

Company number 09553238

SPECIAL RESOLUTION

OF


NUTSHELL TV LTD (Company)

Passed on 4 October 2018

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 these written resolutions (**New Articles**) be adopted as the articles of association of the Company in substitution for, and to the exclusion of, the existing articles of association."

Signed 

Director

THURSDAY



A08 *A7GUEMAR* 18/10/2018 #341
COMPANIES HOUSE

Company number 09553238
THE COMPANIES ACT 2006
PRIVATE COMPANY LIMITED BY SHARES
ARTICLES OF ASSOCIATION
OF
NUTSHELL TV LTD
(Adopted by special resolution passed on 4 October 2018)

INTRODUCTION

1. Interpretation

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

Act:	the Companies Act 2006.
acting in concert:	has the meaning given to it in the City Code on Takeovers and Mergers published by the Panel on Takeovers and Mergers (as amended).
Adoption Date:	28 September 2018.
Articles:	the Company's articles of association for the time being in force.
Available Profits:	profits available for distribution within the meaning of part 23 of the Act.
Business Day:	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
Chairman:	has the meaning given to it in clause 6.4;
Company:	means Nutshell TV Ltd Limited (company number 09553238).
Company's Lien:	has the meaning given to it in clause 26.1.
connected:	has the meaning given in section 252 of the Act.
Controlling Interest:	an interest in Shares conferring on the holder or holders control of the Company within the meaning of section 1124 of the Corporation Tax Act 2010.
Deemed Transfer Notice:	a Transfer Notice which is deemed to have been served by any of the provisions of these Articles.
Deferred Share:	the deferred share of £50 in the capital of the Company.

Directors:	the directors of the Company from time to time.
Disposal:	the disposal by the Company of all, or a substantial part of, its business and assets.
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).
Equity Shares:	the Preferred Share (or Deferred Share) and the Ordinary Shares.
Exit:	a Share Sale, a Disposal or a Listing.
Fair Value:	has the meaning given in clause 19.2.
Family Trust:	as regards any particular Shareholder who is an individual (or deceased or former Shareholder who is an individual) any trust (whether arising under a settlement, declaration of trust or other instrument by whomsoever or wheresoever made, or under a testamentary disposition or on an intestacy) under which no immediate beneficial interest in any of the Shares in question is for the time being vested in any person other than the particular Shareholder and/or any of the Privileged Relations of that Shareholder (and so that for this purpose a person shall be considered to be beneficially interested in a Share if such Share or the income thereof is liable to be transferred or paid or applied or appointed to or for the benefit of any such person or any voting or other rights attaching thereto are exercisable by or as directed by any such person pursuant to the terms of the relevant trusts or in consequence of an exercise of a power or discretion conferred thereby on any person or persons).
Financial Year:	an accounting reference period (as defined in section 391 of the Act) of the Company.
Group:	the Company, any subsidiary or any holding company from time to time of the Company, and any subsidiary from time to time of a holding company of the Company from time to time and Group Company shall be construed accordingly.
holding company:	has the meaning given in clause 1.11.
Independent Expert:	the auditors for the time being of the Company or, if they decline the instruction, an independent firm of accountants jointly appointed by the Company and the Seller (or, for the purposes of article 15.5, an Investor Majority) or, in the absence of agreement between the Company and the Seller (or Investor Majority, as the case may be) on the identity of the expert within 10 Business Days of the expiry of the 20 Business Day period referred to in clause 19.1, an independent firm of accountants appointed by the

President, for the time being, of the Institute of Chartered Accountants of England and Wales (in each case acting as an expert and not as an arbitrator).

Investment Agreement:	the investment agreement dated on or around the Adoption Date between, amongst others, the Company and the Investors (as the same may have been varied, supplemented, adhered to or superseded in accordance with its terms for the time being).
Investor:	<i>each of Richard Ricci, Graeme Coulthard and Gillian Sheldon and/or their Permitted Transferees.</i>
Investor Consent:	the prior consent in writing of an Investor Majority.
Investor Director:	has the meaning given in clause 6.1.
Investor Majority:	all the Investors from time to time.
Issue Price:	in respect of any Share, the subscription price paid (or agreed to be paid) in respect of that Share, including any share premium.
Lien Enforcement Notice:	means a notice in writing which complies with the requirements of clause 27.2.
Listing:	the successful application and admission of all or any of the Shares, or securities representing such Shares (including American depositary receipts, American depositary shares and/or other instruments) to the Official List of the Financial Conduct Authority or on the AIM market operated by the London Stock Exchange plc, or the Nasdaq National Stock Market of the Nasdaq Stock Market Inc., or to any recognised investment exchange (as defined in section 285 of the Financial Services and Markets Act 2000).
Loan Notes:	the loan notes issued under the loan note instruments entered into by the Company on or around the Adoption Date.
Member of the Same Group:	as regards any company, a company which is from time to time a holding company or a subsidiary of that company or a subsidiary of any such holding company.
Model Articles:	the model articles for private companies limited by shares contained in Schedule 1 to The Companies (Model Articles) Regulations 2008 (SI 2008/3229), as amended prior to the Adoption Date.
Offer Shareholders:	<p>in respect of:</p> <p>(a) an offer of the Preferred Share, the holders of the Ordinary Shares; and</p> <p>(b) an offer of Ordinary Shares, the holders of Ordinary</p>

	Shares.
Ordinary Shares:	the ordinary shares of £0.01 each in the capital of the Company.
Original Shareholder:	has the meaning given in clause 17.1.
Permitted Transfer:	a transfer of Shares made in accordance with clause 17.
Permitted Transferee:	<p>in relation to:</p> <p>(a) a Shareholder who is an individual, any of his Privileged Relations or the trustee(s) of a Family Trust; and</p> <p>(b) an Investor, to any other Investor.</p>
Preferred Share:	the preferred ordinary share of £50 in the capital of the Company.
Preferred Share Value:	the amount of £832,500 less the amount of the Company's outstanding loan to the Founder as at 30 September 2018 (as will be shown in the unaudited balance sheet of the Company for the period ending on 30 September 2018).
Privileged Relation:	in relation to a Shareholder who is an individual (or a deceased or former Shareholder who is an individual) means a spouse, civil partner (as defined in the Civil Partnerships Act 2004), child or grandchild (including step or adopted or illegitimate child and their issue).
Relevant Securities:	<p>any Shares or other securities convertible into, or carrying the right to subscribe for Shares, issued by the Company after the Adoption Date, other than:</p> <p>(a) any Shares or other securities issued by the Company in order for the Company to comply with its obligations under these Articles; and</p> <p>(b) any Shares or other securities issued in consideration of the acquisition by the Company of any company or business which has been approved by Investor Consent.</p>
Sale Proceeds:	means the consideration payable (including any deferred and/or contingent consideration) whether in cash or otherwise to those Shareholders selling Shares under a Share Sale.
Sale Shares:	has the meaning given in clause 18.3(a).
Seller:	has the meaning given in clause 18.2.
Shareholder:	a holder for the time being of any Share or Shares, but

excluding any member holding Shares in treasury.

Shares: shares (of any class) in the capital of the Company and Share: shall be construed accordingly.

