

**Company number 07317246**

**SPECIAL RESOLUTION**

**OF**

**Inklings Communications Limited (Company)**

**PASSED on 30 March 2016**

The following resolution was duly passed as a special resolution by way of written resolution under Chapter 2 of Part 13 of the Companies Act 2006

**SPECIAL RESOLUTION**

THAT the draft articles of association attached to this resolution be adopted as the articles of association of the Company in substitution for, and to the exclusion of, the Company's existing articles of association.

Signed.  .....

**Director**

**SATURDAY**



\*A542WFZF\*

A18

02/04/2016

#206

COMPANIES HOUSE

Company Number: 07317246

---

**PRIVATE COMPANY LIMITED BY SHARES**

---

---

**ARTICLES OF ASSOCIATION**

of

**Inkling Communications Limited**

Adopted by Special Resolution

on 30 March 2016

---

**NME Law Limited  
White Lion House  
64a Highgate High Street  
London, N6 5HX  
Tel: 020 8341 7443  
Ref: NME/00040/6**

## CONTENTS

---

### CLAUSE

1	Interpretation . . . . .	1
2	Allotment and Issue of New Shares . . . . .	5
3	Decision-Making by the Directors . . . . .	5
4	Calling a directors' meeting . . . . .	6
5	Quorum for directors' meetings . . . . .	6
6	Casting vote . . . . .	6
7	Transactions or other arrangements with the company . . . . .	7
8	Directors' conflicts of interest . . . . .	7
9	Records of decisions to be kept . . . . .	9
10	Number of directors . . . . .	9
11	Appointment and removal of directors . . . . .	9
12	Appointment and removal of alternate directors . . . . .	9
13	Rights and responsibilities of alternate directors . . . . .	10
14	Termination of alternate directorship . . . . .	11
15	Secretary . . . . .	11
16	Transfer of shares subject to pre-emption rights . . . . .	11
17	Permitted transfers . . . . .	13
18	Compulsory transfers . . . . .	14
19	Determining Fair Value . . . . .	17
20	Poll votes . . . . .	18
21	Proxies . . . . .	18
22	Means of communication to be used . . . . .	19
23	Indemnity . . . . .	19
24	Insurance . . . . .	20

**THE COMPANIES ACT 2006**

**PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**

**OF**

**INKLING COMMUNICATIONS LIMITED ("the Company")**

**(Adopted by special resolution passed on 30 March 2016)**

**INTRODUCTION**

**1. INTERPRETATION**

**1.1** In these Articles, unless the context otherwise requires:

**Act:** means the Companies Act 2006;

**Acting in Concert:** has the meaning ascribed to it by the City Code on Takeovers and Mergers as in force and construed at the date of adoption of these Articles,

**appointor:** has the meaning given in Article 12.1;

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

**Auditors:** means the auditors of the Company for the time being,

**Bad Leaver:** has the meaning given in Article 18.10(d),

**Board:** means the board of directors of the Company;

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

**Call Option:** means the call option severally granted by each Seller to the Purchaser in respect of the Option Shares held by that Seller pursuant to the terms, conditions and provisions of the Share Purchase and Option Agreement,

**Civil Partner:** in relation to an individual shareholder, a civil partner as defined in the Civil Partnerships Act 2004;

**Conflict:** has the meaning given in Article 8.1;

**Connected Persons:** shall have the meaning provided by section 1122 of the Corporation Taxes Act 2010,

**Controlling Interest:** in relation to a person means the ownership by that person and his or its Connected Persons of Shares carrying the right to more than 50% of the

total number of votes which may be cast on a poll at a general meeting of the Company;

**Departing Employee Shareholder:** has the meaning given in Article 18.10(b);

**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),

**Employee Shareholder:** has the meaning given in Article 18.10(a),

**Expert:** means the Auditors unless the Company has no Auditors or the Auditors decline an instruction to report on Fair Value when the Expert for the purpose of that report shall be a firm of chartered accountants agreed between the Departing Employee Shareholder and the Board or, in default of agreement within 20 business days as to the identity of the Expert, appointed by the President of the Institute of Chartered Accountants in England and Wales on the application of the Departing Employee Shareholder or the Board,

