transmission; or
  - (c) if sent by pre-paid United Kingdom first class post, recorded delivery or special delivery to an address in the United Kingdom, at 9.00 am on the second Business Day after posting; or
  - (d) if sent by pre-paid airmail to an address outside the country from which it is sent, at 9.00 am on the fifth Business Day after posting; or

- (e) if sent by reputable international overnight courier to an address outside the country from which it is sent, on signature of a delivery receipt or at the time the notice, document or other information is left at the address; or
- (f) if sent or supplied by e-mail, one hour after the notice, document or information was sent or supplied; or
- (g) if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website; and
- (h) if deemed receipt under the previous paragraphs of this article 22.1 would occur outside business hours (meaning 9.00 am to 5.00 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.

22.2 To prove service, it is sufficient to prove that:

- (a) if delivered by hand or by reputable international overnight courier, the notice was delivered to the correct address; or
- (b) if sent by fax, a transmission report was received confirming that the notice was successfully transmitted to the correct fax number; or
- (c) if sent by post or by airmail, the envelope containing the notice was properly addressed, paid for and posted; or
- (d) if sent by e-mail, the notice was properly addressed and sent to the e-mail address of the recipient.

## 23. INDEMNITY

23.1 Subject to article 23.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:

- (a) each relevant officer shall be indemnified out of the company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer:
  - (i) in the actual or purported execution and/or discharge of his duties, or in relation to them; and
  - (ii) in relation to the company's (or any associated company's) activities as trustee of an occupational pension scheme (as defined in section 235(6) of the Act),

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 (or any associated company's) affairs; and

- (b) the company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in article 23.1(a) and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.

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

23.3 In this article:

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

## **24. INSURANCE**

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

24.2 In this article:

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

pension fund or employees' share scheme of the company or associated company; and

- (c) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.