Share Sale: the sale of (or the grant of a right to acquire or to dispose of) any Shares (in one transaction or as a series of transactions) which would, if completed, result in the buyer of those Shares (or grantee of that right) and persons acting in concert with him together acquiring a Controlling Interest, except where the identities of the shareholders in the buyer and the proportion of shares of the buyer held by each of them following completion of the sale are the same as the identities of the Shareholders and their respective shareholdings in the Company immediately before the sale.

subsidiary: has the meaning given in clause 1.11.

Transfer Notice: has the meaning given in clause 18.2.

Transfer Price: has the meaning given in clause 19.

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, save that, in relation to a Transfer Notice (or Deemed Transfer Notice), "writing" or "written" shall not include the sending or supply of notices, documents or information in electronic form (other than by fax).

1.2 Headings in these Articles shall not affect the interpretation of these Articles.

1.3 Unless the context otherwise requires, words in the singular shall include the plural and the plural shall include the singular.

1.4 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.5 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 (but excluding any statutory modification of them not in force on the Adoption Date).

1.6 A reference in these Articles to:

(a) an **Article** is a reference to the relevant numbered article of these Articles;
and

(b) a **model article** is a reference to the relevant article,

unless expressly provided otherwise.

- 1.7 A reference to a statute or statutory provision is a reference to it as amended extended or re-enacted from time to time. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.8 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.
- 1.9 Where the context permits, **other** and **otherwise** are illustrative and shall not limit the sense of the words preceding them.
- 1.10 A reference in these Articles to a holder, or the holder(s), of Shares, Equity Shares or any class of Shares as the case may be shall, in each case, be deemed to exclude any member holding Shares in treasury.
- 1.11 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 Act 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.

In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Act shall be amended so that: (a) references in sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and (b) the reference in section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.

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 7, 8, 9(1), 11(2) and (3), 12, 13, 14(1) to (4) (inclusive), 16, 18e), 22, 26(5), 38, 39, 44(2), 50 and 51 to 53 (inclusive) shall not apply to the Company.
- 2.3 Model article 20 shall be amended by the insertion of the words "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 article 29 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".

DIRECTORS

3. Number of directors

Unless otherwise determined by ordinary resolution, the number of Directors shall not exceed 4 but shall not be less than two.

4. Proceedings of directors

- 4.1 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 clause 4.2 (subject to clause 4.3 and clause 4.4). All decisions made at any meeting of the Directors (or 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.
- 4.2 A unanimous decision of the Directors is taken when all Eligible Directors indicate to each other by any means that they share a common view on a matter.
- 4.3 A decision taken in accordance with clause 4.2 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.
- 4.4 A decision may not be taken in accordance with clause 4.2 if the Eligible Directors would not have formed a quorum at a Directors' meeting to vote on the matter in accordance with clause 4.7 and clause 4.8.
- 4.5 Model articles 5(1) to (3) (inclusive) and 6(2) shall be modified by the insertion of the words "(acting with Investor Consent)" following each reference to "the directors" in such model articles.
- 4.6 Meetings of the Directors shall take place at least 4 times in each year, with a period of not more than 12 weeks between any two meetings. Any Director may call a meeting of the Directors, or authorise the company secretary (if any) to give such notice. At least 10 Business Days' advance notice of each such meeting shall be given to each Director (except with the prior Investor Director consent in writing of an Investor Director, when meetings of the Directors may take place less frequently or on shorter notice).
- 4.7 The quorum for any meeting (or, where specified below, part of a meeting) of the Directors shall be two Eligible Directors, which must include at least one Investor Director in office for the time being, unless:
- (a) there are no Investor Directors in office for the time being; or
 - (b) all Investor Directors have, in respect of any particular meeting (or part of a meeting), otherwise agreed in writing ahead of such meeting; or
 - (c) no Investor Director is, in respect of any particular meeting (or part of a meeting), an Eligible Director.

in which case, subject to clause 4.8, the quorum for such meeting (or part of the meeting, as the case may be) shall be any two Eligible Directors. If the necessary quorum is not present within 30 minutes from the time appointed for the meeting, or if, during a meeting, such quorum ceases to be present, the meeting shall stand adjourned to such time and place as the Chairman determine.

- 4.8 For the purposes of any meeting (or part of a meeting) held pursuant to clause 8 to authorise a Conflict (as defined in clause 8.1), if there is only one Eligible Director in office other than the conflicted Director(s), the quorum for such meeting (or part of a meeting) shall be one Eligible Director.
- 4.9 If the number of Directors in office for the time being is less than two, the Directors in office must not take any decision other than a decision to:
- (a) appoint further Directors; or
 - (b) call a general meeting so as to enable the Shareholders to appoint further Directors.
- 4.10 Questions arising at any meeting of the Directors shall be decided by a majority of votes. If there is an equality of votes, the Chairman (or other chairman of the meeting) shall not have a second or casting.
- 4.11 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.
- 4.12 The Directors (acting with Investor Consent) may make any rule which they think fit about how they take decisions and about how such rules are to be recorded or communicated to Directors.

5. Appointment and removal of directors

- 5.1 Model article 17(1) shall be modified by the inclusion, at the end of that model article, of the words "provided that the appointment does not cause the number of Directors to exceed the maximum number set out in article 3.1 of these Articles".
- 5.2 Model article 18 shall be modified by the addition of the following events upon the occurrence of which a person shall cease to be a Director:
- (a) he is convicted of a criminal offence (other than a minor motoring offence) and a majority of the other Directors resolve that he cease to be a Director;
 - (b) save in the case of an Investor Director, a majority of the other Directors resolve that he cease to be a Director; and
 - (c) in the case of an executive Director only, he shall cease to be employed by the Company or other Group Company (as appropriate) and does not continue as an employee of any other Group Company.

6. Investor director, Chairman and observer

- 6.1 For so long as an Investor and its Permitted Transferees hold no less than 5% of the Ordinary Shares in issue that Investor shall have the right to appoint, by notice

in writing addressed to the Company, and to maintain in office, one natural person as a Director (an **Investor Director**) and to remove any such Investor Director and to appoint a replacement.

- 6.2 Any appointment or removal of an Investor Director made in accordance with clause 6.1 shall take immediate effect upon receipt (or deemed receipt) by the Company of such notice in writing, or the production of such notice at a meeting of the Directors or, if later, the date (if any) specified in such notice.
- 6.3 The reasonable expenses of each Investor Director shall be payable by the Company.
- 6.4 The Directors may, with Investor Consent, appoint any person as chairman of the board of Directors (**Chairman**) and may, with Investor Consent, remove and replace any such Chairman. If the Chairman has not been appointed within one calendar month of the Adoption Date, or within one month of the Chairman's resignation or removal, an Investor Majority shall be entitled to appoint a Chairman by notice in writing addressed to the Company. If there is no Chairman in office for the time being, or the Chairman is unable to attend any meeting of the Directors, the Directors present at the meeting must appoint another Director present at the meeting to chair the meeting and the appointment of the chairman of the meeting must be the first business of the meeting.

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 Act, a Director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the Company:
 - (a) may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise (directly or indirectly) interested;
 - (b) shall be an Eligible Director for the purposes of any proposed decision of the Directors in respect of such existing or proposed transaction or arrangement in which he is interested;
 - (c) shall be entitled to vote at a meeting of Directors or participate in any unanimous decision, in respect of such existing or proposed transaction or arrangement in which he is interested;
 - (d) may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a Director;
 - (e) may be a Director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the Company is otherwise (directly or indirectly) interested; and
 - (f) shall not, save as he may otherwise agree, be accountable to the Company for any benefit which he (or a person connected with him) derives from any such transaction or arrangement or from any such office or employment or

from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act.