**Fair Value:** means the value determined in accordance with Article 19;

**Family Trusts:** in relation to an individual shareholder, a trust or settlement set up wholly for the benefit of that individual shareholder (Settlor) and/or the Settlor's Privileged Relations;

**Further Securities:** any shares in the capital of the Company or right to subscribe for or to convert into such shares which, in either case, the Company proposes to allot or grant (as the case may be) after the date of adoption of these Articles;

**Good Leaver:** has the meaning given in Article 18.10(c);

**Group:** the Company and its subsidiaries (if any) from time to time. References to a Group Company are to any one or more of those companies,

**Inkling First Option Shares:** has the meaning given to it in the Share Purchase and Option Agreement,

**Inkling Second Option Shares:** has the meaning given to it in the Share Purchase and Option Agreement,

**Leaver:** means a Good Leaver or Bad Leaver (as applicable);

**Member:** a member of the Company,

**Member of the Same Group:** as regards any company, a company which is from time to time a parent undertaking or a subsidiary undertaking of that undertaking or of any such parent undertaking,

**Minimum Transfer Condition:** has the meaning given in Article 16.5,

**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,

**Net Asset Value:** means the total assets of the Company less the total liabilities (excluding contingent liabilities) of the Company as per its audited accounts in respect of the last accounting reference period;

**Option Shares:** means the Inking First Option Shares and the Inking Second Option Shares,

**Original Shareholder:** has the meaning given in Article 17.1,

**Permitted Transfer:** a transfer of shares in accordance with Article 17;

**Permitted Transferee:** in relation to a shareholder.

(a) who is an individual, to any of his Privileged Relations or to the trustees of those Family Trusts; or

(b) that is an undertaking (as defined in section 1161(1) of the 2006 Act), to (i) any Member of the Same Group or (ii) a company formed to acquire the whole or a substantial part of its undertaking and assets as part of a scheme of amalgamation or reconstruction (proved to the reasonable satisfaction of the Board that the transfer is bona fide and falls within these categories);

**Privileged Relation:** the spouse, Civil Partner, widow or widower of a shareholder and the shareholder's children (including step and adopted children) and siblings;

**Proposed Transferee:** has the meaning given in Article 16.4(b),

**Purchaser:** means Cubo Communications Group plc;

**Sale Notice:** has the meaning given in Article 16.11;

**Sale Price:** has the meaning given in Article 16.4(c),

**Sale Shares:** has the meaning given in Article 16.4(a),

**Sellers:** William Parkinson and David Proudlock and **Seller** shall be construed accordingly,

**Sellers' Buyback Option:** means the buyback option granted by the Purchaser to the Sellers pursuant to the Share Purchase and Option Agreement;

**Share or share:** means an issued share in the capital of the Company;

**Share Purchase and Option Agreement:** means the share purchase and option agreement between the Sellers, and the Purchaser dated on or about the date of adoption of these articles,

**Shareholder:** a person who holds shares in the Company;

**Transfer Notice:** has the meaning given in Article 16.2, and

**Vendor** has the meaning given in Article 16.2.

- 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, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of:
- (a) any subordinate legislation from time to time made under it; and
  - (b) any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts
- 1.6 Any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.7 The Model Articles shall apply to the company, except in so far as they are modified or excluded by these Articles
- 1.8 Articles 7, 8, 9(1), 11(2) and (3), 13, 14(1), (2), (3) and (4), 17(2), 44(2), 52 and 53 of the Model Articles shall not apply to the company
- 1.9 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"
- 1.10 Article 27(3) of the Model Articles shall be amended by the insertion of the words ", subject to Article 10," after the word "But"
- 1.11 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)," after the words "the transmittee's name"
- 1.12 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".
- 1.13 For the purposes of Articles 16 to 21, the following shall be deemed (but without limitation) to be a disposal of shares in the capital of the Company
- (a) any direction (by way of renunciation or otherwise) by a holder entitled to an allotment or transfer of shares in the capital of the Company that a share be allotted or issued or transferred to some person other than himself; and
  - (b) any sale or any other disposition (including by way of mortgage, charge or other security interest or creation of trust) of any legal or equitable interest in a share (including any voting right attached to it), (i) whether or not by the relevant holder, (ii) whether or not for consideration, and (iii) whether or not effected by an instrument in writing.

**2. ALLOTMENT AND ISSUE OF NEW SHARES**

- 2.1 No Further Securities shall be allotted or granted (as the case may be) to any person unless the Company has, in the first instance, offered such Further Securities to all Shareholders on the same terms and at the same price as such Further Securities are being offered to such other person on a *pari passu* and pro rata basis to the number of shares comprised in the issued share capital held by such holders (as nearly as may be without involving fractions). Such offer shall be open for 20 business days within which it must be accepted or in default will lapse.
- 2.2 The Shareholders may elect (but are not obligated) to subscribe for the relevant proportion of shares specified in the notice at the price stated therein. Each Shareholder may elect to subscribe for the shares by giving notice to the Company at any time within 20 business days following the date of issue of the notice by the Company, accompanied by a banker's draft made payable to the Company in respect of full payment for the shares to be subscribed for
- 2.3 Any Further Securities not accepted by members pursuant to the offer made to them in accordance with Article 2.1 may be offered by the Board to any other person at the same price and on the same terms as the offer to the members provided that any such issue is completed within 20 business days after expiry of the Company's notice under Article 2.1.
- 2.4 The Shareholders may by special resolution waive the provisions of this Article 2 in relation to any specified allotment of Shares.
- 2.5 In accordance with section 567(1) of the Act, sections 561 and 562 of the Companies Act 2006 shall not apply to an allotment of equity securities (as defined in section 560(1) of the Companies Act 2006) made by the Company.

**3. DECISION-MAKING BY THE DIRECTORS**

- 3.1 Subject to these Articles, the directors may regulate their proceedings as they think fit. Decisions of the directors shall be taken by simple majority of votes, with each eligible director having a single vote.
- 3.2 A decision of the directors is also taken in accordance with this Article when all eligible directors indicate to each other in writing that they share a common view on a matter
- 3.3 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
- 3.4 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



**4. CALLING A DIRECTORS' MEETING**

- 4.1 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 in writing) to the directors or by authorising the company secretary (if any) to give such notice.

**5. QUORUM FOR DIRECTORS' MEETINGS**

- 5.1 Subject to the remaining provisions of this Article 5, the quorum for the transaction of business at a meeting of directors is:

- (a) For so long as the Sellers have a Controlling Interest in the Company, two eligible directors comprising (i) one of either William Parkinson or David Proudlock and (ii) one director appointed by the Purchaser;
- (b) For so long as the Buyer holds a Controlling Interest in the Company, two eligible directors

- 5.2 For the purposes of any meeting (or part of a meeting), if there is only one eligible director in office, the quorum for such meeting (or part of a meeting) shall be one eligible director.

- 5.3 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.

- 5.4 Subject to Article 5.2, if within half an hour from the time appointed for a meeting of directors a quorum is not present, the meeting shall be adjourned to the same day of the next week at the same time and place. If a quorum is not present at the reconvened meeting, then the quorum at that reconvened meeting shall be any two directors.

**6. CASTING VOTE**

- 6.1 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 shall have a casting vote

- 6.2 Whilst the Sellers have a Controlling Interest in the Company, the chairman shall be either William Parkinson or David Proudlock. If neither William Parkinson nor David Proudlock are directors of the Company (or are directors but are not present at a board meeting which is otherwise quorate), the directors so participating shall appoint a chairman from amongst them to chair that meeting

- 6.3 To the extent that the Purchaser holds a Controlling Interest in the Company, the Purchaser shall be entitled to appoint the chairman (which chairman shall, in the event of an equality of votes, have a casting vote)

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

**7.1** 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 Companies Acts, 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 contract or proposed contract 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 contract or proposed contract 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 contract, transaction or arrangement or from any such office or employment 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 his duty under section 176 of the Act.

**8. DIRECTORS' CONFLICTS OF INTEREST**

**8.1** 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**).

**8.2** Any authorisation under this Article 8 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
- 8.3 Any authorisation of a Conflict under this Article 8 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.
- 8.4 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
- 8.5 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.
- 8.6 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.

