

Registered Number: SC464254

PRIVATE COMPANY LIMITED BY SHARES

WRITTEN RESOLUTION

OF

TOOTOOT LIMITED

("Company")

25 October

2018 ("Circulation Date")

FRIDAY



A16 \*A7JBXNL7\*  
23/11/2018 #294  
COMPANIES HOUSE

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the directors of the Company propose that the following resolution is passed as a special resolution ("Resolution"):

"THAT, the regulations annexed to this resolution be hereby adopted as the new Articles of Association of the Company in substitution for all existing regulations."

AGREEMENT

Please read the notes at the end of this document before signifying your agreement to the Resolution.

The undersigned, being persons entitled to vote on the Resolution on the Circulation Date hereby irrevocably agree to the Resolution:

Signed by MICHAEL BRENNAN

Date 25/10/2018

Signed by KIERAN INNES

Date 25/10/18

Signed by WILLIAM MOORE

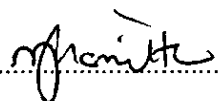
Date 25/10/18

Signed by TERENCE FLANAGAN

Date 25/10/2018

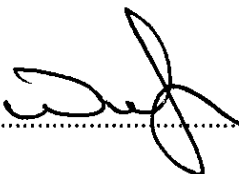
Signed by **MICHAEL HAMILTON**

Date 25 October 2018

  
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Signed by **COMMANDO JOES FUN AND FITNESS LTD**

Date 25 October 2018

  
.....

Signed by **STEVE THOMPSON**

Date .....

.....

Signed by **IAN TURNER**

Date .....

.....

Signed by **DAN KELLY**

Date .....

.....

Signed by **THERESA CARTER**

Date .....

.....

Signed by **NICK HOPKINSON**

Date .....

.....

Signed by **CHRIS HOPKINSON**

Date .....

.....

Signed by **NICK BIANCHI**

Date .....

.....

Signed by **PAUL BARROW** .....

Date .....

Signed by **RAJ RUIA** .....

Date .....

Signed by **JON BALLARD** .....

Date .....

Signed by **SANDY LYNDSEY** .....

Date .....

Signed by **NEIL BAMBER** .....

Date .....

Signed by **ROB LEIGH-BRAMWELL** .....

Date .....

Signed by **ALAIN RAOULT** .....

Date .....

Signed by **STEVE O'NEILL** .....

Date .....

Signed by **ANDREW SKEENE** .....

Date .....

Signed by **MIKE REEVES** .....

Date .....

Signed by **ROB ESTEVA**

.....

Date .....

## NOTES

1. If you agree with the Resolutions, please indicate your agreement by signing and dating this document where indicated above and returning the signed version either by hand or by post to the Company's registered office. You may not return the Resolutions to the Company by any other method. If you do not agree to the Resolutions, you do not need to do anything: you will not be deemed to agree if you fail to reply.
2. Once you have indicated your agreement to the Resolutions, you may not revoke your agreement.
3. Unless, within 28 days of the Circulation Date, sufficient agreement has been received for the Resolutions to pass, it will lapse. If you agree to the Resolutions, please ensure that your agreement reaches us before or during this date.

**THE COMPANIES ACT 2006**

**PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**

**OF**

**TOOTOOT LIMITED**

(Adopted by special resolution passed on 25 October 2018)

**INTRODUCTION**

**1 PRELIMINARY**

- 1.1 The Articles contained in Schedule 1 to the Companies (Model Articles) Regulations 2008 (the **Model Articles**) shall apply to the Company except to the extent that 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 subordinate legislation.
- 1.2 Articles 11, 13, 14, 38, 44(2), 49, 52 and 53 of the Model Articles shall not apply to the Company.

**2 INTERPRETATION**

- 2.1 In these Articles, the following words have the following meanings:

**Accepting Offeree:** has the meaning given in Article 17.4.2.

**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);

**Allocation Notice:** has the meaning given in Article 14.13.

**Applicant:** has the meaning given in Article 14.13.

**Appointor:** has the meaning given in Article 10.1.

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

**Bad Leaver:** an Employee who becomes a Departing Employee in circumstances where that cessation occurs in circumstances where the Departing Employee:

- (a) is guilty of any fraud, dishonesty, gross misconduct or gross negligence; or
- (b) voluntarily terminates his employment with the Company or any Group Company.

**Board:** the board of directors of the Company from time to time.

**Business Day:** any day (other than a Saturday, Sunday or public holiday in the United Kingdom) on which clearing banks in the City of London are generally open for business.

**Buyer:** has the meaning given in Article 17.1.

**Company:** Tootoot Limited with company number SC464254.

**Conflict:** has the meaning given in Article 6.1.

**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.

**Departing Employee:** an Employee who ceases to be an employee of any Group Company.

**Deemed Transfer Notice:** has the meaning given in Article 15.2.

**Drag Along Notice:** has the meaning given in Article 16.2.

**Drag Along Option:** has the meaning given in Article 16.1.

**Dragged Shares:** has the meaning given in Article 16.2.

**Dragged Shareholders:** has the meaning given in Article 16.1.

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

**Employee:** a Shareholder who is, or has been, an employee of any Group Company.

**Excess Securities:** has the meaning given in Article 12.4.3.

**Expert:** the auditors or the accountants of the Company or if the auditors or accountants decline such appointment at their discretion then an independent firm of accountants whose identity is to be agreed upon between the Board and the Seller and in default of agreement within ten Business Days of the first name being proposed by either the Board or the Seller a person nominated by the President for the time being of the Institute of Chartered Accountants in England and Wales.

**Fair Value:** has the meaning given to it in Article 14.5.1 and calculated in accordance with the provisions of Article 14.6.

**Fully Diluted Share Capital:** the aggregate of, from time to time:

- (a) the issued Shares in the share capital of the Company from time to time; and
- (b) all Shares capable of being issued by the Company pursuant to all outstanding rights to subscribe for, or convert any security into Shares (including, without limitation, any options or warrants), as if all those outstanding rights had been exercised in full.

**Good Leaver:** an Employee who becomes a Departing Employee within 3 years from the date of adoption of these Articles and who is not a Bad Leaver.

**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.

**Interested Director:** has the meaning given in Article 6.1.

**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.

**Leaver Shares:** the Shares held by the Departing Employee other than the Protected Shares.

**New Shareholder:** has the meaning given in Article 16.6.

**Offer:** has the meaning given in Article 17.2.

**Offeree:** has the meaning given in Article 17.2.

**Offer Notice:** has the meaning given in Article 14.10.

**Offer Period:** has the meaning given in Article 17.3.

**Offer Price:** has the meaning given in Article 17.2.

**Proposed Buyer:** any person who is a bona fide arm's length buyer for value who acquires or is to acquire Shares or any interest in Shares.

**Proposed Sale Price:** has the meaning given in Article 14.3.3.

**Proposed Transfer:** has the meaning given in Article 17.1.

**Protected Shares:** such number of Shares which equals the lower of:

- (a) the number of Shares which equates to 10% of the Fully Diluted Share Capital of the Company as at the date of the relevant Transfer Event; and
- (b) the number of Shares held by the Departing Employee as at the date of the relevant Transfer Event.

**Relevant Departing Employee:** Michael Brennan or Kieran Innes.

**Sale Date:** has the meaning given in Article 17.3

**Sale Price:** has the meaning given in Article 14.5.

**Sale Shares:** has the meaning given in Article 14.3.1.

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

**Selling Shareholders:** has the meaning given in Article 16.1

**Share:** any share in the capital of the Company of whatever class.

**Shareholder:** a holder of Shares.

**Tag Along Notice:** has the meaning given in Article 17.3.

**Total Transfer Condition:** has the meaning given in Article 14.3.5.

**Transfer Event:** has the meaning given in Article 15.1.

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

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



- 2.3 Any phrase introduced by 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 preceding those terms.
- 2.4 Where the context permits, **other** and **otherwise** are illustrative and shall not limit the sense of the words preceding them.
- 2.5 Save as expressly provided otherwise in these 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 for the time being in force.

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

Notice of every meeting of the directors shall be given to each director, including directors who may for the time being be absent from the United Kingdom and have given the Company an address within the United Kingdom for service. Article 9(3) of the Model Articles shall be modified accordingly.

### **4 CASTING VOTE**

The chairman or other director chairing the meeting shall not, if the number of votes for and against a proposal are equal, have a casting vote.

### **5 TRANSACTIONS OR OTHER ARRANGEMENTS WITH THE COMPANY**

- 5.1 Subject to sections 177(5) and 177(6) and sections 182(5) and 182(6) of the Act and provided he has declared the nature and extent of his interest in accordance with the requirements of the Companies Acts, a director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the Company:
- 5.1.1 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;
  - 5.1.2 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;
  - 5.1.3 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;

5.1.4 shall not, save as he may otherwise agree, be accountable to the Company for any benefit which he (or a person connected with him (as defined in section 252 of the Act)) derives from any such transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act;

5.1.5 shall be an Eligible Director for the purposes of any proposed decision of the directors (or committee of directors) in respect of such existing or proposed transaction or arrangement in which he is interested; and

5.1.6 shall be entitled to vote at a meeting of directors (or of a committee of the directors) or participate in any unanimous decision, in respect of such existing or proposed transaction or arrangement in which he is interested.

## **6 DIRECTORS' CONFLICTS OF INTEREST**

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

6.2 Any authorisation under this Article 6 will be effective only if:

6.2.1 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;

6.2.2 any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Director or any other interested director; and

- 6.2.3 the matter was agreed to without the Interested Director voting or would have been agreed to if the Interested Director's and any other interested director's vote had not been counted.
- 6.3 Any authorisation of a Conflict under this Article 6 may (whether at the time of giving the authorisation or subsequently):
- 6.3.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised;
- 6.3.2 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;
- 6.3.3 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;
- 6.3.4 impose upon the Interested Director such other terms for the purposes of dealing with the Conflict as the directors think fit;
- 6.3.5 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
- 6.3.6 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.
- 6.4 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.
- 6.5 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.

- 6.6 A director is not required, by reason of being a director (or because of the fiduciary relationship established by reason of being a director), to account to the Company for any remuneration, profit or other benefit which he derives from or in connection with a relationship involving a Conflict which has been authorised by the directors or by the Company in general meeting (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.
- 6.7 For the purposes of Article 5 and this Article 6, references to proposed decisions and decision-making processes include any directors' meeting or part of a directors' meeting.
- 6.8 If a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question is to be decided by a decision of the directors at that meeting, for which purpose the director in question is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

## **7 QUORUM FOR DIRECTORS' MEETINGS**

- 7.1 At a directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
- 7.2 Subject to articles 7.3 and 7.3, the quorum for directors' meetings shall be two.
- 7.3 For the purposes of any meeting (or part of a meeting) held pursuant to article 6 to authorise a director's conflict, if there is only one director in office other than the conflicted director(s), the quorum for such meeting (or part of a meeting) shall be one Eligible Director.
- 7.4 If the total number of directors in office for the time being is less than the quorum required, the directors must not take any decision other than a decision:
- 7.4.1 to appoint further directors; or
  - 7.4.2 to call a general meeting so as to enable the shareholders to appoint further directors.

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

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

## **9 NUMBER OF DIRECTORS**

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

## **10 ALTERNATE DIRECTORS**

10.1 Any director (**Appointor**) may appoint as an alternate any other director, or any other person approved by resolution of the directors, to:

10.1.1 exercise that director's powers; and

10.1.2 carry out that director's responsibilities,

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

10.2 Any appointment or removal of an alternate must be effected by notice in writing to the Company signed by the Appointor, or in any other manner approved by the directors.

10.3 The notice must:

10.3.1 identify the proposed alternate; and

10.3.2 in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the director giving the notice.

10.4 An alternate director may act as alternate director to more than one director and has the same rights in relation to any decision of the directors as the alternate's Appointor.

10.5 Except as the Articles specify otherwise, alternate directors:

10.5.1 are deemed for all purposes to be directors;

10.5.2 are liable for their own acts and omissions;

10.5.3 are subject to the same restrictions as their Appointors; and

10.5.4 are not deemed to be agents of or for their Appointors

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

- 10.6 A person who is an alternate director but not a director:
- 10.6.1 may be counted as participating for the purposes of determining whether a quorum is present (but only if that person's Appointor is not participating);
  - 10.6.2 may participate in a unanimous decision of the directors (but only if his Appointor is an Eligible Director in relation to that decision, but does not participate); and
  - 10.6.3 shall not be counted as more than one director for the purposes of Article 10.6.
- 10.7 A director who is also an alternate director is entitled, in the absence of his Appointor, to a separate vote on behalf of his Appointor, in addition to his own vote on any decision of the directors (provided that his Appointor is an Eligible Director in relation to that decision), but shall not count as more than one director for the purposes of determining whether a quorum is present.
- 10.8 An alternate director may be paid expenses and may be indemnified by the Company to the same extent as his Appointor but shall not be entitled to receive any remuneration from the Company for serving as an alternate director except such part of the alternate's Appointor's remuneration as the Appointor may direct by notice in writing made to the Company.
- 10.9 An alternate director's appointment as an alternate terminates:
- 10.9.1 when the alternate's Appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate;
  - 10.9.2 on the occurrence, in relation to the alternate, of any event which, if it occurred in relation to the alternate's Appointor, would result in the termination of the Appointor's appointment as a director;
  - 10.9.3 on the death of the alternate's Appointor; or
  - 10.9.4 when the alternate's Appointor's appointment as a director terminates.

## **11 PURCHASE OF OWN SHARES**

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

- 11.1 £15,000; and
- 11.2 the nominal value of 5% of the Company's fully paid share capital at the beginning of each financial year of the Company.

## **12 PRE-EMPTION RIGHTS ON THE ISSUE OF FURTHER SHARES**

- 12.1 Save to the extent authorised by these Articles, or authorised from time to time by an ordinary resolution, the directors shall not exercise any power to allot Shares or to grant rights to subscribe for, or to convert any security into, any Shares.
- 12.2 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.
- 12.3 Unless otherwise agreed by special resolution, if the Company proposes to allot any equity securities, those equity securities shall not be allotted to any person unless the Company has first offered them to all Shareholders (on the date of the offer) in the respective proportions that the number of Shares held by each such Shareholder bears to the total number of issued Shares (as nearly as possible without involving fractions) and on the same terms, and at the same price, as those equity securities are being, or are to be, offered to any other person.
- 12.4 An offer made under Article 12.3 shall:
  - 12.4.1 be in writing and give details of the number and subscription price (including any share premium) of the equity securities being offered;
  - 12.4.2 remain open for a period of at least 10 Business Days from the date of service of the offer; and
  - 12.4.3 stipulate that any Shareholder who wishes to subscribe for a number of equity securities in excess of the number to which he is entitled under Article 12.3 shall, in his acceptance, state the number of excess equity securities (**Excess Securities**) for which he wishes to subscribe.

- 12.5 If, on the expiry of an offer made in accordance with Article 12.3, the total number of equity securities applied for is less than the total number of equity securities so offered, the directors shall allot the equity securities to the Shareholders in accordance with their applications, subject to a maximum of each Shareholders' proportionate entitlement.
- 12.6 Any equity securities not accepted by Shareholders pursuant to an offer made in accordance with Article 12.3 shall be used to satisfy any requests for Excess Securities made pursuant to Article 12.4.3. 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 Shares held by each such applicant bears to the total number of such 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 be offered to any other person(s) as the directors may determine, at the same price and on the same terms as the offer to the Shareholders.

### **13 SHARE TRANSFERS**

- 13.1 In these Articles reference to the transfer of a Share includes the transfer, assignment or other disposal of a beneficial or other interest in that Share, or the creation of a trust or encumbrance over that Share, and reference to a Share includes a beneficial or other interest in that Share.
- 13.2 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.
- 13.3 To enable the directors to determine whether or not there has been any transfer (or purported transfer) of Shares the directors may require:
- 13.3.1 any Shareholder (or legal representatives of a deceased Shareholder);  
or
  - 13.3.2 any person named as a transferee in a transfer lodged for registration;  
or
  - 13.3.3 such other person as the directors 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.



- 13.4 Any transfer of a Share by way of sale which is required to be made under Article 15, Article 16 or Article 17 shall be deemed to include a warranty that the transferor sells the Share with full title guarantee.

#### **14 VOLUNTARY TRANSFERS**

- 14.1 Except where the provisions of Article 11, Article 16 or Article 17 apply, any transfer of Shares by a Shareholder shall be subject to the pre-emption rights in this Article 14.

- 14.2 Any Shareholder who wishes to transfer any Share (a **Seller**) shall before transferring or agreeing to transfer such Share or any interest in it, serve notice in writing (a **Transfer Notice**) on the Company of his wish to make that transfer.

- 14.3 In the Transfer Notice the Seller shall specify:

- 14.3.1 the number of Shares (**Sale Shares**) which he wishes to transfer;
- 14.3.2 the identity of the person (if any) to whom the Seller wishes to transfer the Sale Shares;
- 14.3.3 the price per share at which the Seller wishes to transfer the Sale Shares (the **Proposed Sale Price**);
- 14.3.4 any other terms and conditions relating to the transfer of the Sale Shares; and
- 14.3.5 whether the Transfer Notice is conditional upon all (and not part only) of the Sale Shares being sold pursuant to the following provisions of this Article 14 (a **Total Transfer Condition**).

- 14.4 Each Transfer Notice shall:

- 14.4.1 constitute the Company as the agent of the Seller for the sale of the Sale Shares on the terms of this Article 14; and
- 14.4.2 save as provided in Article 14.9, be irrevocable.

- 14.5 The Sale Shares shall be offered for the purchase in accordance with this Article 14 at a price per Sale Share (the **Sale Price**) agreed between the Seller and the Board by the end of the tenth Business Day after the date of service of the Transfer Notice or, in default of such agreement in such period:

- 14.5.1 if the Board so elects within or on the expiry of that ten Business Day period after the date of service of the Transfer Notice, the price per

Share to be reported on by an Expert as its written opinion of the open market value of each Sale Share (the **Fair Value**) as at the date of service of the Transfer Notice (in which case for the purposes of these Articles the Sale Price shall be deemed to have been determined on the date of the receipt by the Company of the Experts report); and

14.5.2 failing such election, the Sale Price shall be the Proposed Sale Price, in which case for the purpose of these Articles the Sale Price shall be deemed to have been agreed at the end of that tenth Business Day.

14.6 In determining the Fair Value of the Sale Shares, the Expert shall value such Shares based on the following assumptions:

14.6.1 the value of the Sale Shares is that proportion of the fair market value of the entire issued share capital of the Company that the Sale Shares bear to the then total issued share capital of the Company (with no premium or discount for the size of the Seller's shareholding or for the rights or restrictions applying to the Sale Shares);

14.6.2 the sale is between a willing buyer and a willing seller on the open market;

14.6.3 the valuation is taking place on the date of Transfer Notice;

14.6.4 if the Company is then carrying on its business as a going concern, on the assumption that it shall continue to do so; and

14.6.5 the Sale Shares are sold free of all encumbrances.

If any problem arises in applying any of the assumptions set out in this Article 14.6, the Expert shall resolve the problem in whatever manner he shall, in his absolute discretion, think fit.

14.7 The Company will use its reasonable endeavours to procure that the Expert delivers its written opinion of the Fair Value to the Board within 20 Business Days of being requested to do so. The Company shall deliver a copy of the written opinion to the Seller within five Business Days of its receipt from the Expert.

14.8 The Experts fees for reporting on its opinion of the Fair Value shall be borne as the Expert shall specify in its valuation or, in the absence of any specification by the Expert, as to 50 per cent by the Seller and as to 50 per cent by the Company unless the Seller revokes the Transfer Notice pursuant to Article 14.9 in which case, the Seller shall pay all the Experts fees.

- 14.9 Subject to Article 15.5.1, if the Fair Value is reported on by the Expert under Article 14.5.1 is less than the Proposed Sale Price, the Seller may, within the period of five Business Days after the date on which the Board serves on the Seller the Experts written opinion of the Fair Value, by written notice given to the Board revoke the Transfer Notice.
- 14.10 If no revocation notice is given pursuant to Article 14.9 above, the Board shall give a notice in writing (an **Offer Notice**) to all Shareholders other than the Seller or any other Shareholder who has served a Transfer Notice in respect of his entire holding of Shares where the sale of such Shares has not been concluded within five Business Days of:
- 14.10.1 the expiry of the five Business Day period referred to in Article 14.9 if the Expert is instructed to report on the Fair Value of the Sale Shares;  
or
- 14.10.2 the earlier of the date on which:
- 14.10.2.1 the Sale Price is agreed between the Seller and the Board; and
- 14.10.2.2 the expiry of the ten Business Day period referred to in Article 14.5.2,
- if the Expert is not instructed to report on the Fair Value of the Sale Shares.
- 14.11 An Offer Notice shall:
- 14.11.1 specify the Sale Price;
- 14.11.2 contain the other details included in the Transfer Notice save for the Proposed Sale Price, if this is different from the Sale Price; and
- 14.11.3 invite the relevant offerees to respond in writing, before expiry of the Offer Notice, to purchase the numbers of the Sale Shares specified by them in their application,
- and shall expire on the earlier of (i) 20 Business Days after its service, and (ii) the date on which responses to the Offer Notice have been received from all offerees.
- 14.12 After the expiry date of the Offer Notice the Board shall allocate the Sale Shares in accordance with the applications received, save that:

- 14.12.1 if there are applications for more than the number of Sale Shares available, they shall be allocated to those applicants in proportion (as nearly as possible but without allocating to any Shareholder more Sale Shares than the maximum number applied for by him) to the number of Shares then held by them respectively;
- 14.12.2 if it is not possible to allocate any of the Sale Shares without involving fractions, they shall be allocated amongst the applicants in such manner as the Board shall think fit; and
- 14.12.3 if the Transfer Notice contained a valid Total Transfer Condition, no allocation of Sale Shares shall be made unless all the Sale Shares are allocated.
- 14.13 The Board shall, within five Business Days of the expiry date of the Offer Notice, give notice in writing (an **Allocation Notice**) to the Seller and to each person to whom Sale Shares have been allocated (each an **Applicant**) specifying the name and address of each Applicant, the number of Sale Shares agreed to be purchased by him and the aggregate price payable for them.
- 14.14 Completion of a sale and purchase of Sale Shares pursuant to an Allocation Notice shall take place at the registered office of the Company at the time specified in the Allocation Notice when the Seller shall, upon payment to him by an Applicant of the Sale Price in respect of the Sale Shares allocated to that Applicant, transfer those Sale Shares and deliver the relative share certificates to that Applicant.
- 14.15 The Seller may, during the period of 30 Business Days commencing 10 Business Days after the expiry date of the Offer Notice, sell all or any of those Sale Shares for which an Allocation Notice has not been given by way of bona fide sale to any transferee at any price per Sale Share which is not less than the Sale Price, without any deduction, rebate or allowance to the proposed transferee, provided that if the Transfer Notice contained a Total Transfer Condition, the Seller shall not be entitled to sell only some of the Sale Shares under this Article 14.15.
- 14.16 The Seller's right to transfer Shares under Article 14.15 does not apply if the directors reasonably consider that:
- 14.16.1 the transferee is a person (or a nominee for a person) whom to be a competitor (or a member of the same Group as a competitor) of the business of any Group Company;
- 14.16.2 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

- 14.16.3 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 Article 14.16.2.
- 14.17 If a Seller fails for any reason (including death) to transfer any Sale Shares when required pursuant to this Article 14, the Board may authorise any Director (who shall be deemed to be irrevocably appointed as the agent of the Seller for the purpose) to execute each necessary transfer of such Sale Shares and deliver it on the Seller's behalf. The Company may receive the purchase money for such Sale Shares from the Applicant and shall upon receipt (subject, if necessary, to the transfer being duly stamped) register the Applicant as the holder of such Sale Shares. The Company shall hold such purchase money in a separate bank account on trust for the Seller but shall not be bound to earn or pay interest on any money so held. The Company's receipt for such purchase money shall be a good discharge to the Applicant who shall not be bound to see to the application of it, and after the name of the Applicant has been entered into the register Shareholders in purported exercise of the power conferred by this Article 14.17 the validity of the proceedings shall not be questioned by any person.
- 14.18 The directors may, in their absolute discretion, refuse to register a transfer unless it is lodged at the office or at other such place as the directors may appoint and is accompanied by the certificate for the Shares to which it relates and such other evidence that the directors may reasonably require to show the right of the transferor to make the transfer. The directors shall register a transfer of Shares made pursuant to Articles 14.1 to 14.15 (inclusive) subject to the provisions of this Article 14.18.
- 15 COMPULSORY TRANSFERS**
- 15.1 A **Transfer Event** occurs, in relation to any Shareholder if:
- 15.1.1 that Shareholder being an individual shall:
- 15.1.1.1 have a bankruptcy order made against him or shall be declared bankrupt by any court of competent jurisdiction; or
- 15.1.1.2 die;
- 15.1.2 that Shareholder being 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;

15.1.3 that Shareholder being a company suffers a change in control (as 'control' is defined in section 1124 of the Corporation Tax Act 2010);

15.1.4 that Shareholder transfers (or purports to transfer) a Share other than in accordance with these Articles; or

15.1.5 that Shareholder is an Employee and he becomes a Departing Employee,

and in any such case and within the following six months the Board shall resolve that such event is a Transfer Event in relation to that Shareholder for the purposes of this Article.

15.2 Upon the making of a resolution under Article 15.1 that the same is a Transfer Event the Shareholder in respect of whom it is a Transfer Event shall be deemed, subject to Article 15.3, to have immediately served a Transfer Notice in respect of all the Shares then held by such Shareholder (a **Deemed Transfer Notice**).

15.3 On the happening of a Transfer Event in circumstances where the Relevant Departing Employee is a Good Leaver, the Deemed Transfer Notice shall apply in relation to the Leaver Shares held by such Relevant Departing Employee.

15.4 A Deemed Transfer Notice shall automatically revoke any then current Transfer Notice insofar as it relates to the same Shares except for Shares which have then been validly transferred pursuant to that Transfer Notice.

15.5 Subject to the provisions of this Article 15.5, the Shares (or if Article 15.3 applies, the Leaver Shares) the subject of any Deemed Transfer Notice shall be offered for sale in accordance with Article 14 as if they were Sale Shares in respect of which a Transfer Notice has been given save that:

15.5.1 the Deemed Transfer Notice shall not contain a Total Transfer Condition and shall not be revocable whether under Article 14.9 or otherwise;

15.5.2 in the case of a Deemed Transfer Notice deemed to have been given under Article 15.1.5, the Sale Price shall, where the Departing Employee is:

- 15.5.2.1 a Bad Leaver, be restricted to a maximum of the lower of the aggregate Issue Price of the Sale Shares and the aggregate Fair Value of the Sale Shares;
    - 15.5.2.2 a Good Leaver, be the aggregate Fair Value of the Sale Shares; and
  - 15.5.3 in the case of a Deemed Transfer Notice deemed to have been given by a Leaver:
    - 15.5.3.1 the Board shall offer the Sale Shares in the first instance to such person or company as the Board shall agree ("**Proposed Buyer**");
    - 15.5.3.2 in the event that the Sale Shares are not transferred to the Proposed Buyer within the period of one year from the date of the Deemed Transfer Notice ("**Transfer Period**"), such Bad Leaver shall be entitled to remain the holder of the Sale Shares;
    - 15.5.3.3 for the avoidance of doubt, the Sale Shares shall not confer any rights on such Leaver (such rights as described in Article 15.7) at any time after the Transfer Period until the Board agree otherwise pursuant to Article 15.8.
- 15.6 A dispute as to whether Article 15.5.2.1 or Article 15.5.2.2 applies to any Sale Shares shall not affect the validity of a Deemed Transfer Notice but any buyer of the Sale Shares while such a dispute is continuing shall pay:
  - 15.6.1 to the Seller the amount calculated in accordance with Article 15.5.2.1; and
  - 15.6.2 to the Company an amount equal to the difference between the amount which would be due under Article 15.5.2.2 and the amount paid pursuant to Article 15.5.2.1. The Company shall hold that amount in a separate interest-bearing bank deposit account as trustee to pay it, and interest earner thereon, upon final determination of the dispute:
    - 15.6.2.1 to the buyer(s) in the case of a Bad Leaver; and
    - 15.6.2.2 to the Seller in the case of a Good Leaver,

provided always that if the Seller and buyer(s) otherwise agree in writing and notify such agreement to the Company it shall hold and deal with the monies paid into such account and interest as such agreement and notice may specify even though the issue of whether the relevant Shareholder was a Good Leaver or Bad Leaver has not been resolved.

- 15.7 Forthwith upon either service of a Deemed Transfer Notice or in the case of an Employee becoming a Departing Employee the date the Employee became a Departing Employee the Sale Shares shall cease to confer on the holder of them any rights:

15.7.1 to vote (whether on a show of hands, on a poll or otherwise and whether in person, by proxy or otherwise);

15.7.2 to receive dividends or other distributions otherwise attaching to those Sale Shares; or

15.7.3 to participate in any future issue of Shares.

- 15.8 The Directors may reinstate the rights referred to in Article 15.7 at any time and, in any event, such rights shall be reinstated on the entry in the register of members of the Company in accordance with these Articles of another person as the holder of the Sale Shares.

## 16 DRAG ALONG

- 16.1 If the holders of not less than 70% in nominal value of the Shares in issue for the time being (the **Selling Shareholders**) wish to transfer all their interest in Shares to a Proposed Buyer the Selling Shareholders shall have the option (the **Drag Along Option**) to require all other holders of Shares (the **Dragged Shareholders**) to sell with full title guarantee and free from all encumbrances and transfer all their Shares to the Proposed Buyer or as the Proposed Buyer shall direct in accordance with this Article 16.

- 16.2 The Selling Shareholders may exercise the Drag Along Option by giving notice to that effect (a **Drag Along Notice**) at any time before the transfer of the Shares of the Selling Shareholders. A Drag Along Notice shall specify that the Dragged Shareholders are required to transfer all their Shares (the **Dragged Shares**) pursuant to this Article 16.2, the person to whom they are to be transferred, the price at which the Dragged Shares are to be transferred (specified in accordance with Article 16.5) and the proposed date of transfer.



- 16.3 A Drag Along Notice is irrevocable but the Drag Along Notice and all obligations thereunder will lapse if for any reason there is not a sale of Shares by the Selling Shareholders to the Proposed Buyer within 60 days after the date of the Drag Along Notice.
- 16.4 After a Drag Along Notice has been served and before it has lapsed no Dragged Shareholder may transfer any Shares held by him other than in accordance with the Drag Along Notice without the consent of the Selling Shareholders.
- 16.5 The Dragged Shareholders shall be obliged to sell each of the Dragged Shares at the price attributed by the offer from the Proposed Buyer for a Share together with any consideration or benefit receivable by the Selling Shareholders directly or indirectly for or in connection with the sale of their Shares.
- 16.6 Upon any person, following the issue of a Drag Along Notice, becoming a Shareholder pursuant to exercise of a pre-existing option or other right to acquire shares in the Company (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 and the New Shareholder shall thereupon be bound to sell and transfer all such shares acquired by them to the Proposed Buyer as the Proposed Buyer may direct and the provisions of this Article 16 shall apply mutatis mutandis to the New Shareholder.
- 16.7 Completion of the sale of the Dragged Shares shall take place on the same date as the date proposed for completion of the sale of the Selling Shareholders' Shares unless:
- 16.7.1 all of the Dragged Shareholders and the Selling Shareholders agree otherwise; or
- 16.7.2 the date is less than three days after the Drag Along Notice where it shall be deferred until the third day after the Drag Along Notice.
- 16.8 If any Dragged Shareholder does not on completion of the sale of Dragged Shares execute transfer(s) in respect of the Dragged Shares held by him any director of the Company shall be irrevocably entitled to execute necessary transfer(s) (and any other documents required to be executed by the Dragged Shareholder on the sale of their Dragged Shares) on his behalf and against receipt by the Company (on trust for such Dragged Shareholder) of the purchase monies for the Dragged Shares deliver such transfer(s) to the Proposed Buyer (or as he may direct) and register the Proposed Buyer (or as he may direct) as the holder thereof and, after the Proposed

Buyer (or his nominee) has been registered as the holder, the validity of such proceedings shall not be questioned by any such person.

## **17 TAG ALONG**

17.1 In the event that a proposed transfer of Shares (other than a transfer of Shares made pursuant to Article 11, Article **Error! Reference source not found.** or Article 15) 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 article 17 shall apply.

17.2 The Company 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 Shares held by such Offerees on the date of the Offer for a consideration in cash per Share (the **Offer Price**) which is equal to the highest price per Share offered, paid or to be paid by the Buyer, or any person acting in concert with the Buyer, for any Shares in connection with the Proposed Transfer or any transaction in the six calendar months preceding the date of completion of the Proposed Transfer.

17.3 The Offer shall be made by notice in writing (a **Tag Along Notice**) addressed to each Offeree on the date of the Offer at least 15 Business Days (the **Offer Period**) before the date fixed for completion of the Proposed Transfer (the **Sale Date**). To the extent not described in any accompanying documents, the Tag Along Notice shall specify:

17.3.1 the identity of the Buyer (and any person(s) acting in concert with the Buyer);

17.3.2 the Offer Price and any other terms and conditions of the Offer;

17.3.3 the Sale Date; and

17.3.4 the number of Shares which would be held by the Buyer (and persons acting in concert with the Buyer) on completion of the Proposed Transfer.

17.4 The completion of the Proposed Transfer shall be conditional in all respects on:

17.4.1 the making of an Offer in accordance with this Article 17; and

17.4.2 the completion of the transfer of any 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 Article 17.4.

## **18 SHARE CERTIFICATES**

In Article 25(2)(c) of the Model Articles, the words "evidence, indemnity and the payment of a reasonable fee" shall be deleted and replaced with the words "evidence and indemnity".

## **19 QUORUM FOR GENERAL MEETINGS**

19.1 Two persons entitled to vote upon the business to be transacted, each being a member or a proxy for a member or a duly authorised representative, shall be a quorum.

19.2 No business shall be transacted by any general meeting unless a quorum is present at the commencement of the meeting and also when that business is voted on.

## **20 VOTING**

At a general meeting, on a show of hands every Shareholder who is present in person or by proxy shall have one vote, unless the proxy is himself a Shareholder entitled to vote, on a poll every Shareholder present in person or by proxy shall have one vote for each share of which he is the holder, and on a vote on a written resolution every Shareholder has one vote for each share of which he is the holder.

## **21 POLL VOTES**

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

21.2 Article 44(3) of the Model Articles shall be amended by the insertion of the words "A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made" as a new paragraph at the end of that Article.

## **22 PROXIES**

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

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

## **23 MEANS OF COMMUNICATION TO BE USED**

- 23.1 Subject to Article 23.2, any notice, document or other information shall be deemed served on, or delivered to, the intended recipient:

23.1.1 if delivered by hand, on signature of a delivery receipt or at the time the notice, document or other information is left at the address; or

23.1.2 if sent by fax, at the time of transmission; or

23.1.3 if sent by pre-paid United Kingdom first class post, recorded delivery or special delivery to an address in the United Kingdom, at 9.00 am on the second Business Day after posting; or

23.1.4 if sent by pre-paid airmail to an address outside the country from which it is sent, at 9.00 am on the fifth Business Day after posting; or

23.1.5 if sent by reputable international overnight courier to an address outside the country from which it is sent, at the time the notice, document or other information is left at the address; or

23.1.6 if sent or supplied by e-mail, one hour after the notice, document or information was sent or supplied; or

23.1.7 if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website; and

23.1.8 if deemed receipt under the previous paragraphs of this Article 23.1 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 am on the day when business next starts in the place of deemed receipt. For the purposes of this Article, all references to time are to local time in the place of deemed receipt.

- 23.2 To prove service, it is sufficient to prove that:

23.2.1 if delivered by hand or by reputable international overnight courier, the notice was delivered to the correct address; or

- 23.2.2 if sent by fax, a transmission report was received confirming that the notice was successfully transmitted to the correct fax number; or
- 23.2.3 if sent by post or by airmail, the envelope containing the notice was properly addressed, paid for and posted; or
- 23.2.4 if sent by e-mail, the notice was properly addressed and sent to the e-mail address of the recipient.

## **24 INDEMNITY AND INSURANCE**

24.1 Subject to Article 24.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:

24.1.1 each relevant officer of the Company shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer in the actual or purported execution and/or discharge of his duties, or in relation to them including 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 affairs; and

24.1.2 the Company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in Article 24.1.1 and otherwise may take action to enable any such relevant officer to avoid incurring such expenditure.

24.2 This Article 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.

24.3 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.

24.4 In this Article:

24.4.1 a "relevant officer" means any director or other officer of the Company but excluding in each case any person engaged by the Company as

auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor; and

- 24.4.2 a "relevant loss" means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the Company or any pension fund of the Company.