8. Directors' conflicts

- 8.1 The Directors may, in accordance with the requirements set out in this clause 8, 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 clause 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; 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.
- 8.3 Any authorisation of a Conflict under this clause 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) subject to Investor Consent, 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, notwithstanding his office, may be a Director or other officer of, employed by, or otherwise interested (including by the holding of shares) in his appointor(s) (or any Permitted Transferee of such appointor(s)) and no authorisation under clause 8.1 shall be necessary in respect of any such interest.
- 8.7 An Investor Director shall be entitled from time to time to disclose to any Investor (and to any Permitted Transferee of an Investor) such information concerning the business and affairs of the Company as he shall at his discretion see fit.
- 8.8 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 he 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.

SHARES AND DISTRIBUTIONS

9. Repayment of the Loan Notes

Notwithstanding anything in these Articles:

- a) no distributions in respect of any Equity Shares from time to time shall be made unless and until all amounts outstanding under the Loan Notes have been fully paid; and
- b) the Company shall repay in full all amounts outstanding under the Loan Notes before or on Exit.

10. Preferred Share

- 10.1 Notwithstanding anything in these Articles, upon receipt by the holder of the Preferred Share of a total amount equal to the Preferred Share Value, the Preferred Share shall immediately convert into a Deferred Share with no rights whatsoever other than as set out in clause 12.1(c).

11. Dividends

- 11.1 Subject to clauses 9 and 10, the Available Profits of the Company shall be used to pay dividends as set out in this clause 11.
- 11.2 Subject to clause 11.12, the Company shall pay in respect of the Preferred Share a fixed, cumulative, preferential dividend (**Preferred Dividend**) at an annual rate equal to 0.1% of the Preferred Share Value to the person registered as its holder on the due date (such date determined in accordance with this clause 11).

- 11.3 Subject to clause 11.4, the Preferred Dividend shall be paid in cash on 1 October in each year, the first such payment to be made on 1 October 2019 in respect of the period from the Adoption Date to (and including) 30 September 2019.
- 11.4 Subject to the Act, the Directors may pay interim dividends (**Preferred Interim Dividends**) in respect of the Preferred Share provided that the Available Profits of the Company justify the payment and provided that the any Preferred Interim Dividend does not result in the Company's cash at bank balance falling below £250,000 immediately following the payment of such Preferred Interim Dividend.
- 11.5 All unpaid arrears and accruals of the Preferred Dividend and any Preferred Interim Dividends shall be paid on the date of an Exit.
- 11.6 The Company shall not declare or pay any further dividend unless and until:
- (a) Preferred Dividend and any Preferred Interim Dividends declared and paid in respect of the Preferred Share total an aggregate amount of the Preferred Share Value;
 - (b) *all arrears and accruals of the Preferred Dividend and Preferred Interim Dividends have been paid; and*
 - (c) the Company obtains Investor Consent to any such dividend.
- 11.7 Subject to clause 11.6, and clause 11.12, any further Available Profits which the Company may determine to distribute in respect of any Financial Year will be distributed among the holders of the Ordinary Shares pro rata to their respective holdings.
- 11.8 Each dividend shall be distributed to the appropriate Shareholders pro rata according to the number of Shares held by them respectively and shall accrue daily (assuming a 365 day year) as well after as before the commencement of a winding up. All dividends are expressed net and shall be paid in cash.
- 11.9 Unless the Company has insufficient Available Profits, the Preferred Dividend shall, notwithstanding that such dividend is expressed to be cumulative, be paid immediately on the due date.
- 11.10 If, as a result of not having sufficient Available Profits, the Company is not lawfully permitted to pay the Preferred Dividend in full on the due date, it shall pay the Preferred Dividend to the extent it is lawfully able to do so. The unpaid amount shall
- 11.10 be a debt due from the Company.
- 11.11 If the Company is in arrears in paying the Preferred Dividend, the first Available Profits arising shall be applied in or towards paying off any arrears of Preferred Dividend.
- 11.12 Notwithstanding any other provision of this article 11, no dividend may be paid to the Company in respect of any Shares held in treasury.
- 12. Liquidation preference**
- 12.1 Subject to clause 9, on a return of assets on liquidation, capital reduction or otherwise (other than a conversion or purchase of Shares), the assets of the

Company remaining after the payment of its liabilities shall be applied (to the extent that the Company is lawfully able to do so) in the following order of priority:

- (a) first, in paying to the holder of the Preferred Share a total amount equal to the Preferred Share Value less the value of any Preferred Dividends and Preferred Interim Dividends received in respect of the Preferred Share prior to the date of the return of capital (including any arrears and accruals of the Preferred Dividend in respect of that Preferred Share calculated down to the date of the return of capital);
- (b) second, in paying to the holders of the Ordinary Shares in respect of each Ordinary Share held the Issue Price of that Ordinary Share, together with a sum equal to any arrears and accruals of dividend in respect of that Ordinary Share and, if there is a shortfall of assets remaining to satisfy such payments in full, the proceeds shall be distributed to the holders of the Ordinary Shares pro rata to the aggregate amounts due under this clause 12.1(b) to each such Ordinary Share held;
- (c) third, in paying to the holder of the Preferred Share or Deferred Share in respect of the Preferred Share or Deferred Share held the nominal value of that Preferred Share or Deferred Share; and
- (d) thereafter, in distributing the balance among the holders of the Equity Shares (excluding the Preferred Share or Deferred Share) pro rata to the number of Equity Shares held (excluding the Preferred Share or Deferred Share), as if they all constituted shares of the same class.

13. Exit provisions

13.1 On a Share Sale, subject to clause 9, the Sale Proceeds shall be distributed in the order of priority set out in clause 12. The Directors shall not register any transfer of Shares if the Sale Proceeds are not distributed in that manner (save in respect of any Shares not sold in connection with that Share Sale) provided that, if the Sale Proceeds are not settled in their entirety upon completion of the Share Sale:

- (a) the Directors may register the transfer of the relevant Shares, provided that the Sale Proceeds due on the date of completion of the Share Sale have been distributed in the order of priority set out in clause 12; and
- (b) each Shareholder shall take any reasonable action (to the extent lawful and within its control) required by an Investor Majority and Mike Kemp to ensure that the balance of the Sale Proceeds are distributed in the order of priority set out in clause 12.

13.2 On a Disposal, subject to clause 9, the surplus assets of the Company remaining after payment of its liabilities shall be distributed (to the extent that the Company is lawfully permitted to do so) in the order of priority set out in clause 12, provided always that if it is not lawful for the Company to distribute its surplus assets in accordance with the provisions of these Articles, each Shareholder shall (to the extent lawful and within its control) take any reasonable action required by an Investor Majority (including, but without prejudice to the generality of this clause 13.2, such action as may be necessary to put the Company into voluntary liquidation so that clause 12 applies).

13.3 On a Listing, provided that:

- (a) the Company has repaid in full all amounts outstanding under the Loan Notes; and
- (b) the holder of the Preferred Share has received a total amount equal to the Preferred Share Value,

the remaining Equity Shares (except for the Preferred or Deferred Share) shall participate and be treated equally for the purpose of any valuation.

13.4 In the event of an Exit approved by the Directors (acting with Investor Consent) (**Proposed Exit**), all Shareholders shall consent to, vote for, raise no objections to and waive any applicable rights in connection with the Proposed Exit. The Shareholders shall be required to take all lawful actions with respect to the Proposed Exit as are reasonably required by the Directors to facilitate the Proposed Exit. If any Shareholder fails to comply with the provisions of this clause 13.4:

- (a) the Company shall be constituted the agent and attorney of each defaulting Shareholder for taking such actions as are necessary to effect the Proposed Exit;
- (b) the Directors may authorise an officer of the Company or a Shareholder to execute and deliver on behalf of such defaulting Shareholder all or any necessary documents; and
- (c) the Company may receive any purchase money due to the defaulting Shareholder in trust for each of the defaulting Shareholders (without any obligation to pay interest).

14. Variation of class rights

14.1 Whenever the share capital of the Company is divided into different classes of Shares, the special rights attached to any such class may only be varied or abrogated (either whilst the Company is a going concern or during or in contemplation of a winding up) with the consent in writing of the holders of at least 75% in nominal value of the issued Shares of that class.

15. Pre-emption rights on the issue of further shares

15.1 Save to the extent authorised by these Articles, the Directors shall not, save with Investor Consent, exercise any power to allot Shares or to grant rights to subscribe for, or to convert any security into, any Shares.

15.2 Subject to the remaining provisions of this clause 15, the Directors are generally and unconditionally authorised, for the purposes of section 551 of the Act, to exercise any power of the Company to:

- (a) offer or allot;
- (b) grant rights to subscribe for; and
- (c) otherwise deal in, or dispose of,

any Shares (or any options to acquire or subscribe for Shares) to any person who is a prospective employee of or consultant to the Company, and subject to any terms and conditions as the Directors think proper.

15.3 The authority referred to in clause 15.2:

- (a) shall be limited to a maximum nominal amount of £10 of Ordinary Shares;
- (b) shall only apply insofar as the Company has not, subject to these Articles, renewed, waived or revoked it by ordinary resolution; and
- (c) may only be exercised for a period of five years from the Adoption Date save that, subject to these Articles, the Directors may make an offer or agreement which would, or might, require any Shares to be allotted after the expiry of such authority (and the Directors may allot Shares in pursuance of an offer or agreement as if such authority had not expired).

15.4 In accordance with section 567(1) of the Act, sections 561 and 562 of the Act shall not apply to an allotment of equity securities (as defined in section 560(1) of the Act) made by the Company.

15.5 Unless this clause is disapplied by Investor Consent, if the Company proposes to allot any Relevant Securities, those Relevant Securities shall not be allotted to any person unless the Company has first offered them to the holders (on the date of the offer) of the Ordinary Shares (each an **Offeree**) on a pari passu basis and in the respective proportions that the number of Ordinary Shares held by each such holder bears to the total number of Ordinary Shares held by all such holders (as nearly as possible without involving fractions) and on the same terms, and at the same price, as those Relevant Securities are being, or are to be, offered to any other person.

15.6 An offer made under clause 15.5 shall:

- (a) be in writing and give details of the number, class and subscription price (including any share premium) of the Relevant Securities being offered;
- (b) remain open for a period of 20 Business Days from the date of service of the offer; and
- (c) stipulate that any Offeree who wishes to subscribe for a number of Relevant Securities in excess of the number to which he is entitled under clause 15.5 shall, in his acceptance, state the number of excess Relevant Securities (**Excess Securities**) for which he wishes to subscribe.

15.7 If, on the expiry of an offer made in accordance with clause 15.5, the total number of Relevant Securities applied for is less than the total number of Relevant Securities so offered, the Directors shall allot the Relevant Securities to the Offerees in accordance with their applications, subject to a maximum of each Offeree's proportionate entitlement.

15.8 Any Relevant Securities not accepted by Offerees pursuant to an offer made in accordance with clause 15.5 shall be used to satisfy any requests for Excess Securities made pursuant to clause 15.6(c). If there are insufficient Excess Securities to satisfy such requests, the Excess Securities shall be allotted to the applicants in the respective proportions that the number of Ordinary Shares held by

each such applicant bears to the total number of such Ordinary Shares held by all applicants (as nearly as possible without involving fractions or increasing the number of Excess Securities allotted to any Shareholder beyond that applied for by him). After those allotments, any Excess Securities shall, subject to clause 15.9, be offered to any other person(s) as the Directors may, with Investor Consent, determine, at the same price and on the same terms as the offer to the Shareholders.

- 15.9 No Shares shall be allotted to any current or prospective employee or director of any Group Company unless such person shall first have entered into a joint election with the relevant Group Company under section 431 of the Income Tax (Earnings and Pensions) Act 2003.

16. Transfers of shares: general

- 16.1 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.
- 16.2 No Share shall be transferred, and the Directors shall refuse to register a transfer of any Share, unless it is made in accordance with these Articles. Subject to clause 16.5, the Directors shall register any duly stamped transfer made in accordance with these Articles, unless they suspect that the proposed transfer may be fraudulent.
- 16.3 If a Shareholder transfers (or purports to transfer) a Share other than in accordance with these Articles, he shall, save with Investor Consent to the contrary, be deemed to have immediately served a Transfer Notice in respect of all Shares held by him.
- 16.4 Any transfer of a Share by way of sale which is required to be made under clause 20, clause 21 or clause 22 shall be deemed to include a warranty that the transferor sells the Share with full title guarantee.
- 16.5 The Directors may (and shall, if requested by an Investor Majority), as a condition to the registration of any transfer of Shares, require the transferee to execute and deliver to the Company a deed, in favour of the Company and the Investors agreeing to be bound by the terms of the Investment Agreement, in such form as the Directors (acting with Investor Consent) may reasonably require (but not so as to oblige the transferee to have any obligations or liabilities greater than those of the proposed transferor). If any condition is imposed in accordance with this clause 16.5, the transfer may not be registered unless and until that deed has been executed and delivered to the Company's registered office by the transferee.
- 16.6 To enable the Directors to determine whether or not there has been any transfer (or purported transfer) of Shares the Directors may, and shall if so requested by an Investor Director, require:
- (a) any holder (or the legal representatives of a deceased holder); or
 - (b) any person named as a transferee in a transfer lodged for registration; or
 - (c) such other person as the Directors or an Investor Director may reasonably believe to have information relevant to that purpose,

to provide the Company with any information and evidence that the Directors think fit regarding any matter which they deem relevant to that purpose.

- 16.7 If any such information or evidence referred to in clause 16.6 is not provided to enable the Directors to determine to their reasonable satisfaction that no breach has occurred, or that as a result of the information and evidence provided the Directors are reasonably satisfied that a breach has occurred, the Directors shall immediately notify the holder of such Shares of that fact in writing and, if the holder fails to remedy that situation to the reasonable satisfaction of the Directors (including an Investor Director) within 15 Business Days of receipt of such written notice, then, unless otherwise directed in writing by an Investor Majority:

- (a) the relevant Shares shall cease to confer on the holder of them any rights:
 - (i) to vote (whether on a show of hands, on a poll or otherwise and whether in person, by proxy or otherwise), including in respect of any resolution of any class of Shares;
 - (ii) to receive dividends or other distributions (other than the amount to which they may be entitled pursuant to the application of clause 11.2) otherwise attaching to those Shares;
- (b) the Directors may, by notice in writing to the relevant holder, determine that a Transfer Notice shall be deemed to have been given in respect of some or all of his Shares with effect from the date of service of the notice (or such later date as may be specified in such notice).

The Directors may (with Investor Consent) reinstate the rights referred to in clause 16.7(a) at any time and, in any event, such rights shall be reinstated on completion of a transfer made pursuant to clause 16.7(b).

- 16.8 Unless expressly provided otherwise in these Articles, if a Transfer Notice is deemed to have been given under these Articles, the Deemed Transfer Notice shall be treated as having specified that:

- (a) it does not contain a Minimum Transfer Condition; and
- (b) the Seller wishes to transfer all the Shares held by him (including any Shares acquired after the date the relevant Transfer Notice is deemed given but before completion of the transfer of Shares pursuant to the relevant Transfer Notice).

- 16.9 Any Transfer Notice (but not an Offer Notice (as defined in clause 21) or a Drag Along Notice (as defined in clause 22)) served in respect of the transfer of any Share which has not completed before the date of service of a Deemed Transfer Notice shall (save with Investor Consent to the contrary) automatically be revoked by the service of a Deemed Transfer Notice.

17. Permitted transfers of shares

- 17.1 A Shareholder (the **Original Shareholder**) may transfer all or any of his or its Shares to a Permitted Transferee.

- 17.2 Where Shares are held by the trustee(s) of a Family Trust, the trustee(s) may transfer Shares to:

- (a) the Original Shareholder;
- (b) any Privileged Relation(s) of the Original Shareholder;
- (c) the trustee(s) of another Family Trust of which the Original Shareholder is the Settlor; or
- (d) to the new (or remaining) trustee(s) upon a change of trustee(s) of a Family Trust,

without any price or other restriction.

17.3 Permitted Transfer has been made to a Privileged Relation of the Original Shareholder, the Permitted Transferee (or the transmittee(s) of any such person), shall within 20 Business Days of ceasing to be a Privileged Relation of the Original Shareholder (whether by reason of death, 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 clause 18,

failing which a Transfer Notice shall be deemed to have been given in respect of such Shares on the expiry of the period set out in this clause 17.3. This clause 17.3 shall not apply to a transmittee of a Permitted Transferee if that transmittee is also a Permitted Transferee of the Original Shareholder, to the extent that such transmittee is legally or beneficially entitled to those Shares.

17.4 Notwithstanding any other provision of this clause 17, a transfer of any Shares approved by the Directors (acting with Investor Consent) may be made without any price or other restriction and any such transfer shall be registered by the Directors.

18. Pre-emption rights on the transfer of shares

18.1 Except where the provisions of clause 17, clause 18.2, clause 21 or clause 22 apply, any transfer of Shares by a Shareholder shall be subject to the pre-emption rights in this clause 18.

18.2 A transfer of any Shares from or to Mike Kemp pursuant to a share purchase and buyback agreement entered into by him and an employee or consultant of the Company on or around the Adoption Date shall not be subject to the pre-emption rights in this clause 18.

18.3 A Shareholder who wishes to transfer Shares (a **Seller**) shall, before transferring or agreeing to transfer any Shares, give notice in writing (a **Transfer Notice**) to the Company specifying:

- (a) subject to clause 16.8(b), the number of Shares he wishes to transfer (**Sale Shares**);
- (b) the name of the proposed transferee, if any;
- (c) the price per Sale Share (in cash), if any, at which he wishes to transfer the Sale Shares (the **Proposed Sale Price**); and

- (d) subject to clause 16.8(a), whether the Transfer Notice is conditional on all or a specific number of the Sale Shares being sold (a **Minimum Transfer Condition**).
- 18.4 Except in the case of a Deemed Transfer Notice (which may not be withdrawn), where the Transfer Price of the Sale Shares comprised within a Transfer Notice is to be the Fair Value and such Fair Value is less than the Proposed Sale Price the Seller may, within 10 Business Days of receipt of notification of the Fair Value, withdraw the Transfer Notice. Otherwise, a Transfer Notice may only be withdrawn with Investor Consent.
- 18.5 A Transfer Notice (or Deemed Transfer Notice) constitutes the Company the agent of the Seller for the sale of the Sale Shares at the Transfer Price.
- 18.6 As soon as practicable following the later of:
- (a) receipt of a Transfer Notice (or in the case of a Deemed Transfer Notice, the date such notice is deemed to be served); and
 - (b) the determination of the Transfer Price,
- the Directors shall (unless the Transfer Notice is withdrawn in accordance with clause 18.4) offer the Sale Shares for sale in the manner set out in the remaining provisions of this clause 18 at the Transfer Price. Each offer shall be in writing and shall give details of the number and Transfer Price of the Sale Shares offered.
- 18.7 If a Sale Share is a Preferred Share, the Company shall, subject to clause 20, offer it to the holders of Ordinary Shares on the basis set out in clause 18.10 to clause 18.16 (inclusive).
- 18.8 If the Sale Shares are Ordinary Shares, the Company shall, subject to clause 20, offer them to the holders of Ordinary Shares on the basis set out in clause 18.10 to clause 18.16 (inclusive).
- 18.9 An offer of Sale Shares shall be dealt with in accordance with clause 18.10 and clause 18.11.
- 18.10 Subject to clause 18.9, the Directors shall offer the Sale Shares to the Offer Shareholders (other than the Seller), inviting them to apply in writing within the period from the date of the offer to the date 20 Business Days after the offer (both dates inclusive) (the **Offer Period**) for the maximum number of Sale Shares they wish to buy.
- 18.11 If:
- (a) at the end of the Offer Period, the number of Sale Shares applied for is equal to or exceeds the number of Sale Shares, the Directors shall allocate the Sale Shares to each Offer Shareholder who has applied for Sale Shares in the proportion which his existing holding of Shares bears to the total number of Shares of the class being offered held by all Offer Shareholders (other than the Seller). 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 shall be determined by the Directors (acting with Investor

Consent)). 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;

- (b) not all Sale Shares are allocated following allocations in accordance with clause 18.11(a), but there are applications for Sale Shares that have not been satisfied, the Directors shall allocate the remaining Sale Shares to such applicants in accordance with the procedure set out in clause 18.11(a). The procedure set out in this clause 18.11(b) shall apply on any number of consecutive occasions until either all Sale Shares have been allocated or all applications for Sale Shares have been satisfied; and
- (c) at the end of the Offer Period, the total number of Sale Shares applied for is less than the number of Sale Shares, the Directors shall allocate the Sale Shares to the Offer Shareholders in accordance with their applications. The balance (the **Surplus Shares**) shall, subject to clause 18.12, be offered to any other person in accordance with clause 18.16.

18.12 Where the Transfer Notice contains a Minimum Transfer Condition:

- (a) any allocation made under clause 18.9 to clause 18.11 (inclusive) shall be conditional on the fulfilment of the Minimum Transfer Condition; and
- (b) if the total number of Sale Shares applied for under clause 18.9 to clause 18.11 (inclusive) is less than the number of Sale Shares, the Board shall notify the Seller and all those Shareholders to whom Sale Shares have been conditionally allocated stating that the condition has not been met and that the relevant Transfer Notice has lapsed with immediate effect.

18.13 Where either:

- (a) the Transfer Notice does not contain a Minimum Transfer Condition; or
- (b) allocations have been made in respect of all the Sale Shares,

the Directors shall, when no further offers or allocations are required to be made under clause 18.9 to clause 18.11 (inclusive), give notice in writing of the allocations of Sale Shares (an **Allocation Notice**) to the Seller and each Shareholder to whom Sale Shares have been allocated (each an **Applicant**). The Allocation Notice shall specify the number of Sale Shares allocated to each Applicant and the place and time for completion of the transfer of the Sale Shares (which shall be at least 10 Business Days, but not more than 20 Business Days, after the date of the Allocation Notice).

18.14 On the date specified for completion in the Allocation Notice, the Seller shall, against payment from an Applicant, transfer the Sale Shares allocated to such Applicant, in accordance with any requirements specified in the Allocation Notice.

18.15 If the Seller fails to comply with clause 18.14:

- (a) the Chairman (or, failing him, any other Director or some other person nominated by a resolution of the Directors) may, as agent and attorney on behalf of the Seller:
 - (i) complete, execute and deliver in his name all documents necessary to give effect to the transfer of the relevant Sale Shares to the Applicants;

- (ii) receive the Transfer Price and give a good discharge for it (and no Applicant shall be obliged to see to the distribution of the Transfer Price); and
 - (iii) (subject to the transfer being duly stamped) enter the Applicants in the register of Shareholders as the holders of the Shares purchased by them; and
 - (b) the Company shall pay the Transfer Price into a separate bank account in the Company's name on trust (but without interest) for the Seller until he has delivered his certificate(s) for the relevant Shares (or an indemnity, in a form reasonably satisfactory to the Directors, in respect of any lost certificate, together with such other evidence (if any) as the Board may reasonably require to prove good title to those Shares) to the Company.
- 18.16 Where a Transfer Notice lapses pursuant to clause 18.12(b) or an Allocation Notice does not relate to all the Sale Shares, then, subject to clause 18.17, the Seller may, at any time during the 20 Business Days following the date of lapse of the Transfer Notice, or the date of service of the Allocation Notice as the case may be, transfer the Sale Shares (in the case of a lapsed offer) or the Surplus Shares (as the case may be) to any person at a price at least equal to the Transfer Price. The sale of the Sale Shares (following the lapse of a Transfer Notice) in accordance with this clause 18.16 shall continue to be subject to any Minimum Transfer Condition.
- 18.17 The Seller's right to transfer Shares under clause 18.16 does not apply if the Directors reasonably consider that:
- (a) the transferee is a person (or a nominee for a person) whom an Investor Majority determines to be a competitor (or a Member of the Same Group as a competitor) of the business of any Group Company;
 - (b) the sale of the Sale Shares is not bona fide or the price is subject to a deduction, rebate or allowance to the transferee; or
 - (c) the Seller has failed or refused to promptly provide information available to him and reasonably requested to enable it to form the opinion referred to in clause 18.17(b).

19. Valuation

- 19.1 The Transfer Price for each Sale Share the subject of a Transfer Notice (or Deemed Transfer Notice) shall, save where expressly provided otherwise in these Articles, be the price per Sale Share (in cash) agreed between the Directors (any Director with whom the Seller is connected not voting), acting with Investor Consent, and the Seller or, in default of agreement within 20 Business Days of the date of service of the Transfer Notice (or, in the case of a Deemed Transfer Notice, the date on which the board of Directors first has actual knowledge of the facts giving rise to such deemed service), the Fair Value of each Sale Share.
- 19.2 The Fair Value shall be the price per Sale Share determined by the Independent Expert on the following bases and assumptions:
- (a) valuing the Sale Shares as on an arm's-length sale between a willing seller and a willing buyer as at the date the Transfer Notice was served (or deemed served);

- (b) if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so;
 - (c) that the Sale Shares are capable of being transferred without restriction;
 - (d) valuing the Sale Shares as a rateable proportion of the total value of all the issued Shares without any premium or discount being attributable to the percentage of the issued share capital of the Company which they represent; and
 - (e) reflecting any other factors which the Independent Expert reasonably believes should be taken into account.
- 19.3 *If any difficulty arises in applying any of these assumptions or bases then the Independent Expert shall resolve that difficulty in whatever manner it shall in its absolute discretion think fit.*
- 19.4 The Directors will give the Independent Expert access to all accounting records or other relevant documents of the Group, subject to it agreeing such confidentiality provisions as the Directors may reasonably impose.
- 19.5 The parties are entitled to make submissions to the Independent Expert including oral submissions and shall provide (or procure that others provide) the Independent Expert with such assistance and documents as the Independent Expert may reasonably require for the purpose of reaching a decision.
- 19.6 The Independent Expert shall act as expert and not as arbitrator and its determination shall be final and binding on the parties (in the absence of fraud or manifest error).
- 19.7 The Independent Expert shall be requested to determine the Fair Value within 20 Business Days of its appointment and to deliver its certificate to the Company. Forthwith upon receipt, the Company shall deliver a copy of the certificate to the Seller.

The cost of obtaining the Independent Expert's certificate shall be borne by the parties equally or in such other proportions as the Independent Expert directs

20. Compulsory transfers

- 20.1 A person entitled to a Share in consequence of the bankruptcy of a Shareholder (or equivalent procedure in any jurisdiction outside England and Wales) shall be deemed to have given a Transfer notice in respect of that Share at such time as the Directors (acting with Investor Consent) may determine.
- 20.2 If a Shareholder which is a body corporate either suffers or resolves to appoint a liquidator, administrator or administrative receiver over it, or any material part of its assets (other than a voluntary liquidation for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or suffers or takes any equivalent action in any jurisdiction outside England and Wales, that Shareholder shall be deemed to have given a Transfer Notice in respect of all Shares held by it at such time as the Directors (acting with Investor Consent) may determine.
- 20.3 If there is a change in control (as 'control' is defined in section 1124 of the Corporation Tax Act 2010) of any Shareholder which is a company, it shall be

bound at any time, if and when required in writing by the Directors to do so, to give (or procure the giving in the case of a nominee) a Transfer Notice in respect of all the Shares registered in its name (or the name of its nominee(s)) save that, where that Shareholder acquired Shares as a Permitted Transferee of an Original Shareholder, it shall first be permitted to transfer those Shares back to the Original Shareholder from whom it received its Shares or to any other Permitted Transferee of that Original Shareholder before being required to serve a Transfer Notice. This clause 20.3 shall not apply to Mike Kemp or a Shareholder that is an Investor.

21. Tag along rights on change of control

- 21.1 In the event that a proposed transfer of Shares (other than a transfer of Shares made pursuant to clause 17 or clause 20, but after the operation of the pre-emption procedure set out in clause 18), whether made as one or as a series of transactions (a **Proposed Transfer**) would, if completed, result in any person other than an existing Shareholder (the **Buyer**), together with any person acting in concert with the Buyer, acquiring a Controlling Interest, the remaining provisions of this clause 21 shall apply.
- 21.2 The Seller shall procure that, prior to the completion of the Proposed Transfer, the Buyer shall make an offer (the **Offer**) to each Shareholder (each an **Offeree**) on the date of the Offer, to buy all of the Equity Shares held by such Offerees on the date of the Offer for a consideration in cash per Equity Share (the **Offer Price**) which is equal to the highest price per Equity Share offered, paid or to be paid by the Buyer, or any person acting in concert with the Buyer, for any Equity Shares in connection with the Proposed Transfer or any transaction in the 6 calendar months preceding the date of completion of the Proposed Transfer.
- 21.3 The Offer shall be made by notice in writing (an **Offer Notice**) addressed to each Offeree on the date of the Offer at least 20 Business Days (the **Offer Period**) before the date fixed for completion of the Proposed Transfer (the **Sale Date**). The Offer Notice shall specify:
- (a) the identity of the Buyer (and any person(s) acting in concert with the Buyer);
 - (b) the Offer Price and any other terms and conditions of the Offer;
 - (c) the Sale Date; and
 - (d) the number of Equity Shares which would be held by the Buyer (and persons acting in concert with the Buyer) on completion of the Proposed Transfer.
- 21.4 The completion of the Proposed Transfer shall be conditional in all respects on:
- (a) the making of an Offer in accordance with this clause 21; and
 - (b) the completion of the transfer of any Equity Shares by any Offeree (each an **Accepting Offeree**) who accepts the Offer within the Offer Period,
- and the Directors shall refuse to register any Proposed Transfer made in breach of this clause 21.4.
- 21.5 *The Proposed Transfer is, but the purchase of Shares from Accepting Offerees pursuant to an Offer made under this clause 21 shall not be, subject to the pre-emption provisions of clause 18.*

22. Drag along

- 22.1 If an Investor Majority and Mike Kemp (the **Selling Shareholders**) wish to transfer all of their interest in Equity Shares (**Sellers' Shares**) to a bona fide purchaser on arm's-length terms (**Proposed Buyer**), the Selling Shareholders shall have the option (**Drag Along Option**) to require all the other holders of Equity Shares on the date of the request, including the Company in respect of Equity Shares held in treasury, if any (**Called Shareholders**) to sell and transfer all their interest in Equity Shares with full title guarantee to the Proposed Buyer (or as the Proposed Buyer may direct) in accordance with the provisions of this clause 22.
- 22.2 The Selling Shareholders may exercise the Drag Along Option by giving notice in writing to that effect (a **Drag Along Notice**), at any time before the completion of the transfer of the Sellers' Shares, to the Proposed Buyer and each Called Shareholder. A Drag Along Notice shall specify:
- (a) that the Called Shareholders are required to transfer all their Equity Shares (**Called Shares**) pursuant to this clause 22;
 - (b) the identity of the Proposed Buyer (and, if relevant, the transferee(s) nominated by the Proposed Buyer);
 - (c) the consideration payable for the Called Shares calculated in accordance with clause 22.4;
 - (d) the proposed date of completion of transfer of the Called Shares.
- 22.3 Once given, a Drag Along Notice may not be revoked save with the prior consent of the Directors, acting with Investor Consent. However, a Drag Along Notice shall lapse if, for any reason, the Selling Shareholders have not completed the transfer of all the Sellers' Shares to the Proposed Buyer (or as the Proposed Buyer may direct) within 20 Business Days of serving the Drag Along Notice. The Selling Shareholders may serve further Drag Along Notices following the lapse of any particular Drag Along Notice.
- 22.4 The consideration (in cash or otherwise) for which the Called Shareholders shall be obliged to sell each of the Called Shares shall be that to which they would be entitled if the total consideration proposed to be paid by the Proposed Buyer were distributed to the holders of the Called Shares and the Sellers' Shares in accordance with the provisions of clause 12.1.
- 22.5 No Drag Along Notice shall require a Called Shareholder to agree to any terms except those specifically set out in this clause 22.
- 22.6 Completion of the sale and purchase of the Called Shares shall take place on the same date as, and conditional upon the completion of, the sale and purchase of the Sellers' Shares unless:
- (a) all of the Called Shareholders and the Selling Shareholders otherwise agree; or
 - (b) that date is less than 15 Business Days after the date of service of the Drag Along Notice, in which case completion of the sale and purchase of the Called Shares shall take place 20 Business Days after the date of service of the Drag Along Notice.

- 22.7 Within 15 Business Days of the Selling Shareholders serving a Drag Along Notice on the Called Shareholders, the Called Shareholders shall deliver stock transfer forms for their Equity Shares in favour of the Proposed Buyer (or as the Proposed Buyer may direct), together with the share certificate(s) in respect of those Equity Shares (or a suitable indemnity in respect thereof) to the Company. On the expiration of that 15 Business Day period the Company shall pay the Called Shareholders, on behalf of the Proposed Buyer, the amounts they are respectively due pursuant to clause 22.4 to the extent the Proposed Buyer has put the Company in the requisite funds. The Company's receipt for the amounts due pursuant to clause 22.4 shall be a good discharge to the Proposed Buyer. The Company shall hold the amounts due to the Called Shareholders pursuant to clause 22.4 in trust for the Called Shareholders without any obligation to pay interest.
- 22.8 To the extent that the Proposed Buyer has not, on the expiration of the 15 Business Day period, put the Company in funds to pay the amounts due pursuant to clause 22.4, the Called Shareholders shall be entitled to the return of the stock transfer forms and share certificate(s) (or suitable indemnity) for the relevant Equity Shares and the Called Shareholders shall have no further rights or obligations under this clause 22 in respect of their Equity Shares.
- 22.9 If any Called Shareholder fails to deliver to the Company a duly executed stock transfer form (or forms) in respect of the Called Shares held by him (together with the share certificate(s) in respect of those Called Shares (or a suitable indemnity in respect thereof)) the defaulting Called Shareholder shall be deemed to have appointed any person nominated for the purpose by the Selling Shareholders to be his agent and attorney to execute and deliver all necessary transfers on his behalf, against receipt by the Company (on trust for such holder) of the consideration payable for the Called Shares. After the Proposed Buyer (or person(s) nominated by the Proposed Buyer) has been registered as the holder of any such 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 any transfer of Shares under this clause 22.
- 22.10 Upon any person, following the issue of a Drag Along Notice, becoming a Shareholder (or increasing an existing shareholding) including, without limitation, pursuant to the exercise of any option, warrant or other right to acquire or subscribe for, or to convert any security into, Equity Shares (a **New Shareholder**), a Drag Along Notice shall be deemed to have been served upon the New Shareholder, on the same terms as the previous Drag Along Notice, who shall then be bound to sell and transfer all such Equity Shares acquired by him to the Proposed Buyer (or as the Proposed Buyer may direct) and the provisions of this clause 22 shall apply mutatis mutandis to the New Shareholder, save that completion of the sale of such Equity Shares shall take place forthwith upon the later of the Drag Along Notice being deemed served on the New Shareholder and the date of completion of the sale of the Called Shares. References in this Article 23.11 to a person becoming a Shareholder (or increasing an existing shareholding) shall include the Company, in respect of the acquisition of any of its own Equity Shares.
- 22.11 A transfer of Called Shares to a Proposed Buyer (or as the Proposed Buyer may direct) pursuant to a sale in respect of which a Drag Along Notice has been duly served shall not be subject to the pre-emption provisions of clause 18.
- 22.12 Any Transfer Notice or Deemed Transfer Notice served in respect of the transfer of any Share which has not completed before the date of service of a Drag Along Notice shall automatically be revoked by the service of a Drag Along Notice.

DECISION-MAKING BY SHAREHOLDERS

23. General meetings

- 23.1 No business other than, subject to clause 23.2, the appointment of the chairman of the meeting is to be transacted at a general meeting unless a quorum is present at the commencement of the meeting and also when that business is voted on.
- 23.2 The Chairman shall chair general meetings. If there is no Chairman in office for the time being, or the Chairman is unable to attend any general meeting, the Directors present (or, if no Directors are present, the meeting) must appoint another Director present at the meeting (or, if no Directors are present, a Shareholder) to chair the meeting and the appointment of the chairman of the meeting must be the first business of the meeting.

24. Voting

- 24.1 Subject to any other provisions in these Articles concerning voting rights, each Share in the Company shall carry the right to receive notice of and to attend, speak and vote at all general meetings of the Company.
- 24.2 The Preferred Share will entitle the holder thereof to receive notice of all general meetings but will not entitle the holder to attend or vote at any meeting save in the event that there has been a proposed resolution varying any of the rights attaching to the Preferred Share, in which case (but only in relation to such resolution):
- (a) the Preferred Share shall entitle each holder thereof to one vote, either on a show of hands or on a poll; and
 - (b) the Ordinary Shares shall cease to entitle each holder thereof to attend and vote (whether on a show of hands or on a poll)
- at any general meeting of the Company and, for the avoidance of doubt, the holder of the Preferred Share shall be enabled to vote on any written resolution of the Company on the basis that he would constitute the only member who would be entitled to attend and vote at a general meeting.
- 24.3 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.
- 24.4 Model article 44(3) 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 model article.
- 24.5 Model article 45(1) shall be amended by:
- (a) the deletion of model article 45(1)(d) and its replacement 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"; and

- (b) 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 model article.

25. Purchase of own shares

25.1 Subject to the Act but without prejudice to any other provision of these Articles (including, without limitation, article 13.2(e)), the Company may purchase its own shares in accordance with Chapter 4 of Part 18 of the Act, including (without limitation) out of capital up to any amount in a financial year not exceeding the lower of:

- (a) £15,000; and
- (b) the nominal value of 5% of the Company's fully paid share capital at the beginning of each Financial Year.

25.2 The provisions of articles 16.4 to 16.11 (inclusive) shall apply to a sale or transfer of Shares held in treasury pursuant to article 26.2(b) save that, for the purposes of this article 26.3:

- (a) reference in article 16 to an allotment shall include the sale or transfer of Shares; and
- (b) reference in the definition of "Relevant Securities" to Shares "issued after the Adoption Date" shall include Shares to be sold or transferred by the Company,

that immediately before the sale or transfer were, in each case, held by the Company as treasury shares

26. Company's Lien over Shares

26.1 The Company has a lien (the **Company's Lien**) over every Share which is *registered in the name of a person indebted or under any liability to the Company*, whether he is the sole registered holder of the Share or one of several joint holders, for all monies payable by him (either alone or jointly with any other person) to the Company, whether payable immediately or at some time in the future.

26.2 The Company's Lien over a share:

- (a) takes priority over any third party's interest in that Share; and
- (b) extends to any dividend or other money payable by the Company in respect of that Share and (if the lien is enforced and the Share is sold by the Company) the proceeds of sale of that Share.

26.3 The Directors may at any time decide that a Share which is or would otherwise be subject to the Company's Lien shall not be subject to it, either wholly or in part.

27. Enforcement of the Company's Lien

27.1 Subject to the provisions of this clause 27, if:

- (a) a Lien Enforcement Notice has been given in respect of a Share; and
 - (b) the person to whom the notice was given has failed to comply with it,
- the Company may sell that Share in such manner as the Directors decide.

27.2 A Lien Enforcement Notice:

- (a) may only be given in respect of a Share which is subject to the Company's Lien and in respect of a sum payable to the Company for which the due date for payment has passed;
- (b) must specify the Share concerned;
- (c) must require payment of the sum within 14 clear days of the notice (that is, excluding the date on which the notice is given and the date on which that 14 day period expires);
- (d) must be addressed either to the holder of the Share or to a transmittee of that holder; and
- (e) must state the Company's intention to sell the Share if the notice is not complied with.

27.3 Where Shares are sold under this clause 27:

- (a) the Directors may authorise any person to execute an instrument of transfer of the Shares to the purchaser or to a person nominated by the purchaser; and
- (b) the transferee is not bound to see to the application of the consideration, and the transferee's title is not affected by any irregularity in or invalidity of the process leading to the sale.

27.4 The net proceeds of any such sale (after payment of the costs of sale and any other costs of enforcing the Company's Lien) must be applied:

- (a) first, in payment of so much of the sum for which the lien exists as was payable at the date of the Lien Enforcement Notice; and
- (b) second, to the person entitled to the Shares at the date of the sale, but only after the certificate for the Shares sold has been surrendered to the Company for cancellation, or an indemnity in a form reasonably satisfactory to the Directors has been given for any lost certificates, and subject to a lien equivalent to the Company's Lien over the Shares before the sale for any money payable by that person (or his estate or any joint holder of the shares) after the date of the Lien Enforcement Notice.

27.5 A statutory declaration by a Director or the company secretary that the declarant is a Director or the company secretary and that a Share has been sold to satisfy the Company's Lien on a specified date:

- (a) is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the Share; and

- (b) subject to compliance with any other formalities of transfer required by the Articles or by law, constitutes a good title to the Share.

ADMINISTRATIVE ARRANGEMENTS

28. Means of communication to be used

28.1 Any notice, document or other information shall be deemed served on, or delivered to, the intended recipient:

- (a) if delivered by hand, on signature of a delivery receipt; or
- (b) if sent by fax, at the time of transmission; or
- (c) if sent by pre-paid first class post, recorded delivery or special delivery to an address in the United Kingdom, at 9.00 am on the second Business Day after posting; or
- (d) if sent by reputable international overnight courier to an address outside the country from which it is sent, on signature of a delivery receipt; or
- (e) if sent or supplied by email, two hours after the notice, document or information was sent or supplied; or
- (f) if deemed receipt under the previous paragraphs of this clause 28.1 would occur outside business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of deemed receipt), at 9.00 on the day when business next starts in the place of deemed receipt. For the purposes of this article, all references to time are to local time in the place of deemed receipt.

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

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

28.3 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 Act.

29. Indemnity and insurance

29.1 Subject to clause 29.2, 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 thereto; and
- (ii) in relation to the 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 other Group 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 clause 29.1 and otherwise may take any action to enable such Relevant Officer to avoid incurring such expenditure.

29.2 This clause 29 does not authorise any indemnity which would be prohibited or rendered void by any provision of the Act or by any other provision of law.

29.3 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.

29.4 In this clause 29:

(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 other Group Company) or any pension fund or employees' share scheme of the Company (or other Group Company); and

(b) **Relevant Officer** means any director or other officer or former director or other officer of any Group 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 a Group Company as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor.