

THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

OF

**ACCESSORIZE TM LTD**

Company No 12651605

Adopted by Special Resolution dated [ **8 July** ] 2021

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**OF**  
**ACCESSORIZE TM LTD**  
**(Adopted by special resolution passed on 8 July 2021)**

**Introduction**

**1. Interpretation**

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

**A Director:** any director appointed to the Company by holders of the A Shares;

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

**Appointor:** has the meaning given in article 12.1;

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

**B Share:** an ordinary share of £1 in the capital of the Company designated as a B Share;

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

**CA 2006:** the Companies Act 2006;

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

**Consultant:** a person who provides administrative, managerial, advisory or other executive services to any member of the Group under an agreement for services where those services are provided either directly by that person or through the medium of an intermediary personal services company;

**Controlling Interest:** 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;

**Departing Executive Shareholder:** an Executive Shareholder who ceases to be a director or employee of or Consultant to the Company or any member of the Group ;

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

**Eligible A Director:** any A Director who would be entitled to vote on the matter at a meeting of directors (but excluding any A Director whose vote is not to be counted in respect of the particular matter);

**Executive Shareholder:** A shareholder who is, or has been, a director and/or an employee of the Company or any member of the Group or who is, or has been, providing services to the Company or any member of the Group as a Consultant;

**Fair Market Value:** in relation to shares, as determined in accordance with article 17;

**Group:** in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company. Each company in a Group is a **member of the Group**;

**holding company:** has the meaning given in article 1.5;

**Interested Director:** has the meaning given in article 9.1;

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

;

**Shareholder:** means a holder of A or B shares as the case may be;

**subsidiary:** has the meaning given in article 1.5;

**Termination Date:** means the date on which an Executive Shareholder ceases to be a director or employee of or Consultant to the Company;

**Valuers:** the auditors for the time being of the Company or, if the A Shareholders so decide, an independent firm of accountants appointed by the A Shareholders (in each case acting as an expert and not as an arbitrator);

**Writing or written:** the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise;

1.2 Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the CA 2006 shall have those meanings in these Articles but excluding any statutory modification of them not in force on the date when these Articles become binding on the Company.

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

## **2. Adoption of the Model Articles**

- 2.1 The Model Articles shall apply to the Company, except in so far as they are modified or excluded by these Articles or are inconsistent with these Articles, and, subject to any such modifications, exclusions or inconsistencies, shall together with these Articles constitute the articles of association of the Company to the exclusion of any other articles or regulations set out in any statute or in any statutory instrument or other subordinate legislation.
- 2.2 Model Articles 6(2), 8, 9(1), 11 to 14 (inclusive), 16, 26(5), 38, 39, 43, 44(2), 49 and 50 to 53 (inclusive) shall not apply to the Company.
- 2.3 Model Article 20 shall be amended by the insertion of the words "(including alternate directors and the secretary)" before the words "properly incur".

- 2.4 In Model Article 25(2)(c), the words "evidence, indemnity and the payment of a reasonable fee" shall be deleted and replaced with the words "evidence and indemnity".
- 2.5 Model Articles 31(1)(a) to (c) (inclusive) shall be amended by the deletion, in each case, of the words "either" and "or as the directors may otherwise decide". Model Article 31(1)(d) shall be amended by the deletion of the words "either" and "or by such other means as the directors decide".

### **3. Directors' meetings**

- 3.1 Any decision of the directors must be taken at a meeting of directors in accordance with these Articles or must be a decision taken in accordance with article 4.
- 3.2 Subject as provided in these Articles, the directors may participate in directors' meetings for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.
- 3.3 Meetings of the directors shall take place at least four times each year, with a period of not more than twelve weeks between any two meetings.
- 3.4 All decisions made at any meeting of the directors or of any committee of the directors shall be made only by resolution and resolutions at any meeting of the directors or committee of the directors shall be decided by a majority of votes.
- 3.5 If at any time before or at any meeting of the directors or of any committee of the directors any A Directors participating should request that the meeting be adjourned or reconvened to another time or date (whether to enable further consideration to be given to any matter or for other directors to participate or for any other reason, which need not be stated) then such meeting shall be adjourned or reconvened accordingly, and no business shall be conducted at that meeting after such a request has been made. No meeting of directors may be adjourned pursuant to this article more than once.
- 3.6 A committee of the directors must include at least one A Director. The provisions of article 7 shall apply equally to meetings of any committee of the directors as to meetings of the directors.

### **4. Unanimous decisions of directors**

- 4.1 A decision of the directors is taken in accordance with this article when all Eligible Directors indicate to each other by any means that they share a common view on a matter.

4.2 Such a decision may take the form of a resolution in writing, where each Eligible Director has signed one or more copies of it, or to which each Eligible Director has otherwise indicated agreement in writing.

4.3 A decision may not be taken in accordance with this article if the Eligible Directors would not have formed a quorum at a directors' meeting to vote on the matter in accordance with article 7.

## **5. Number of directors**

The number of directors shall not be less than three made up of at least two A Directors. No shareholding qualification for directors shall be required.

## **6. Calling a directors' meeting**

6.1 Any director may call a meeting of directors by giving not less than five Business Days' notice of the meeting (or such shorter period of notice as agreed in writing by at least one A Director) to each director or by authorising the Company secretary (if any) to give such notice.

6.2 Notice of any directors' meeting must be accompanied by:

- (a) an agenda specifying in reasonable detail the matters to be raised at the meeting; and
- (b) copies of any papers to be discussed at the meeting.

6.3 Matters not on the agenda, or business conducted in relation to those matters, may not be raised at a meeting of directors unless all the directors agree in writing.

## **7. Quorum for directors' meetings**

7.1 The quorum at any meeting of the directors (including adjourned meetings) shall be two directors, of whom one at least shall be an Eligible A Director (or the Eligible A Director's alternate).

7.2 No business shall be conducted at any meeting of the directors unless a quorum is present at the beginning of the meeting and also when that business is voted on.

7.3 If a quorum is not present within 30 minutes of the time specified for the relevant meeting in the notice of the meeting then the meeting shall be adjourned for five Business Days at the same time and place. If a quorum is not present at any

such adjourned meeting within 30 minutes of the time specified, then those Eligible Directors present will constitute a quorum.

#### **8. Chairing of directors' meetings**

The post of chair of the board of directors will be held by an A Director. The chairperson shall not have a casting vote. If the chairperson for the time being is unable to attend any meeting of the board of directors, the shareholder who appointed the chairperson shall be entitled to appoint another of its nominated directors to act as chair at the meeting.

#### **9. Directors' interests**

9.1 The directors may, in accordance with the requirements set out in this article, authorise any Conflict proposed to them by any director which would, if not so authorised, involve a director (the **Interested Director**) breaching their duty under section 175 of the CA 2006 to avoid conflicts of interest.

9.2 Any authorisation under this article will be effective only if:

- (a) to the extent permitted by the CA 2006, the matter in question shall have been proposed by any director for consideration in the same way that any other matter may be proposed to the directors under the provisions of these Articles or in such other manner as the directors may determine;
- (b) any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Director; and
- (c) the matter was agreed to without the Interested Director voting or would have been agreed to if the Interested Director's vote had not been counted.

9.3 Any authorisation of a Conflict under this article 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 will or will 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 the Interested Director's involvement in the Conflict and otherwise than through their position as a director of the Company) information that is confidential to a third party, the Interested Director 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 themselves 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.
- 9.4 Where the directors authorise a Conflict, the Interested Director will be obliged to conduct themselves in accordance with any terms and conditions imposed by the directors in relation to the Conflict.
- 9.5 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.
- 9.6 A director, notwithstanding the director's office, may be a director or other officer of, employed by, or otherwise interested (including by the holding of shares) in, the shareholder who appointed them as a director of the Company, or any other member of such shareholder's Permitted Group, and no authorisation under article 9.1 shall be necessary in respect of any such interest.
- 9.7 Any A Director shall be entitled from time to time to disclose to the holders of the A Shares (in the case of any A Director) such information concerning the business and affairs of the Company as the A Director shall at their discretion see fit, subject only to the condition that if there be more than one A shareholder the director concerned shall ensure that each of the shareholders of the same class receives the same information on an equal footing and any Director who is a Consultant providing services to the Company through the medium of an intermediary personal services company shall be entitled from time to time to disclose to his intermediary personal service company such information concerning the business and affairs of the Company as shall be necessary so as to ensure that the Consultant can provide the consultancy services for which he is engaged by the Company.

- 9.8 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 the director derives from or in connection with a relationship involving a Conflict which has been authorised by the directors in accordance with these Articles or by the Company in general meeting (subject in each case to any terms and conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.
- 9.9 Subject to sections 177(5) and 177(6) of the CA 2006, a director who is in any way, whether directly or indirectly, interested in a proposed transaction or arrangement with the Company shall declare the nature and extent of the director's interest to the other directors before the Company enters into the transaction or arrangement in accordance with the CA 2006.
- 9.10 Subject to sections 182(5) and 182(6) of the CA 2006, a director who is in any way, whether directly or indirectly, interested in a transaction or arrangement that has been entered into by the Company shall declare the nature and extent of the director's interest to the other directors as soon as is reasonably practicable in accordance with the CA 2006, unless the interest has already been declared under article 9.9.
- 9.11 Subject, where applicable, to any terms and conditions imposed by the directors in accordance with article 9.3, and provided a director has declared the nature and extent of their interest in accordance with the requirements of the CA 2006, 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 such 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 transaction or arrangement or proposed transaction or arrangement in which the relevant director is interested;
  - (c) shall be entitled to vote at a meeting of directors (or of a committee of directors) or to participate in any unanimous decision, in respect of such transaction or arrangement or proposed transaction or arrangement in which the relevant director is interested;
  - (d) may act by themselves or their firm in a professional capacity for the Company (otherwise than as auditor) and they or their firm shall be entitled to remuneration for professional services as if they were not a director;

- (e) may be a director or other officer of, or employed by, or a Consultant to, 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 the relevant director may otherwise agree, be accountable to the Company for any benefit which they (or a person connected with them (as defined in section 252 of the CA 2006)) derives from any such contract, transaction or arrangement or from any such office or employment or consultancy or from any interest in any such body corporate and no such contract, 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 their duty under section 176 of the CA 2006.

#### **10. Records of decisions to be kept**

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

#### **11. Appointment and removal of directors**

- 11.1 The holder of a majority of the A Shares for the time being shall be entitled to appoint two or more persons to be A Directors of the Company.
- 11.2 The holder of a majority of the A Shares shall be entitled to appoint one person to act as an observer at meetings of directors and meetings of any committee of the directors. The observer shall be entitled to receive notice of, and attend and speak at, all meetings of directors and meetings of any committee of the directors and to receive copies of all board papers as if they were a director, but shall not be entitled to vote on any resolutions proposed.
- 11.3 Any A Director may at any time be removed from office by the holder of a majority of the A Shares. Any director who is an employee of or Consultant to the Company and who ceases to be an employee or Consultant shall be removed from office from the date their employment or consultancy ceases.
- 11.4 If any A Director shall die or be removed from or vacate office for any cause, the holder of a majority of the A Shares may appoint in the relevant director's place another person to be an A Director.

- 11.5 Any appointment or removal of a director pursuant to this article shall be in writing and signed by or on behalf of the holder of a majority of the A Shares and served on each of the other shareholders and the Company at its registered office, and on the director, in the case of the director's removal. Any such appointment or removal shall take effect when received by the Company or at such later time as shall be specified in such notice.
- 11.6 The right to appoint and to remove A Directors under this article shall be a class right attaching to the A Shares.
- 11.7 If no A Shares remain in issue following a redesignation under these Articles, any director appointed by shareholders of that class shall be deemed to have been removed from designation as an A Director but not from office as a Director.
- 11.8 No A Director shall be appointed or removed otherwise than pursuant to these Articles, save as provided by law.

## **12. Alternate directors**

- 12.1 Any director (other than an alternate director) (the **Appointor**) may appoint any person (whether or not a director) other than an existing director representing the other class of shares, to be an alternate director to exercise the Appointor's powers, and carry out the Appointor's responsibilities, in relation to the taking of decisions by the directors, in the absence of the Appointor. In these Articles, where the context so permits, the term "A Director" shall include an alternate director appointed by an A Director. A person may be appointed an alternate director by more than one director provided that each of the alternate's Appointors represents the same class of shares but not otherwise.
- 12.2 Any appointment or removal of an alternate director must be effected by notice in writing to the Company (and to the alternate, on removal) signed by the Appointor, or in any other manner approved by the directors.
- 12.3 The notice must:
- (a) identify the proposed alternate; and
  - (b) in the case of a notice of appointment, contain a statement signed by the proposed alternate that they are willing to act as the alternate of the director giving the notice.
- 12.4 An alternate director has the same rights, in relation to any decision of the directors, as the alternate's Appointor.
- 12.5 Except as the Articles specify otherwise, alternate directors:

- (a) are deemed for all purposes to be directors;
- (b) are liable for their own acts and omissions;
- (c) are subject to the same restrictions as their Appointors; and
- (d) are not deemed to be agents of or for their Appointors,

and, in particular (without limitation), each alternate director shall be entitled to receive notice of all meetings of directors and of all meetings of committees of directors of which the alternate's Appointor is a member.

12.6 A person who is an alternate director but not a director may, subject to the person being an Eligible Director:

- (a) Be counted as participating for the purposes of determining whether a quorum is present at a meeting of directors (but only if that person's Appointor is an Eligible Director and is not participating); and
- (b) Participate in a unanimous decision of the directors (but only if that person's Appointor is an Eligible Director in relation to that decision and is not participating).

12.7 A director who is also an alternate director is entitled, in the absence of their Appointor(s), to a separate vote on behalf of each Appointor (provided that an Appointor is an Eligible Director in relation to that decision), in addition to the director's own vote on any decision of the directors.

12.8 An alternate director may be paid expenses and may be indemnified by the Company to the same extent as if the alternate were a director but shall not be entitled to receive from the Company any remuneration in the alternate's capacity as an alternate director except such part (if any) of the remuneration otherwise payable to the alternate's Appointor as the Appointor may by notice in writing to the Company from time to time direct.

12.9 An alternate director's appointment as an alternate (in respect of a particular Appointor) terminates:

- (a) when the alternate's Appointor revokes the appointment by notice to the Company and the alternate in writing specifying when it is to terminate; or
- (b) on the occurrence, in relation to the alternate, of any event which, if it occurred in relation to the alternate's Appointor, would result in the termination of the Appointor's appointment as a director; or

- (c) when the alternate director's Appointor ceases to be a director for whatever reason.

## **Shares**

### **13. Share capital**

- 13.1 Except as otherwise provided in these Articles, the A Shares and the B Shares shall rank pari passu and shall constitute separate classes of shares.
- 13.2 The B Shares shall not entitle the holders of them to receive any dividend or distribution in respect of those shares.
- 13.3 The B shares shall not entitle the holders of them to receive notice of, to attend, to speak or to vote at any general meeting of the Company.
- 13.4 No share of any class nor any right to subscribe for or to convert any security into a share of any class shall be allotted or granted otherwise than to the holder of a share of that same class.
- 13.5 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.

- 13.6 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.

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

**14. Share transfers: general**

14.1 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.

14.2 No share shall be transferred unless the transfer is made in accordance with these Articles or with the prior written consent of the A Shareholders.

14.3 The directors must register any duly stamped transfer made in accordance with these Articles and shall not have any discretion to register any transfer of shares which has not been made in compliance with these Articles.

14.4 Any transfer of shares by way of a sale that is required to be made under article 16 shall be deemed to include a warranty that the transferor sells the shares with full title guarantee.

**15. Permitted transfers**

15.1 Subject to articles 18 and 19 (Drag Along and Tag Along rights) an A Shareholder may transfer any or all of its A Shares to any person without restriction as to price or otherwise.

**16. Compulsory transfers: Executive Shareholders**

16.1 A B shareholder (an **Executive Seller**) is deemed to have served a Transfer Notice (a **Deemed Transfer Notice**) if that person becomes a Departing Executive Shareholder unless the A Directors in their absolute and unfettered discretion direct in writing within five Business Days of the relevant Termination Date that a Transfer Notice shall not be deemed to have been served. For the purpose of this Article the Transfer Notice is deemed to have been served on the relevant Termination Date:

16.2 The Deemed Transfer Notice shall take effect on the basis that it is an irrevocable offer (**Offer**) by the Departing Executive Shareholder to the A Shareholders to sell all of the Departing Executive Shareholder's B shares ( **Sale Shares**) to the A Shareholders at the relevant Transfer Price for the Sale Shares (**Transfer Price**) viz:

- (a) the Transfer Price in respect of a Compulsory Executive Transfer where the Termination Date is on or prior to the fourth anniversary of the date on which the Sale Shares were acquired by the Departing Executive Shareholder is the aggregate subscription price paid by him or her in respect of the Sale Shares.
- (b) the Transfer Price in respect of a Compulsory Executive Transfer where the Termination Date is after the fourth anniversary of the date on which the Sale Shares were acquired by the Departing Executive Shareholder is the aggregate Fair Market Value of such Sale Shares either as agreed between the Shareholders or if not as determined as set out in article 17.

- 16.3 The A Shareholders shall not be required to accept any Offer to buy the Sale Shares.
- 16.4 The A Shareholders shall either accept or decline the Offer within 20 Business Days.
- 16.5 If The Offer is declined the B Shareholder may (subject to article 19) retain the Sale Shares. The B Shares may not be sold to any third party save with the prior written consent of the A Shareholders.
- 16.6 If the Executive Seller fails to complete a transfer of Sale Shares as required under this article ~~16~~, the A Shareholders are irrevocably authorised to appoint any person they nominate for the purpose as agent to transfer the Sale Shares on the Seller's behalf and to do anything else that the A Shareholders may reasonably require to complete the sale, and the Company may receive the purchase price in trust for the Seller (without any obligation to pay interest), giving a receipt that shall discharge the A Shareholders.
- 16.7 If the A Shareholders so direct the Offer may instead be accepted on the basis that the Company shall acquire and cancel the Sale Shares under Chapter 4 of Part 18 of the CA 2006, subject to the Company being able to comply with the requirements of Chapter 4 of Part 18 of the CA 2006

## **17. Valuation**

- 17.1 If the Fair Market Value of the Sale shares is not agreed by the Shareholders within 10 Business Days after service of a Deemed Transfer Notice under article 16 the A Shareholders shall appoint the Valuers to determine the Fair Market Value of the Sale Shares.



- 17.2 The Valuers shall be requested to determine the Fair Market Value within 20 Business Days of their appointment and to notify the Shareholders in writing of their determination.
- 17.3 The Fair Market 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) if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so;
  - (c) the sale is to be on arms' length terms between a willing seller and a willing buyer;
  - (d) the Sale Shares are sold free of all encumbrances;
  - (e) the sale is taking place on the date the Valuers were requested to determine the Fair Market Value; and
  - (f) to take account of any other factors that the Valuers reasonably believe should be taken into account.
- 17.4 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.
- 17.5 To the extent not provided for by this article 17, 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.
- 17.6 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.
- 17.7 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 Shareholders equally.

## 18. Tag along

- 18.1 The provision of this article 18 shall apply if the holders of the A Shares (**Seller**) proposes to transfer all or any of the A Shares to a bona fide purchaser on arm's length terms (**Proposed Transfer**) and such transfer would, if carried out, result in such person (**Buyer**) acquiring a Controlling Interest in the Company.
- 18.2 Before making a Proposed Transfer, the Seller shall procure that the Buyer makes an offer (**Offer**) to the holders of the B Shares in issue for the time being to purchase all of the B Shares held by him or her (**Offer Shares**) for a consideration in cash per Share that is at least equal to the price per Share offered by the Buyer in the Proposed Transfer (**Specified Price**).
- 18.3 The Offer shall be made by written notice (**Offer Notice**), at least 20 Business Days before the proposed transfer date (**Transfer 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 Transfer Date; and
  - (d) the number of Shares proposed to be purchased by the Buyer.
- 18.4 If the Buyer fails to make the Offer in accordance with article 18.2 and article 18.3, the Seller 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 the holder of the B Shares in writing within 10 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 such shareholder.
- 18.6 The Proposed Transfer is not subject to any rights of pre-emption by the holders of the B shares.

## 19. Drag along

- 19.1 If the holders of the A Shares wish to transfer A Shares and such transfer would, if carried out, result in such person (**Proposed Buyer**) acquiring a Controlling Interest in the Company, the Seller may require the holders of the B Shares (**Called Shareholder**) to sell and transfer all of its shares (**Called Shares**) to the Proposed Buyer (or as the Proposed Buyer directs) in accordance with the provisions of this article (**Drag Along Option**).

- 19.2 The Seller may exercise the Drag Along Option by giving written notice to that effect to the Called Shareholder (**Drag Along Notice**) at any time before the transfer of the A Shares to the Proposed Buyer. The Drag Along Notice shall specify:
- (a) that the Called Shareholder is required to transfer all of its Called Shares pursuant to this article 19;
  - (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 A Shares; and
  - (d) the proposed date of the transfer.
- 19.3 Once issued, a Drag Along Notice shall be irrevocable. However, a Drag Along Notice shall lapse if, for any reason, the Seller has not sold the A Shares to the Proposed Buyer within 30 Business Days of serving the Drag Along Notice. The Seller may serve further Drag Along Notices following the lapse of any particular Drag Along Notice.
- 19.4 No Drag Along Notice shall require the Called Shareholder to agree to any terms except those specifically set out in this article 19.
- 19.5 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 A Shares unless the Seller and the Called Shareholder agree otherwise in which case the Completion Date shall be the date agreed in writing by them.
- 19.6 The proposed sale of the A Shares by the Seller to the Proposed Buyer is not subject to any rights of pre-emption set by the holders of the B Shares.
- 19.7 On or before the Completion Date, the Called Shareholder shall execute and deliver a stock transfer form for the Called Shares, together with the relevant share certificate(s) (or a suitable indemnity for any lost share certificate(s)) to the Company. On the Completion Date, the Company shall pay the Called Shareholder, on behalf of the Proposed Buyer, the amounts due pursuant to article 19.2 to the extent that the Proposed Buyer has put the Company in the requisite funds. The Company's receipt for the price shall be a good discharge to the Proposed Buyer. The Company shall hold the amounts due to the Called Shareholder in trust for the Called Shareholder without any obligation to pay interest.
- 19.8 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 Shareholder shall be entitled to the return of the stock transfer form and share certificate(s) (or suitable indemnity) for the relevant Called Shares and the Called Shareholder shall have no further rights or obligations under this article 19 in respect of its Shares.

- 19.9 If the Called Shareholder does not, on or before the Completion Date, execute and deliver (in accordance with article 19.7) transfer(s) in respect of all of the Called Shares held by it, the Called Shareholder shall be deemed to have irrevocably appointed any person nominated for the purpose by the Seller 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 19.9.

## **Decision making by shareholders**

### **20. Quorum for general meetings**

- 20.1 The quorum at any general meeting of the Company, or adjourned general meeting, shall be two persons present in person or by proxy, of whom one shall be a holder of A Shares or a duly authorised representative of such holder.
- 20.2 No business shall be transacted by any general meeting unless a quorum is present at the commencement of the meeting and also when that business is voted on.

### **21. Chairing general meetings**

The chairperson of the board of directors shall chair general meetings. If the chairperson is unable to attend any general meeting, the shareholder who appointed the chairperson shall be entitled to appoint another of its nominated directors present at the meeting to act as chair at the meeting, and the appointment of the chair of the meeting must be the first business of the meeting.

### **22. Voting**

- 22.1 At a general meeting, on a show of hands every shareholder who is entitled to vote who is present in person or by proxy shall have one vote, unless the proxy is themselves a shareholder entitled to vote; on a poll every shareholder who is entitled to vote who is present in person or by proxy shall have one vote for each

share of which they are the holder; and on a vote on a written resolution every shareholder has one vote for each share of which they are the holder.

22.2 Any resolution proposed as a written resolution in relation to any of the matters listed in article 22.1 shall be proposed in a form that provides shareholders with the ability to cast their votes against as well as in favour of such resolution.

22.3 A B Shareholder is not entitled to vote at any general meeting or on a poll or otherwise.

## **23. Poll votes**

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

23.2 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.

## **24. Proxies**

24.1 Article 45(1)(d) of the Model Articles shall be deleted and replaced with the words "is delivered to the Company in accordance with the Articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in accordance with any instructions contained in the notice of general meeting (or adjourned meeting) to which they relate".

24.2 Article 45(1) of the Model Articles shall be amended by the insertion of the words "and a proxy notice which is not delivered in such manner shall be invalid" as a new paragraph at the end of that article.

## **Administrative arrangements**

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

25.1 Subject to article 25.2, any notice, document or other information shall be deemed received by the intended recipient:

- (a) if delivered by hand, at the time the notice, document or other information is left at the address;

- (b) if sent by pre-paid first class post or other next working day delivery service providing proof of postage, at 9.00 am on the second Business Day after posting;
- (c) if sent by email, at the time of transmission.

25.2 If deemed receipt under article 25.1 would occur outside Usual Business Hours, the notice, document or other information shall be deemed to have been received when Usual Business Hours next recommence. For the purposes of this article, **Usual Business Hours** means 9.00 am to 5.30 pm local time on any day which is not a Saturday, Sunday or public holiday in the place of receipt of the notice, document or other information (which, in the case of service by email shall be deemed to be the same place as is specified for service of notices, documents or other information on the relevant recipient by hand or post).

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

- (a) if delivered by hand, the notice was delivered to the correct address;
- (b) if sent by post the envelope containing the notice was properly addressed, paid for and posted;
- (c) if sent by email, the notice was properly addressed and sent to the email address of the recipient.

25.4 In proving that any notice, document or information was properly addressed, it will suffice to show that the notice, document or information was addressed to an address permitted for the purpose by the CA 2006.

## 26. Indemnity and insurance

26.1 Subject to article 26.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:

- (a) each relevant officer of the Company shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by that person as a relevant officer in the actual or purported execution and/or discharge of the relevant officer's duties, or in relation to them, including (in each case) any liability incurred by the relevant officer in defending any civil or criminal proceedings, in which judgment is given in the relevant officer's favour or in which the relevant officer is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on the relevant officer's part or in connection with any application in which the court grants

them, in their capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the Company's affairs; and

- (b) the Company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by the relevant officer in connection with any proceedings or application referred to in article 26.1(a) and otherwise may take action to enable any such relevant officer to avoid incurring such expenditure.

26.2 This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the CA 2006 or by any other provision of law.

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

26.4 In this article:

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