

**THE COMPANIES ACT 2006**  
**PRIVATE COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION**  
**of**  
**UPTIME APP LIMITED**  
**(the "Company")**

(Adopted by a special resolution passed on **25/03/2021**)

**1. Introduction**

- 1.1 The model articles for private companies limited by shares contained or incorporated in Schedule 1 to the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as *amended prior to the date of adoption of these articles* (the "**Model Articles**") shall apply to the Company, save insofar as they are varied or excluded by, or are inconsistent with, the following Articles.
- 1.2 In these Articles and the Model Articles any reference to any statutory provision shall be deemed to include a reference to each and every statutory amendment, modification, re-enactment and extension thereof from time to time.
- 1.3 In these Articles: article headings are used for convenience only and shall not affect the construction or interpretation of these Articles.

**2. Defined terms**

- 2.1 In these Articles the following words and expressions shall have the following meanings:

"**Act**" means the Companies Act 2006 (as amended from time to time);

"**A Director**" means a director of the Company nominated by the holders of A Ordinary Shares in accordance with Article 3.4;

"**A Ordinary Shares**" means A ordinary shares of £0.001 each in the capital of the Company from time to time;

"**Asset Sale**" means the disposal by the Company, or the entering by the Company into an exclusive licence in respect, of all or substantially all of its undertaking and assets;

"**Auditors**" means the auditors of the Company from time to time;

"**B Ordinary Shares**" means B ordinary shares of £0.001 each in the capital of the Company from time to time;

"**B Preferred Shares**" means the B preferred shares of £0.001 each in the capital of the Company from time to time;

"**Board**" means the board of Directors and any committee of the board constituted for the purpose of taking any action or decision contemplated by these Articles;



**"Bonus Issue" or "Reorganisation"** means any return of capital, bonus issue of shares or other securities of the Company by way of capitalisation of profits or reserves or any consolidation or sub-division or redenomination or any repurchase or redemption of shares or any variation in the subscription price or conversion rate applicable to any other outstanding shares of the Company in each case other than in respect of the grant of options under any Share Option Plan;

**"Business Day"** means a day on which English clearing banks are ordinarily open for the transaction of normal banking business in the City of London (other than a Saturday or Sunday);

**"C Ordinary Shares"** means C ordinary shares of £0.001 each in the capital of the Company from time to time;

**"Civil Partner"** means in relation to a Shareholder, a civil partner (as defined in the Civil Partnership Act 2004) of the Shareholder;

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

**"Director(s)"** means a director or directors of the Company from time to time;

**"Employee"** means an individual who is employed by, or who provides consultancy services to, the Company or any member of the Group;

**"Encumbrance"** means any mortgage, charge, security, interest, lien, pledge, assignment by way of security, equity, claim, right of pre-emption, option, covenant, restriction, reservation, lease, trust, order, decree, judgment, title defect (including without limitation any retention of title claim), conflicting claim of ownership or any other encumbrance of any nature whatsoever (whether or not perfected other than liens arising by operation of law);

**"Equity Financing"** means a bona fide round of equity financing in which the Company issues any shares (including any conversion or cancellation of indebtedness) to any third party or existing shareholder;

**"Fair Value"** is as determined in accordance with Article 13.3;

**"Family Trusts"** means trust(s) under which no immediate beneficial interest in any of the shares in question is for the time being vested in any person other than a Shareholder who is an individual and/or Privileged Relations of that individual;

**"Founders"** means Jamie True and Jack Bekhor;

**"Fund Manager"** means a person whose principal business is to make, manage or advise upon investments in securities;

**"Group"** means the Company and its subsidiary undertaking(s) (if any) from time to time;

**"Holding Company"** means a newly formed holding company, pursuant to which the shareholders of, and the proportion and class(es) of shares held by each of them in, such holding company (immediately after a transfer of the issued share capital of the Company to such holding company) are the same as the shareholders of and their shareholdings in the Company immediately prior to the transfer of the issued share capital of the Company to such holding company;

**"IPO"** means the admission of all or any of the Shares or securities representing those shares (including without limitation depositary interests, American depositary receipts, American depositary shares and/or other instruments) to or the grant of permission by any like authority for the same to be admitted to or traded or quoted on Nasdaq Stock Market operated by the NASDAQ OMX Group or the Official List of the United Kingdom Listing Authority or the AIM Market operated by the London Stock Exchange Plc or any other recognised investment exchange (as defined in section 285 of the *Financial Services and Markets Act 2000*);

**"a Member of the same Fund Group"** means if the Shareholder is a fund, partnership, company, syndicate or other entity whose business is managed by a Fund Manager (an **"Investment Fund"**) or a nominee of that person:

- (a) any participant or partner in or member of any such Investment Fund or the holders of any unit trust which is a participant or partner in or member of any Investment Fund (but only in connection with the dissolution of the Investment Fund or any distribution of assets of the Investment Fund pursuant to the operation of the Investment Fund in the ordinary course of business);
- (b) any Investment Fund managed by that Fund Manager;
- (c) any parent undertaking or subsidiary undertaking of that Fund Manager, or any subsidiary undertaking of any parent undertaking of that Fund Manager; or
- (d) *any trustee, nominee or custodian of such Investment Fund and vice versa;*

**"a Member of the same Group"** means as regards any company, a company which is from time to time a parent undertaking or a subsidiary undertaking of that company or a subsidiary undertaking of any such parent undertaking;

**"New Securities"** means any shares or other securities convertible into, or carrying the right to subscribe for, shares (other than shares or securities issued as a result of the events set out in Article 9.4);

**"Ordinary Shares"** means the A Ordinary Shares, the B Ordinary Shares and the C Ordinary Shares;

**"Permitted Transfer"** means a transfer of Shares in accordance with Article 11;

**"Permitted Transferee"** means:

- (a) in relation to a Shareholder who is an individual, any of his Privileged Relations, Trustees or Qualifying Company;
- (b) in relation to a Shareholder which is an undertaking means any Member of the same Group;
- (c) in relation to a Shareholder which is an Investment Fund means any Member of the same Fund Group;

**"Preference Amount"** means a price per share equal to the amount paid up or credited as paid up (including premium) for such share;

**"Privileged Relation"** in relation to a Shareholder who is an individual member or deceased or former member means a spouse, Civil Partner, child or grandchild (including step or adopted or illegitimate child and their issue);

**"Proceeds of Sale"** means the consideration payable (including any deferred and/or contingent consideration and any other consideration which, having regard to the substance of the transaction as a whole, can be reasonably regarded as an addition to the price paid or payable for the Shares being sold) whether in cash or otherwise to those Shareholders selling Shares under a Share Sale less any fees, costs and expenses payable in respect of such Share Sale;

**"Qualifying Company"** means a company in which a Shareholder or Trustee(s) hold the whole of the share capital and which they control;

**"Shareholder"** means any holder of any Shares,

**"Share Option Plan"** means any share option plan of the Company, the terms of which have been approved by the Board;

**"Shares"** means the Ordinary Shares and the B Preferred Shares;

**"Share Sale"** means the sale of (or the grant of a right to acquire or to dispose of) any of the shares in the capital of the Company (in one transaction or as a series of transactions) which will result in the purchaser of those shares (or grantee of that right) and persons acting in concert (having the meaning given in The City Code on Takeovers and Mergers published by the Panel on Takeovers and Mergers (s amended from time to time) with him together acquiring a Controlling Interest in the Company, *except where following completion of the sale the shareholders in the purchasing company and the proportion of shares held by each of them are the same as the Shareholders and their shareholdings in the Company immediately prior to the sale; and*

**"Trustees"** means the trustee(s) of a Family Trust.

- 2.2 In these Articles, unless the context requires otherwise, references to shares of a particular class shall include shares allotted and/or issued after the date of adoption of *these Articles and ranking pari passu in all respects (or in all respects except only as to the date from which those shares rank for dividend) with the shares of the relevant class then in issue.*
- 2.3 Except as otherwise provided in these Articles, the A Ordinary Shares, the B Ordinary Shares, the B Preferred Shares and the C Ordinary Shares shall rank *pari passu* in all respects but shall constitute separate classes of shares.

### **3. Proceedings of Directors**

- 3.1 The quorum for Directors' meetings shall be two Directors who must include at least one A Director (save that where an interest of a Director is being authorised by other Directors in accordance with section 175(5)(a) of the Act, any interested Director shall not be included in the quorum required for the purpose of such authorisation). Article 11(2) of the Model Articles shall not apply to the Company.
- 3.2 The maximum number of directors shall be seven, or such higher number as the holder of a majority of the Shares shall approve from time to time.
- 3.3 In the case of any equality of votes, the chairman (if so appointed) shall not have a second or casting vote. Article 13 of the Model Articles shall not apply to the Company.
- 3.4 The holders of A Ordinary Shares shall, acting by a majority, have the right to appoint and maintain in office two natural persons as directors of the Company (and as a

member of each and any committee of the Board) and to remove the director so appointed and, upon his removal, to appoint another director in his place.

- 3.5 Appointment and removal of a director of the Company under Article 3.4 shall be by written notice to the Company which shall take effect on delivery at its registered office or at any meeting of the Board or committee thereof.

#### **4. Voting**

- 4.1 The A Ordinary Shares, the B Ordinary Shares and the B Preferred Shares shall each carry one vote per share.
- 4.2 The C Ordinary Shares shall have no voting rights.

#### **5. Directors' interests**

- 5.1 Subject to the provisions of the Act, and provided that he has declared to the Directors the nature and extent of his interest, a Director may vote at a meeting of the Directors or of a committee of the Directors on any resolution concerning a matter in which he has an interest, whether a direct or an indirect interest, or in relation to which he has a duty and shall also be counted in reckoning whether a quorum is present at such a meeting. Article 14 of the Model Articles shall not apply to the Company.

##### *5.2 Specific interests of a Director*

Subject to the provisions of the Act, and provided that he has declared to the Directors the nature and extent of his interest, a Director may (save as to the extent not permitted by law from time to time), notwithstanding his office, have an interest of the following kind:

- (a) where a Director (or a person connected with him) is party to or in any way directly or indirectly interested in, or has any duty in respect of, any existing or proposed contract, arrangement or transaction with the Company or any other undertaking in which the Company is in any way interested;
- (b) where a Director (or a person connected with him) is a director, employee or other officer of, or a party to any contract, arrangement or transaction with, or in any way interested in, any body corporate promoted by the Company or in which the Company is in any way interested;
- (c) where a Director (or a person connected with him) is a Shareholder or a shareholder in, employee, director, member or other officer of, or consultant to, a parent undertaking of, or a subsidiary undertaking of a parent undertaking of, the Company;
- (d) where a Director (or a person connected with him) holds and is remunerated in respect of any office or place of profit (other than the office of auditor) in respect of the Company or body corporate in which the Company is in any way interested;
- (e) where a Director is given a guarantee, or is to be given a guarantee, in respect of an obligation incurred by or on behalf of the Company or any body corporate in which the Company is in any way interested; or
- (f) where a Director (or a person connected with him or of which he is a member or employee) acts (or any body corporate promoted by the Company or in

which the Company is in any way interested of which he is a director, employee or other officer may act) in a professional capacity for the Company or any body corporate promoted by the Company or in which the Company is in any way interested (other than as auditor) whether or not he or it is remunerated for this.

### 5.3 *General interests of a Director*

In addition to the provisions of Article 5.2, subject to the provisions of the Act, and *provided that he has declared to the Directors the nature and extent of his interest*, a Director may (save as to the extent not permitted by law from time to time), notwithstanding his office, have an interest arising from any duty he may owe to, or interest he may have as an employee, director, trustee, member, partner, officer or representative of, or a consultant to, or direct or indirect investor (including without limitation by virtue of a carried interest, remuneration or incentive arrangements or the holding of securities) in:

- (a) a Fund Manager who advises or manages an institutional investor in the Company;
- (b) any of the funds advised or managed by a Fund Manager who advises or manages an institutional investor in the Company from time to time; or
- (c) another body corporate or firm in which a Fund Manager who advises or *manages an institutional investor in the Company or any fund advised by such* Fund Manager has directly or indirectly invested.

## 6. **Liquidation Preference**

6.1 Subject to article 6.2, on a distribution of assets on a liquidation or a return of capital (other than a conversion, redemption or purchase of Shares) the surplus assets of the Company remaining after payment of its liabilities shall be applied (to the extent that the Company is lawfully permitted to do so):

- (a) first in paying to each of holder of B Preferred Shares, in priority to any other classes of Shares, an amount per share held equal to the Preference Amount (provided that if there are insufficient surplus assets to pay the amounts per share equal to the Preference Amount, the remaining surplus assets shall be *distributed to the holders of B Preferred Shares pro rata to the amounts paid up* on the B Preferred Shares);
- (b) the balance of the surplus assets (if any) shall be distributed among the holders of Ordinary Shares pro rata to the number of Ordinary Shares held.

6.2 On a distribution of assets on a liquidation or a return of capital (other than a conversion, redemption or purchase of Shares) at any time after the Company has completed a round of Equity Financing in which the Company has a post-money valuation of £50,000,000 or more, article 6.1 shall cease to apply and the surplus assets *of the Company remaining after payment of its liabilities shall be applied (to the extent that the Company is lawfully permitted to do so)* among the holders of Shares pro rata (as if the Shares constituted one and the same class) to the number of Shares held.

## **7. Exit provisions**

- 7.1 On a Share Sale the Proceeds of Sale shall be distributed in the order of priority set out in Article 6 and the Directors shall not register any transfer of Shares if the Proceeds of Sale are not so distributed save in respect of any Shares not sold in connection with that Share Sale provided that if the Proceeds of Sale are not settled in their entirety upon completion of the Share Sale:
- (a) the Directors shall not be prohibited from registering the transfer of the relevant Shares so long as the Proceeds of Sale that are settled have been distributed in the order of priority set out in Article 6; and
  - (b) the Shareholders shall take any action required by the Board to ensure that the Proceeds of Sale in their entirety are distributed in the order of priority set out in Article 6.
- 7.2 On an Asset Sale 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 Article 6.

## **8. Conversion of Shares**

- 8.1 Any holder of B Preferred Shares shall be entitled, by notice in writing to the Company, to require conversion into A Ordinary Shares of all of the fully paid B Preferred Shares held by them at any time and those B Preferred Shares shall convert automatically on the date of such notice (the "**Conversion Date**"), provided that the holder may in such notice, state that conversion of its B Preferred Shares into A Ordinary Shares is conditional upon the occurrence of one or more events (the "**Conditions**").
- 8.2 *All of the B Ordinary Shares, B Preferred Shares and C Ordinary Shares shall automatically convert into A Ordinary Shares immediately upon the occurrence of an IPO.*
- 8.3 In the case of:
- (a) Article 8.2, at least five Business Days prior to the occurrence of the IPO; or
  - (b) In the case of Article 8.1, not more than five Business Days after the Conversion Date,
- each holder of the relevant B Ordinary Shares, B Preferred Shares and C Ordinary Shares shall deliver the certificate (or a suitable indemnity) in respect of the shares being converted for such shares to the Company at its registered office for the time being.
- 8.4 Where conversion is mandatory on the occurrence of an IPO, that conversion will be effective only immediately prior to such IPO (and "**Conversion Date**" shall be construed accordingly) and, if such IPO does not become effective or does not take place, such conversion shall be deemed not to have occurred.
- 8.5 On the Conversion Date, the relevant B Ordinary Shares, B Preferred Shares and C Ordinary Shares shall without further authority than is contained in these Articles stand converted into A Ordinary Shares on the basis of one A Ordinary Share for each B Ordinary Share, B Preferred Share or C Ordinary Share held and the A Ordinary Shares resulting from that conversion shall in all other respects rank pari passu with the existing issued A Ordinary Shares.

- 8.6 The Company shall on the Conversion Date enter the holder of the converted B Ordinary Shares, B Preferred Shares and C Ordinary Shares on the register of members of the Company as the holder of the appropriate number of A Ordinary Shares and, subject to the relevant holder delivering its certificate(s) (or indemnity) in respect of the B Ordinary Shares, B Preferred Shares and C Ordinary Shares in accordance with this Article, the Company shall within 10 Business Days of the Conversion Date forward to such holder of B Ordinary Shares, B Preferred Shares and C Ordinary Shares by post to his address shown in the register of members, free of charge, a definitive certificate for the appropriate number of fully paid Ordinary Shares.

**9. Allotment of new shares or other securities: pre-emption**

- 9.1 In accordance with section 567(1) of the Act, sections 561 and 562 of the Act do not apply to an allotment of equity securities made by the Company.

- 9.2 Unless otherwise determined by special resolution, any New Securities shall, before they are allotted or granted on any terms, be first offered by the Company in writing to each holder of Shares by:

- (a) giving details of the number and subscription price of the New Securities;
- (b) inviting him to apply for the New Securities at the subscription price (being on no less favourable terms);
- (c) stating that he will have a period of at least 14 days from the date of the notice in which to apply;
- (d) stating that, if there is competition among the holders of Shares for the New Securities, the New Securities will be allocated to him in proportion (as nearly as may be) to his existing holdings of Shares (his "**Proportionate Allocation**");
- (e) inviting him to indicate if he is willing to purchase New Securities in excess of his Proportionate Allocation ("**Extra Securities**") and, if so, the number of Extra Securities.

- 9.3 On expiry of an offer made in accordance with Article 9.2 (or sooner if applications or refusals have been received from all holders of Shares and all requisite approvals have been given), the Company shall allot or grant (as the case may be) the New Securities as follows:

- (a) if the total number of New Securities applied for is equal to or less than the New Securities offered, each holder of Shares shall be allocated the number applied for by him; or
- (b) if the total number of New Securities applied for is more than the New Securities offered, each holder of Shares shall be allocated his Proportionate Allocation or, if less, the number of New Securities for which he has applied; and
- (c) applications for Extra Securities shall be allocated in accordance with such applications or, in the event of competition, among those holders of Shares applying for Extra Securities in proportion to their Proportionate Allocations but so that no applicant shall be allocated more Extra Securities than he has applied for and so that if there is a surplus further allocations shall be made on the same basis (and if necessary more than once) until all New Securities have been allocated;



- (d) fractional entitlements shall be rounded to the nearest whole number;

following which the Directors may, subject to these Articles and the Act, allot or grant (as the case may be) such New Securities as have not been taken up in such manner as they think fit, but on no less favourable terms.

9.4 The provisions of Articles 9.2 and 9.3 shall not apply to:

- (a) options to subscribe for Ordinary Shares under the Share Option Plan;
- (b) New Securities issued in order for the Company to comply with its obligations under these Articles;
- (c) New Securities issued in consideration of the acquisition by the Company of any company or business which has been approved in writing by the Board;
- (d) New Securities issued as a result of a Bonus Issue or Reorganisation.

9.5 Any New Securities offered under this Article 9 to an institutional investor may be accepted in full or part only by a Member of the same Fund Group as that investor in accordance with the terms of this Article 9.

9.6 No Shares shall be allotted to any Employee, Director, prospective Employee or prospective director of the Company, who in the opinion of the Board is subject to taxation in the United Kingdom, unless such person has entered into a joint section 431 Income Tax (Earnings and Pensions) Act 2003 election with the Company if so required by the Company.

9.7 The Company may issue Shares which are to be redeemed, or are liable to be redeemed at the option of the Company or the holder. The Directors are not authorised to determine the terms, conditions and manner of redemption unless express authorisation to do so is given by the Shareholders by ordinary resolution. Article 22(2) of the Model Articles shall not apply to the Company.

## **10. Transfers of Shares – general**

10.1 Reference to the transfer of a Share in these Articles includes the transfer or assignment 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.

10.2 If a Shareholder transfers or purports to transfer a Share otherwise than in accordance with these Articles he will be deemed immediately to have served a Transfer Notice in respect of all Shares held by him.

10.3 The Directors may refuse to register a transfer of a Share if:

- (a) a Shareholder transfers a Share other than in accordance with these Articles;
- (b) the transfer is to an Employee, Director or prospective Employee or prospective director of the Company and such person has not entered into a joint section 431 Income Tax (Earnings and Pensions) Act 2003 election with the Company; or
- (c) the transferee is a person (or a nominee for a person) who is a competitor with (or an associate (as determined in accordance with section 435 of the

Insolvency Act 1986) of a competitor with) the business of the Company or with a subsidiary undertaking of the Company.

Article 26(5) of the Model Articles shall be modified accordingly.

- 10.4 The Directors may, as a condition to the registration of any transfer of Shares, require the transferee to execute and deliver to the Company a deed agreeing to be bound by the terms of any shareholders' agreement in force between some or all of the Shareholders and the Company.
- 10.5 Articles 27 to 29 of the Model Articles regarding transmission of shares shall not apply to the Company.
- 10.6 Any transfer of a Share by way of sale which is required to be made under Articles 12 to 15 (inclusive) will be deemed to include a warranty that the transferor sells with full title guarantee.

## 11. Permitted Transfers

- 11.1 A Shareholder (the "**Original Shareholder**") may transfer all or any of his or its Shares to a Permitted Transferee without restriction as to price or otherwise.
- 11.2 Shares previously transferred as permitted by Article 11.1 may be transferred by the transferee to the Original Shareholder or any other Permitted Transferee of the Original Shareholder without restriction as to price or otherwise.
- 11.3 Where, upon death of a Shareholder, the persons legally or beneficially entitled to any Shares are Permitted Transferees of that deceased Shareholder, the legal representative of the deceased Shareholder may transfer any Share to those Permitted Transferees without restriction as to price or otherwise.
- 11.4 A transfer of any Shares approved by the Board may be made without restriction as to price or otherwise and each transfer shall be registered by the Directors.
- 11.5 Any Shares may at any time be transferred where there is a transfer of the entire issued share capital of the Company to a Holding Company, which has been approved by the Board.

## 12. Transfers of Shares subject to pre-emption rights

- 12.1 Save where the provisions of Articles 11, 15 and 16 apply, a Shareholder who wishes to transfer Shares (a "**Seller**") shall give notice in writing (which cannot be withdrawn save with the consent of the Board) (a "**Transfer Notice**") to the Company (constituting the Company the agent of the Seller) specifying:
  - (a) the number of Shares which he wishes to transfer (the "**Sale Shares**");
  - (b) if he wishes to sell the Sale Shares to a third party, the name of the proposed transferee; and
  - (c) the price at which he wishes to transfer the Sale Shares (the price at which he is to transfer the Sale Shares being deemed to be Fair Value of the Sale Shares if no price is agreed between the Seller and the Board (but with any Director who is a Seller or with whom the Seller is connected (within section 252 of the Act) not being entitled to vote) within five Business Days after the date when the Board received the Transfer Notice (the "**Transfer Price**")).

*If a Shareholder is deemed to have given a Transfer Notice, the price at which he is to transfer the Sale Shares (being in this case the Transfer Price) shall be agreed between such Shareholder and the Board (but with any Director who is a Seller or with whom the Seller is connected (within section 252 of the Act) not being entitled to vote) within five Business Days after the date when the Board received the Transfer Notice) and failing such agreement such price will be deemed to be the Fair Value of such Shares.*

12.2 As soon as practicable following the receipt of a Transfer Notice (or, in the case where the Transfer Price has not been agreed, the determination of the Transfer Price under Article 13), the Company shall give notice in writing to each holder of Shares other than the Seller (each an **"Eligible Shareholder"**):

- (a) inviting him to apply for the Sale Shares at the Transfer Price;
- (b) stating that he will have a period of at least 14 days from the date of the notice in which to apply;
- (c) stating that, the Sale Shares shall be offered to the Eligible Shareholders and if there is competition among the Eligible Shareholders for the Sale Shares within a class of Shares, the Sale Shares will be allocated to him in proportion (as nearly as may be) to his existing holding of Shares (his **"Proportionate Allocation"**);
- (d) inviting him to indicate if he is willing to purchase Sale Shares in excess of his Proportionate Allocation (**"Extra Shares"**) and, if so, the number of Extra Shares.

12.3 On expiry of an offer made in accordance with Article 12.2 (or sooner if applications or refusals have been received from all Eligible Shareholders), the Company shall allocate the Sale Shares as follows:

- (a) if the total number of Sale Shares applied for is equal to or less than the number of Sale Shares, each Eligible Shareholder shall be allocated the number applied for by him; or
- (b) if the total number of Sale Shares applied for is more than the available number of Sale Shares, each Eligible Shareholder shall be allocated his Proportionate Allocation or, if less, the number of Sale Shares for which he has applied;
- (c) applications for Extra Shares shall be allocated in accordance with such applications or, in the event of competition, among those Eligible Shareholders applying for Extra Shares in proportion to their Proportionate Allocations but so that no applicant shall be allocated more Extra Shares than he has applied for and so that if there is a surplus further allocations shall be made on the same basis (and if necessary more than once) until all Shares have been allocated; and
- (d) fractional entitlements shall be rounded to the nearest whole number.

12.4 The Company shall give written notice of allocation (an **"Allocation Notice"**) to the Seller which shall specify the number of Sale Shares to be allocated to each applicant and the place and time (being not less than 7 nor more than 14 days after the date of the Allocation Notice) for completion of the transfer of the Sale Shares.

12.5 On service of an Allocation Notice, the Seller shall, against payment of the Transfer Price, transfer the Sale Shares in accordance with the requirements specified in it.

- 12.6 If the Seller fails to comply with the provisions of Article 12.5:
- (a) the chairman of the Directors or, failing him, one of the Directors, or some other person nominated by a resolution of the Board, may 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 (subject to the transfer being duly stamped) enter each applicant in the register of members as the holders of the Sale Shares allocated to him, 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 to the Company his certificate(s) for the relevant Shares (or a suitable indemnity).
- 12.7 If an Allocation Notice does not relate to all the Sale Shares then, subject to Article 12.8, the Seller may, within eight weeks after service of the Allocation Notice, transfer the unsold Sale Shares not included within the Allocation Notice to any person at a price at least equal to the Transfer Price.
- 12.8 The right of the Seller to transfer Shares under Article 12.7 does not apply if the Board is of the opinion on reasonable grounds that:
- (a) the sale of the Sale Shares is not bona fide or the price is subject to a deduction, rebate or allowance to the transferee; or
  - (b) the Seller has failed or refused to provide promptly information available to it or him and reasonably requested by the Board for the purpose of enabling it to form the opinion mentioned above.
- 12.9 Any Sale Shares offered under this Article 12 to an institutional investor may be accepted in full or part only by a Member of the same Fund Group as that investor in accordance with the terms of this Article 12.
- 12.10 The Company shall maintain an option pool equal to 15% of the issued share capital of the Company from time to time, to include all options granted and exercised in accordance with the Share Option Plan.

### 13. Valuation of Shares

- 13.1 If no price is agreed between the Seller and the Board then, upon service of the Transfer Notice the Board shall appoint an expert valuer in accordance with Article 13.2 (the "**Expert Valuer**") to certify the Fair Value of the Sale Shares or if the Fair Value has been certified by Expert Valuer within the preceding 12 weeks, such certified Fair Value shall apply.
- 13.2 The Expert Valuer will be the Auditors unless this is not agreed by the Seller and the Board in which case it will be an independent firm of Chartered Accountants to be agreed between the Board and the Seller or failing agreement within 10 Business Days after the date of service of the Transfer Notice to be nominated by the then President of the Institute of Chartered Accountants in England and Wales on the application of either party and appointed by the Company.
- 13.3 The "**Fair Value**" of the Sale Shares shall be determined by the Expert Valuer on the following assumptions and bases:

- (a) valuing the Sale Shares as on an arm's-length sale between a willing seller and a willing buyer;
  - (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) reflect any other factors which the Expert Valuer reasonably believe should be taken into account.
- 13.4 The Expert Valuer shall be requested to determine the Fair Value within 20 Business Days of its appointment and to notify the Board and the Seller of its determination. The Expert Valuer shall act as experts and not as arbitrators and its determination shall be final and binding on the parties (in the absence of fraud or manifest error).
- 13.5 The cost of obtaining the certificate shall be paid by the Company unless the Sale Price certified by the Expert Valuer is less than the price (if any) offered by the Directors to the Seller for the Sale Share before Expert Valuer was instructed in which case the Seller shall bear the cost.
- 14. Compulsory transfers – general**
- 14.1 A person entitled to a Share in consequence of the bankruptcy of a Shareholder shall be deemed to have given a Transfer Notice in respect of that Share at a time determined by the Directors.
- 14.2 If a Shareholder which is a company, either suffers or resolves for the appointment of a liquidator, administrator or administrative receiver over it or any material part of its assets, the relevant Shareholder (and all its Permitted Transferees) shall be deemed to have given a Transfer Notice in respect of all the Shares held by the relevant Shareholder and its Permitted Transferees save to the extent that, and at a time, the Directors may determine.
- 14.3 If a Permitted Transferee ceases to be a Permitted Transferee of the Original Shareholder, the Permitted Transferee must not later than five Business Days after the date on which the Permitted Transferee so ceases, transfer the Shares held by it to the Original Shareholder or another Permitted Transferee of the Original Shareholder without restriction as to price or otherwise, failing which it will be deemed to have given a Transfer Notice in respect of those Shares.
- 14.4 On the death, bankruptcy, liquidation, administration or administrative receivership of a Permitted Transferee (other than a joint holder) his personal representatives or trustee in bankruptcy, or its liquidator, administrator or administrative receiver must within five Business Days after the date of the grant of probate, the making of the bankruptcy order or the appointment of the liquidator, administrator or the administrative receiver execute and deliver to the Company a transfer of the Shares held by the Permitted Transferee without restriction as to price or otherwise. 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 five Business Days of such period or if the Original Shareholder has died or is bankrupt or is in liquidation, administration or

administrative receivership, the personal representative or trustee in bankruptcy or liquidator, administrator or administrative receiver will be deemed to have given a Transfer Notice.

- 14.5 If a Share remains registered in the name of a deceased Shareholder for longer than one year after the date of his death the Directors may require the legal personal representatives of that deceased Shareholder either:
- (a) to effect a Permitted Transfer of such Shares (including for this purpose an election to be registered in respect of the Permitted Transfer); or
  - (b) to show to the satisfaction of the Directors that a Permitted Transfer will be effected before or promptly upon the completion of the administration of the estate of the deceased Shareholder.

If either requirement in this Article 14.5 shall not be fulfilled to the satisfaction of the Directors a Transfer Notice shall be deemed to have been given in respect of each such Share save to the extent that, the Directors may otherwise determine.

- 14.6 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 of in the case of any Permitted Transferee and/or nominee) a Transfer Notice in respect of all the Shares registered in its name, its Permitted Transferee name and their respective nominees' names save that, in the case of the Permitted Transferee, 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 the Original Shareholder before being required to serve a Transfer Notice.

## 15. Co-Sale right

- 15.1 No transfer or series of transfers (other than a Permitted Transfer) of 5% or more of the Shares may be registered unless a Shareholder (a "**Selling Member**") shall have observed the following procedures of this Article.
- 15.2 After the Selling Member has gone through the pre-emption process set out in Article 12, the Selling Member shall give to each other shareholder (a "**Co-Seller**") not less than 15 Business Days' notice in advance of the proposed sale (a "**Co-Sale Notice**"). The Co-Sale Notice shall specify:
- (a) the identity of the proposed purchaser (the "**Buyer**");
  - (b) the price per share which the Buyer is proposing to pay;
  - (c) the manner in which the consideration is to be paid;
  - (d) the number of Shares which the Selling Member proposes to sell; and
  - (e) the address where the counter-notice should be sent.
- 15.3 Each Co-Seller shall be entitled within five Business Days after receipt of the Co-Sale Notice, to notify the Selling Member that they wish to sell a certain number of Shares held by them at the proposed sale price, by sending a counter-notice which shall specify the number of Shares which such Co-Seller wishes to sell. The maximum number of Shares which a Co-Seller can sell under this procedure shall be:

$$\left( \frac{X}{Y} \right) \times Z$$

where:

- X is the number of Shares held by the Co-Seller;
- Y is the total number of Shares;
- Z is the number of Shares the Selling Member proposes to sell.

Any Co-Seller who does not send a counter-notice within such five Business Day period shall be deemed to have specified that they wish to sell no Shares.

- 15.4 Following the expiry of five Business Days from the date the Co-Sellers receive the Co-Sale Notice, the Selling Member shall be entitled to sell to the Buyer on the terms notified to the Shareholders a number of Shares not exceeding the number specified in the Co-Sale Notice less any Shares which Co-Sellers have indicated they wish to sell, provided that at the same time the Buyer (or another person) purchases from the Shareholders the number of Shares they have respectively indicated they wish to sell on terms no less favourable than those obtained by the Selling Member from the Buyer.
- 15.5 No sale by the Selling Member shall be made pursuant to any Co-Sale Notice more than three months after service of that Co-Sale Notice.
- 15.6 Sales made under a Co-Sale Notice in accordance with this Article 15 shall not be subject to Article 12.

## 16. Drag-along

- 16.1 If the holders of more than 50% of the Shares (excluding the C Ordinary Shares) in aggregate (as if the Shares (excluding the C Ordinary Shares) constituted one and the same class) (the "**Selling Shareholders**") wish to transfer all their interest in Shares (the "**Sellers' Shares**") to a proposed purchaser who has made an offer on arm's length terms (the "**Proposed Purchaser**"), the Selling Shareholders shall have the option (the "**Drag Along Option**") to require all the other holders of Shares (the "**Called Shareholders**") to sell and transfer all their Shares (the "**Called Shares**") to the Proposed Purchaser or as the Proposed Purchaser shall direct in accordance with the provisions of this Article 16.
- 16.2 The Selling Shareholders may exercise the Drag Along Option by giving a written notice to that effect (a "**Drag Along Notice**") to the Company which the Company shall as soon as reasonably practicable copy to the Called Shareholders at any time before the transfer of the Sellers' Shares to the Proposed Purchaser. A Drag Along Notice shall specify that the Called Shareholders are required to transfer their Called Shares under this Article, the person to whom they are to be transferred, the consideration for which the Called Shares are to be transferred (which may be cash or non-cash consideration or a combination of both and which shall be calculated or determined in accordance with this Article), the proposed date of transfer and the form of any sale agreement or form of acceptance or any other document of similar effect that the Called Shareholders are required to sign in connection with such sale (the "**Sale Agreement**") (together, the "**Drag Documents**"). No Drag Along Notice or Sale Agreement may require a Called Shareholder to agree to any terms unless such apply equally (or on a substantially equivalent basis) to each Dragging Shareholder that holds the same class of Shares.

- 16.3 Drag Along Notices shall be irrevocable but will lapse if for any reason there is not a sale of the Sellers' Shares by the Selling Shareholders to the Proposed Purchaser within 40 Business Days after the date of service of the Drag Along Notice. The Selling Shareholders shall be entitled to serve further Drag Along Notices following the lapse of any particular Drag Along Notice.
- 16.4 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 Purchaser were distributed to the holders of the Called Shares and the Sellers' Shares in accordance with the provisions of Article 6 (the "**Drag Consideration**"). Where the consideration (or any part thereof) is non-cash consideration, any valuation of such consideration applicable to the consideration payable to the Selling Shareholders shall also be applicable to the consideration payable to the Called Shareholders. The Drag Consideration may be subject to adjustment (on the basis of completion accounts or another similar mechanism) on the same terms as the consideration payable to the Selling Shareholders.
- 16.5 A Called Shareholder may:
- (a) be required to accept that some or all of the Drag Consideration will be paid as deferred consideration, provided that the Called Shareholders shall receive any Drag Consideration due to them no later than the Selling Shareholders; and
  - (b) be required to make a contribution towards any escrow, retention of consideration or similar arrangement on the same basis as the Selling Shareholders, on a pro-rata basis to their respective entitlement to the Drag Consideration.
- 16.6 No Drag Along Notice may require a Called Shareholder to agree to any terms except those specifically provided for in this Article.
- 16.7 Within five 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 Shares in favour of the Proposed Purchaser or as the Proposed Purchaser shall direct, together with the relevant share certificate(s) (or a suitable indemnity in lieu thereof) to the Company. On the expiration of that five Business Day period the Drag Purchaser (or, to the extent the Drag Purchaser has paid such consideration to the Company, the Company on behalf of the Drag Purchaser) shall:
- (a) pay, deliver or make available to the Called Shareholders the amounts they are due pursuant to Article 16.4 (less any amount to be deducted or retained pursuant to any Sale Agreement, including in respect of transaction fees and expenses); and/or
  - (b) if the consideration (or any part thereof) is non-cash consideration, the Drag Purchaser shall satisfy the consideration due to the Called Shareholders through the issue of shares or securities or the payment or transfer or other settlement of any other non-cash consideration which forms the non-cash consideration due to be issued, paid, transferred or otherwise settled to the Called Shareholders.
- 16.8 The Company's receipt for the amounts due pursuant to Article 16.4 shall be a good discharge to the Purchaser. The Company shall hold the amounts due to the Called Shareholders pursuant to Article 16.4 in trust for the Called Shareholders without any obligation to pay interest.



- 16.9 To the extent that the Proposed Purchaser has not, on the expiration of such five Business Day period, paid the Drag Consideration that is due to the Called Shareholders (or to the Company on their behalf) or, in the case of any non-cash consideration, to the extent the Drag Purchaser has not made available or settled such non-cash consideration or satisfied the Board that the Drag Purchaser is in a position to issue, pay, transfer or otherwise settle such non-cash consideration, the Called Shareholders shall be entitled to the return of the stock transfer forms and share certificate (or suitable indemnity) for the relevant Shares and the Called Shareholders shall have no further rights or obligations under this Article 16 in respect of the relevant Drag Along Notice (without prejudice to any party's right to serve a further Drag Along Notice at any time thereafter).
- 16.10 If a Called Shareholder fails to deliver stock transfer forms and share certificates (or suitable indemnity) for its Shares to the Company upon the expiration of that five Business Day period, the Company shall be constituted the agent of each defaulting Called Shareholder for taking such actions as are necessary to effect the transaction that was the subject of the relevant Drag Along Notice and the Directors shall, if requested by the Proposed Purchaser, authorise any Director to take such actions as are necessary to transfer the Called Shareholder's Shares on the Called Shareholder's behalf to the Proposed Purchaser (or its nominee(s)), including executing and delivering on behalf of such defaulting shareholder the Drag Documents, to the extent the Proposed Purchaser has, at the expiration of that five Business Day period:
- (a) put the Company in funds to pay the amounts due pursuant to Article 16.4 for the Called Shareholder's Shares offered to him; and/or
  - (b) in the case of any non-cash consideration, has otherwise made available or settled such non-cash consideration or has satisfied the Board that the Drag Purchaser is in a position to issue, pay, transfer or otherwise settle such non-cash consideration.
- 16.11 The Board shall then authorise registration of the transfer once appropriate stamp duty has been paid. The defaulting Called Shareholder shall surrender his share certificate for his Shares (or provide a suitable indemnity) to the Company. On surrender, he shall be entitled to the amount due to him pursuant to Article 16.4.
- 16.12 Any transfer of Shares to a Proposed Purchaser (or as they may direct) pursuant to a sale in respect of which a Drag Along Notice has been duly served shall not be subject to the provisions of Article 12.
- 16.13 If any new shares ("**New Shares**") are issued to any person, following the issue of a Drag Along Notice, pursuant to the exercise of an option to acquire shares in the Company or pursuant to the conversion of any convertible security of the Company (a "**New Shareholder**"), a Drag Along Notice shall be deemed to have been served on the New Shareholder in respect of their New Shares immediately upon that issue of New Shares on the same terms as the previous Drag Along Notice and the New Shareholder shall then be bound to sell and transfer all such New Shares to the Proposed Purchaser or as the Proposed Purchaser may direct and the provisions of this Article shall apply with the necessary changes to the New Shareholder except that completion of the sale of the New Shares shall take place immediately on the Drag Along Notice being deemed served on the New Shareholder.
- 16.14 Notwithstanding the foregoing, a Called Shareholder will not be required to comply with this Article in connection with any proposed transaction subject of a Drag-Along Notice (the "**Proposed Sale**") unless:
- (a) any warranties to be made by such Called Shareholder in connection with the Proposed Sale are several in respect of that Called Shareholder only and shall

be limited to warranties related to authority, ownership and the ability to convey title to such Called Shares, including but not limited to warranties that:

- (i) the Called Shareholder holds all right, title and interest in and to the Called Shares such Called Shareholder purports to hold, free and clear of all liens and Encumbrances;
  - (ii) the obligations of the Called Shareholder in connection with the transaction have been duly authorised, if applicable;
  - (iii) the documents to be entered into by the Called Shareholder have been duly executed by the Called Shareholder and delivered to the acquirer and are enforceable against the Called Shareholder in accordance with their respective terms; and
  - (iv) neither the execution and delivery of documents to be entered by the Called Shareholder into in connection with the transaction, nor the performance of the Called Shareholders' obligations thereunder, will cause a breach or violation of the terms of any agreement by which that Called Shareholder is bound, law or judgment, order or decree of any court or governmental agency;
- (b) the Called Shareholder shall not be liable for the inaccuracy of any warranty made by any other person in connection with the Proposed Sale, except to the extent that funds of such Called Shareholder may be paid out of an escrow established in accordance with Article 16.7(b) to cover breach of warranties of the Company and/or breach of any warranties provided by all Selling Shareholders;
- (c) any liability of such Called Shareholder as described in 16.14(b) shall be pro rata in proportion to the amount of consideration paid to such Called Shareholder in connection with the Proposed Sale;
- (d) the total aggregate liability of such Called Shareholder for warranties described in Article 16.14(a) and Article 16.14(b) shall in no event exceed the amount of consideration actually paid to such Called Shareholder in connection with such Proposed Sale, except with respect to claims related to fraud by such Called Shareholder, the liability for which need not be limited as to such Called Shareholder;
- (e) neither such Called Shareholder (other than Called Shareholders who are employees of the Company) nor any of its Affiliates of such Called Shareholder shall be required to enter into any non-competition or non-solicitation agreement or other agreement that directly or indirectly limits or restricts its business or activities or those of its Affiliates; and
- (f) such Called Shareholder shall not be required to enter into any release of claims other than those arising solely in such Called Shareholder's capacity as a shareholder or employee of the Company.

## **17. Purchase of own Shares**

Subject to the Act, the Company may purchase its own Shares out of capital otherwise than in accordance with Chapter 5 of Part 18 of the Act, to the extent permitted by section 692(1ZA) of the Act.