**9. 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

**10. NUMBER OF DIRECTORS**

There shall be no limit on the number of directors

**11 APPOINTMENT AND REMOVAL OF DIRECTORS**

11.1 Each of William Parkinson and David Proudlock shall be entitled to serve as directors of the Company for as long as he continues to hold Shares and, subject to Article 11.6, the Purchaser shall be entitled to appoint two directors and the following provisions shall have effect -

11.2 Any such appointment shall be effected by notice in writing to the Company by the appointor(s) and, in the case of the Purchaser only, the appointor(s) may in like manner at any time and from time to time remove from office any director appointed by it pursuant to this Article and appoint any person in place of any director so removed.

11.3 A notice of appointment or removal of a director shall take effect upon lodgement at the registered office of the Company or on delivery to a meeting of the directors or to the secretary.

11.4 Every director appointed pursuant to Article 11.2 shall hold office until he is either removed in the manner provided by that Article or dies or vacates office pursuant to Regulation 18

11.5 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.

11.6 To the extent that the Purchaser holds a Controlling Interest in the Company, it shall be entitled to appoint such number of directors as it so chooses.

**12. APPOINTMENT AND REMOVAL OF ALTERNATE DIRECTORS**

12.1 Any director (appointor) may appoint as an alternate any other director, or any other person approved by resolution of the directors, to

- (a) exercise that director's powers; and
- (b) carry out that director's responsibilities,

in relation to the taking of decisions by the directors, in the absence of the alternate's appointor.

- 12.2 Any appointment or removal of an alternate must be effected by notice in writing to the company signed by the appointor, or in any other manner approved by the directors.

- 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 the proposed alternate is willing to act as the alternate of the director giving the notice.

### 13 RIGHTS AND RESPONSIBILITIES OF ALTERNATE DIRECTORS

- 13.1 An alternate director may act as alternate director to more than one director and has the same rights in relation to any decision of the directors as the alternate's appointor

- 13.2 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 his appointor is a member.

- 13.3 A person who is an alternate director but not a director

- (a) may be counted as participating for the purposes of determining whether a quorum is present (but only if that person's appointor is not participating),
- (b) may participate in a unanimous decision of the directors (but only if his appointor is an eligible director in relation to that decision, but does not participate); and
- (c) shall not be counted as more than one director for the purposes of Articles 13.3(a) and (b)

- 13.4 A director who is also an alternate director is entitled, in the absence of his appointor, to a separate vote on behalf of his appointor, in addition to his own vote on any decision of the directors (provided that his appointor is an eligible director in relation to that decision), but shall not count as more than one director for the purposes of determining whether a quorum is present

- 13.5 An alternate director may be paid expenses and may be indemnified by the company to the same extent as his appointor but shall not be entitled to receive any remuneration from the company for serving as an alternate director except such part

of the alternate's appointor's remuneration as the appointor may direct by notice in writing made to the company

**14. TERMINATION OF ALTERNATE DIRECTORSHIP**

An alternate director's appointment as an alternate terminates:

- (a) when the alternate's appointor revokes the appointment by notice to the company in writing specifying when it is to terminate,
- (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;
- (c) on the death of the alternate's appointor; or
- (d) when the alternate's appointor's appointment as a director terminates.

**15. SECRETARY**

The directors may appoint any person who is willing to act as the secretary for such term, at such remuneration and upon such conditions as they may think fit and from time to time remove such person and, if the directors so decide, appoint a replacement, in each case by a decision of the directors

**16. TRANSFER OF SHARES SUBJECT TO PRE-EMPTION RIGHTS**

16.1 Except where the provisions of Article 17 (Permitted Transfers) applies and, subject to Article 16.2, any transfer of shares by a Shareholder shall be subject to the pre-emption rights in this Article

16.2 Notwithstanding the remaining provisions of this Article 16 and Article 17 (Permitted Transfers) for so long as the Call Option or the Sellers' Buyback Option remains capable of exercise, no Member shall create an Encumbrance over or transfer, dispose, charge or pledge in any way any interest in or over any of the Shares except as permitted by the Share Purchase and Option Agreement, as required by these Articles or otherwise approved by the Purchaser in writing, or in the case of Shares held by the Purchaser, the other Shareholders in writing.

16.3 Every Shareholder who wishes to transfer any Shares (the Vendor) shall give notice in writing to the Company (a Transfer Notice) of that wish

16.4 Each Transfer Notice shall:

- (a) specify the number and class of Shares which the Vendor wishes to transfer (the Sale Shares);
- (b) if the Seller wishes to sell the Sale Shares to a third party, specify the identity of the person to whom the Vendor intends to transfer the Sale Shares (the Proposed Transferee),
- (c) specify the price per Share (the Sale Price) at which the Vendor is prepared to transfer the Sale Shares,

- (d) be deemed to constitute the Company as the Vendor's agent for the sale of the Sale Shares at the Sale Price in the manner prescribed in these Articles; and
  - (e) not be capable of variation or cancellation
- 16.5 A Vendor may provide in the Transfer Notice that unless purchasers are found for all or not less than a specified number of the Sale Shares, he shall not be bound to transfer any of those Shares (a **Minimum Transfer Condition**) and any such provision shall be binding on the Company.
- 16.6 The Company shall within seven days of receipt of the Transfer Notice offer for purchase each of the Sale Shares to each Shareholder (other than the Vendor) at the Sale Price and invite each of them to confirm in writing within 28 days of the date of the despatch of such offer whether he is willing to purchase any, and if so how many, of the Sale Shares.
- 16.7 If the Shareholders or any of them shall within such 28 day period apply for any of the Sale Shares, the Company shall allocate those Sale Shares to the Shareholders who have applied for them.
- 16.8 If the total number of Sale Shares applied for is equal to or exceeds the number of Sale Shares, the Company shall allocate the Sale Shares to each 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 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 Shareholders who have applied for Sale Shares shall be determined by the Board). No allocation shall be made to a Shareholder of more than the maximum number of Sale Shares which he has stated he is willing to buy.
- 16.9 No offeree of the Sale Shares shall be obliged to take more than the maximum number of Sale Shares that he has indicated to the Company he is willing to purchase. An allocation of Sale Shares made by the Company pursuant to Article 16.11 shall constitute the acceptance by the persons to whom they are allocated of the offer to purchase those Sale Shares on the terms offered to them.
- 16.10 Notwithstanding the provisions of Article 16.11, the Company may not make an allocation of Sale Shares unless and until it has found a purchaser for the minimum number specified in any Minimum Transfer Condition.
- 16.11 The Company on allocating any Sale Shares shall give notice in writing (a **Sale Notice**) to the Vendor and to each person to whom the Sale Shares have been so allocated, of the number of Sale Shares allocated to him and the aggregate price payable for those Sale Shares. Completion of the sale and purchase of those Sale Shares in accordance with the Sale Notice shall take place within seven days after the date of the Sale Notice when the Vendor shall, on receipt of payment of the Sale Price transfer those Sale Shares specified in the Sale Notice to the person or persons to whom they have been allocated and deliver up the relevant share certificates.

- 16.12 If in any case the Vendor, having become bound to sell, defaults in transferring the Sale Shares, the Company may receive the purchase money and may nominate a director to execute an instrument of transfer of the Sale Shares in the name and on behalf of the Vendor and when the instrument of transfer has been duly stamped the Company shall cause the name of the proposed transferee to be entered in the register of members as the holder of those Shares and, where applicable, shall hold the purchase money on trust without interest for the Vendor. The receipt by the Company of the purchase money shall be a good discharge to the proposed transferee and after his name shall have been entered in the register of members in purported exercise of the powers of this Article 16 the validity of the proceedings shall not be questioned by any person
- 16.13 If the Company shall not have given a Sale Notice to the Vendor in respect of all the Sale Shares within 50 days after the date of the receipt of a Transfer Notice, the Vendor shall, during the period of 30 days next following the expiry of that 50 day period, be at liberty to transfer all of the Sale Shares for which a Sale Notice has not been given or, in the case where the Transfer Notice contained a Minimum Transfer Conditions, which has not been satisfied, any number of Sale Shares which is not less than the number specified in the Minimum Transfer Condition at a price per Share not less than the Sale Price.
- 16.14 The restrictions imposed by this Article 16 may be waived in relation to any proposed transfer of Sale Shares with the consent in writing of all 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 16.
17. **PERMITTED TRANSFERS**
- 17.1 Subject always to Article 16.2, a shareholder (the **Original Shareholder**) may transfer all or any of his or its shares to a Permitted Transferee in accordance with this Article 17
- 17.2 A Permitted Transfer to a Permitted Transferee that is a Member of the Same Group as the Original Shareholder shall be deemed to concern any of the Shares held by that person, or in which that person is interested, and shall be irrevocable.
- 17.3 If the Original Shareholder is a company, and a Permitted Transfer has been made, the Permitted Transferee shall, within 20 business days of ceasing to be a Member of the Same Group as the Original shareholder, transfer the shares it holds to
- (a) the Original Shareholder; or
  - (b) a Member of the Same Group as the Original Shareholder
- (which in either case is not in liquidation), without any price or other restriction
- 17.4 Where shares are transferred by way of Permitted Transfer to and thereafter held by the trustees of a Family Trust, the trustees may transfer shares to
- (a) the Original Shareholder;
  - (b) another Privileged Relation of the Original Shareholder,



- (c) another Family Trust of which the Original Shareholder is the Settlor, or
  - (d) to the new (or remaining) trustees upon a change of trustees of a Family Trust without any price or other restriction
- 17.5 If a Permitted Transfer is made to the spouse or Civil Partner of the Original Shareholder, the Permitted Transferee shall within 30 business days of ceasing to be the spouse or Civil Partner of the Original Shareholder (whether by reason of divorce or otherwise) either
- (a) execute and deliver to the Company a transfer of the shares held by him to the Original Shareholder (or, to any Permitted Transferee of the Original Shareholder) for such consideration as may be agreed between them; or
  - (b) give a Transfer Notice to the Company in accordance with Article 16
- 17.6 Where, under a deceased shareholder's will (or the laws as to intestacy), the persons legally or beneficially entitled to any shares (whether immediately or contingently) are Privileged Relations of the deceased shareholder, the legal representative of the deceased shareholder may transfer any shares to those Privileged Relations who are Permitted Transferees, in each case without restriction as to price or otherwise. Shares previously transferred as permitted by this Article may be transferred by the transferee to any other Permitted Transferee of the Original Shareholder without any price or other restriction.
- 17.7 Subject to Article 17.6, on the death, bankruptcy or liquidation of a Permitted Transferee (other than a joint holder), his personal representatives, trustee in bankruptcy or its liquidator shall execute and deliver to the Company a transfer of the shares held by the Permitted Transferee (without any price or other restriction) within 30 business days after the date of the grant of probate, the making of the bankruptcy order or the passing of a resolution or making of an order for winding up. The transfer shall be to the Original Shareholder, if still living (and not bankrupt or in liquidation) or, if so directed by the Original Shareholder, to any Permitted Transferee of the Original Shareholder. If the transfer is not executed and delivered within 30 business days of that period, or if the Original Shareholder has died or is bankrupt or is in liquidation, the personal representative or trustee in bankruptcy or liquidator shall be deemed to have given a Transfer Notice
- 17.8 Notwithstanding any other provision of this Article 17, a transfer of any shares approved by the Board may be made without any price or other restriction and any such transfer shall be registered by the Directors.
- 18. COMPULSORY TRANSFERS**
- Deemed Transfer Notice**
- 18.1 Whenever a person is deemed to have given a Transfer Notice under these Articles, the provisions of Article 16 apply, with appropriate modifications, including.
- (a) the deemed Transfer Notice concerns all the Shares held by that person, or in which that person is interested;

- (b) there is no Minimum Transfer Condition and the Transfer Notice shall be irrevocable;
- (c) Article 16 4(b) shall not apply;
- (d) in the case of a Transfer Notice deemed to have been given in accordance with Article 18 8 by a Departing Employee Shareholder, the purchase price for the Shares is as provided in Article 18.9,
- (e) in the case of a Transfer Notice deemed to have been given in accordance with Article 18.8 by a Departing Employee Shareholder at a time when the Call Option remains capable of exercise or has been exercised but prior to Option Completion (as defined in the Share Purchase and Option Agreement), the Company shall within seven days of receipt of the Transfer Notice offer for purchase each of the Sale Shares to the Purchaser only and Article 16 6 and the remaining provisions of Article 16 shall be read and construed accordingly;
- (f) any other modifications as described in these Articles; and
- (g) if that person subsequently acquires further Shares, or an interest in them, then he is deemed to have given another Transfer Notice in respect of those further Shares, on the terms of this Article 18.1, on the date of that acquisition.

#### **Disenfranchisement of Shares**

- 18.2 As from the date on which a Transfer Notice is deemed to have been given and until completion of the sale of the relevant Shares, the holder of the Shares in respect of which the Transfer Notice is deemed given, or any further Shares issued in right of such Shares, shall not be entitled to:
- (a) receive notice of, attend or speak at, any general meeting of the Company or of a separate meeting of any class of those Shares, or
  - (b) exercise any voting or other rights attaching to such Shares

#### **Information relating to transfers**

- 18.3 For the purpose of ensuring that a transfer of shares is duly authorised, or that no circumstances have arisen whereby a Transfer Notice is deemed to have been given, the Board may require a Shareholder, the legal representatives of a deceased Shareholder, the liquidator of a corporate Shareholder or a person named as transferee in a transfer lodged for registration to furnish to the Company such information and evidence as the directors think fit regarding any matter they deem relevant to that purpose. If the information or evidence is not furnished to the satisfaction of the Board within a reasonable time after the request, the directors shall be entitled to refuse to register the transfer in question. In a case where no transfer is in question or if the information or evidence discloses that a Transfer Notice ought to be given in respect of any shares, the directors shall be entitled within a reasonable time to require, by notice in writing given to the registered holder, that a Transfer Notice be given in respect of the shares concerned. A director who is, or is nominated by, the Seller or the holder of the shares concerned shall not be entitled to vote at any board

meeting at which a resolution considering the registration of a transfer or (in case no transfer is in question) to require by notice in writing that a Transfer Notice be given in respect of the shares concerned is proposed and at that meeting the directors entitled to vote shall constitute a quorum notwithstanding any other provision of these Articles. If the directors require that a Transfer Notice be given and it is not duly given within one month from the date of its being required, the Transfer Notice shall be deemed to have been given at the expiration of the month and the provisions of this Article 18 shall take effect accordingly.

**Direction in favour of third party**

- 18.4 If a Shareholder entitled to an allotment or transfer of shares directs (by way of renunciation, nomination or otherwise) that all or any of the shares be allotted, issued or transferred to some person other than himself, he is deemed to have given a Transfer Notice.

**Creating charge**

- 18.5 If a Shareholder creates or permits to subsist any pledge, lien or charge over, or a granting of any option or other rights over any of the shares held by a Shareholder otherwise than in accordance with the above provisions or a sale or other disposition of any interest in a share (whether or not for consideration) by a Shareholder otherwise than in accordance with the above provisions and whether or not made in writing, he is deemed to have given a Transfer Notice.

**Bankruptcy or insolvency of a Shareholder**

- 18.6 A person entitled to any Shares in consequence of the bankruptcy or insolvency of a Shareholder is deemed to have given a Transfer Notice in respect of all those Shares at a time determined by the Board.

**Death of a Shareholder**

- 18.7 If any Shares remain registered in the name of a deceased Shareholder for longer than one year after the date of his death a Transfer Notice shall be deemed to have been given in respect of all those Shares at a time determined by the Board.

**Leavers**

- 18.8 An Employee Shareholder is deemed to have given a Transfer Notice on the date on which he becomes a Departing Employee Shareholder.
- 18.9 In the case of a Transfer Notice deemed to have been given in accordance with Article 18.8 by a Departing Employee Shareholder, the purchase price of the Shares is, where the relevant Departing Employee Shareholder is
- (a) a Bad Leaver, the price equal to the Net Asset Value of the Company on the date of departure of the Departing Employee Shareholder multiplied by A% where A% means the number of shares held by that Departing Employee Shareholder as a proportion of the entire issued share capital of the Company, or
  - (b) a Good Leaver, the Fair Value of the Shares as at the date of departure of the Departing Employee Shareholder.

**18.10 For the purposes of this Article 18**

- (a) an "Employee Shareholder" is a Shareholder who is, or was, a director and/or an employee of or a consultant to the Company,
- (b) a "Departing Employee Shareholder" is an Employee Shareholder who ceases to be either a director (if he served in that capacity) or an employee or consultant (if he served in either of such capacities) of the Company;
- (c) a Departing Employee Shareholder is a "Good Leaver" if he becomes a Departing Employee Shareholder by reason of
  - (i) injury, ill-health or disability (evidenced to the satisfaction of the Directors),
  - (ii) death, redundancy, resignation or retirement;
  - (iii) his directorship, employment or consultancy being terminated by the Company and which is adjudicated as wrongful or unfair dismissal by an Employment Tribunal save where such termination involves fraud, dishonesty, gross negligence, breach of trust or breach of duty or other circumstances justifying summary dismissal by the Company, or
  - (iv) for any other reason which the Directors consider justify him being treated as a Good Leaver, and
- (d) he is a "Bad Leaver" if
  - his directorship, employment or consultancy is terminated in circumstances other than as set out at (c) above

**18.11** If an Employee Shareholder ceases to be a Shareholder solely by virtue of transferring his Shares to a Permitted Transferee, he shall for all purposes of this Article 18 be deemed to remain an Employee Shareholder until the date upon which he ceases to be either or both (a) a director or (b) an employee of or consultant to the Company, whereupon a Transfer Notice shall be deemed to have been served by the Permitted Transferee in the same circumstances such Transfer Notice would have been deemed served had such Shares not been transferred to the Permitted Transferee.

**18.12** If some or all of the Shares which are the subject of a deemed Transfer Notice pursuant to this Article 18 are not purchased by the other shareholders (or, in the case of a Transfer Notice deemed served under Article 18.1(e), the Purchaser), the Company shall have the right to purchase those Shares within one calendar month from the date of expiry of the deemed Transfer Notice

**19 DETERMINING FAIR VALUE**

**19.1** The "Fair Value" in relation to any Sale Shares shall be such price per Share

- (a) as agreed between the Directors and the Departing Employee Shareholder within 10 business days after the date on which the Directors become aware that a Transfer Notice is given or deemed given as representing the fair value of the Sale Shares, or

- (b) failing such agreement as described in Article 19.1(a), as certified by an Expert in accordance with the following provisions of this Article.
- 19.2 If the Directors and the Departing Employee Shareholder are unable to agree the Fair Value pursuant to Article 19.1(a), an Expert shall be appointed to certify the Fair Value of the Sale Shares.
- 19.3 If the President for the time being of the Institute of Chartered Accountants of England and Wales is requested to determine the Expert's terms of engagement and either the Directors or the Departing Employee Shareholder fail to sign terms of engagement so determined within five business days after the date of that determination, the Expert shall be deemed to have been appointed and shall be permitted to act upon such terms of engagement as if they had been signed by each of the Directors and the Departing Employee Shareholder.
- 19.4 The Fair Value shall be determined by the Expert on the basis of the fair value of any Shares as at the date of a deemed Transfer Notice, taking into account any rights and restrictions attaching to those Shares and any other factors which the Expert considers relevant in arriving at a fair value of such Shares
- 19.5 On appointment, the Expert shall be requested to deliver its certificate of the Fair Value of the Sale Shares in writing to the Company, so that the Company receives it within 15 business days of the appointment. As soon as the Company receives the certificate it shall send a copy of it to the Departing Employee Shareholder
- 19.6 The Expert shall act as an expert and not as an arbitrator and its determination shall be final and binding on the parties (in the absence of fraud or manifest error)
- 19.7 The Expert may have access to all accounting records or other relevant documents of the Company, subject to any confidentiality restrictions.
- 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** Any notice, document or other information shall be deemed served on or delivered to the intended recipient:

- (a) if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted (or five business days after posting either to an address outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom, if (in each case) sent by reputable international overnight courier addressed to the intended recipient, provided that delivery in at least five business days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider)],
- (a) if properly addressed and delivered by hand, when it was given or left at the appropriate address;
- (b) if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied; and
- (c) 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.
- (d) For the purposes of this Article, no account shall be taken of any part of a day that is not a working day

**22.2** In proving that any notice, document or other information was properly addressed, it shall suffice to show that the notice, document or other information was addressed to an address permitted for the purpose by the Act.

### **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 25 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

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

- (e) 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);
- (f) 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
- (g) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate