

Company Number: 04584241

THE COMPANIES ACT 2006

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PRIVATE COMPANY LIMITED BY SHARES

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WRITTEN RESOLUTION

- of -

FRESHCUT FOODS LIMITED

(Company)

Circulation Date: 28<sup>th</sup> February 2018

Pursuant to Chapter 2 of part 13 of the Companies Act 2006 (Act), the directors of the Company (Directors) propose that the following resolution be passed as a special resolution (the Resolution).

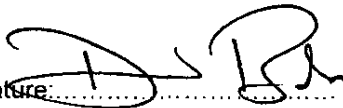
SPECIAL RESOLUTION

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

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:

Signature: 

For and on behalf of Percy Bidco Limited

Dated: 28/02/18



\*S71R2TBS\*  
SPE 15/03/2018 #216  
COMPANIES HOUSE

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**Company Number: 04584241**

**NOTES**

1. "Eligible Members" are the members who are entitled to vote on the Resolution on the Circulation Date.
2. If you agree with the Resolution, please indicate your agreement by signing and dating this document where indicated above and returning it to the Company using one of the following methods:
  - By Hand:** delivering the signed copy to Pannone Corporate LLP, 378-380 Deansgate, Manchester, M3 4LY for the attention of Tim Hamilton
  - Post:** returning the signed copy by post to Pannone Corporate LLP, 378-380 Deansgate, Manchester, M3 4LY for the attention of Tim Hamilton
3. If you do not agree to the Resolution, you do not need to do anything; you will not be deemed to agree if you fail to reply.
4. Once you have indicated your agreement to the Resolution, you may not revoke your agreement.
5. In the case of joint holders of shares, only the vote of the senior holder who votes will be counted by the Company. Seniority is determined by the order in which the names of the joint holders appear in the register of members.
6. If you are signing this document on behalf of a person under a power of attorney or other authority please send a copy of the relevant power of attorney or authority when returning this document.

**THE COMPANIES ACT 2006**  
**PRIVATE COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION**  
**OF**  
**FRESHCUT FOODS LIMITED (Company Number 04584241)**  
(Adopted by written special resolution passed on *28/02/2018*)

**INTRODUCTION**

**1 INTERPRETATION**

1.1 In these Articles, unless the context otherwise requires:

**A Shares:** the Ordinary A Shares of £1 each in the capital of the Company;

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

**appointor:** has the meaning given in article 11(1);

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

**Available Proceeds:** the aggregate amount actually paid by any purchaser of the entire issued share capital of the Company;

**business day:** means 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;

**C Percentage:** such percentage of the Available Proceeds as the equity percentage represented by the C Shares as a class bears to the entire issued equity share capital of the Company;

**C Shares:** means the Ordinary C Shares of £1 each in the capital of the Company which may be issued at any time after the date of adoption of these articles;

**Companies Acts:** means the Companies Act 1985 and the Act;

**Conflict:** has the meaning given in article 7.1;

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

**D Percentage:** such percentage of the Available Proceeds as the equity percentage represented by the D Shares as a class bears to the entire issued equity share capital of the Company;

**D Shares:** means the Ordinary D Shares of £1 each in the capital of the Company which may be issued at any time after the date of adoption of these articles;

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

**E Percentage:** such percentage of the Available Proceeds as the equity percentage represented by the E Shares as a class bears to the entire issued equity share capital of the Company;

**E Shares:** means the Ordinary E Shares of £1 each in the capital of the Company which may be issued at any time after the date of adoption of these articles;

**Family Trust:** as regards any particular individual Shareholder (or deceased or former individual Shareholder) trusts (whether arising under a settlement, declaration of trust or other instrument by whomsoever or wheresoever made, or under a testamentary disposition or on an intestacy) under which no immediate beneficial interest in any of the Shares in question is for the time being vested in any person other than the particular Shareholder and/or any of the Privileged Relations of that Shareholder (and so that for this purpose a person shall be considered to be beneficially interested in a Share if such Share or the income thereof is liable to be transferred or paid or applied or appointed to or for the benefit of any such person or any voting or other rights attaching thereto are exercisable by or as directed by any such person pursuant to the terms of the relevant trusts or in consequence of an exercise of a power or discretion conferred thereby on any person or persons);

**Fair Value:** has the meaning given in article 21.2;

**F Percentage:** such percentage of the Available Proceeds as the equity percentage represented by the F Shares as a class bears to the entire issued equity share capital of the Company;

**F Shares:** means the Ordinary F Shares of £1 each in the capital of the Company which may be issued at any time after the date of adoption of these articles;

**Group:** the Company and its subsidiaries (if any) from time to time and Group Company shall be construed accordingly;

**Independent Expert:** the auditors for the time being of the Company or, if they decline the instruction, an independent firm of accountants jointly appointed by the Company and the Seller or, in the absence of agreement between the Company and the Seller on the identity of the expert within 20 Business Days of the expiry of the 20 Business Day period referred to in article 21.1, an independent firm of accountants appointed by the President, for the time being, of the Institute of Chartered Accountants of England and Wales (in each case acting as an expert and not as an arbitrator);

**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;

**Model Articles:** means the model articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the date of adoption of these Articles;

**Permitted Transferee:** any of his Privileged Relations or the trustee(s) of a Family Trust;

**Privileged Relation:** in relation to a holder of Shares means a spouse, civil partner (as defined in the Civil Partnerships Act 2004), child or grandchild (including step or adopted or illegitimate children and their issue);

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

**Shareholder:** a holder for the time being of any Share or Shares;

**Transfer Notice:** has the meaning given in article 20.2; and

**Transfer Price:** has the meaning given in article 21.

- 1.2 Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the Act shall have the same meanings in these Articles.
- 1.3 Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles.
- 1.4 A reference in these Articles to an "article" is a reference to the relevant article of these Articles unless expressly provided otherwise.
- 1.5 Unless expressly provided otherwise, a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of:
  - (a) any subordinate legislation from time to time made under it; and
  - (b) any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.
- 1.6 Any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.7 The Model Articles shall apply to the company, except in so far as they are modified or excluded by these Articles.
- 1.8 Articles 8, 9(1), 11(2) and (3), 13, 14(1), (2), (3) and (4), 17(2), 44(2), 49, 52 and 53 of the Model Articles shall not apply to the company.
- 1.9 Article 7 of the Model Articles shall be amended by:
  - (a) the insertion of the words "for the time being" at the end of article 7(2)(a); and
  - (b) the insertion in article 7(2) of the words "(for so long as he remains the sole director)" after the words "and the director may".
- 1.10 Article 20 of the Model Articles shall be amended by the insertion of the words "(including alternate directors) and the secretary" before the words "properly incur".
- 1.11 In article 25(2)(c) of the Model Articles, the words "evidence, indemnity and the payment of a reasonable fee" shall be deleted and replaced with the words "evidence and indemnity".
- 1.12 Article 27(3) of the Model Articles shall be amended by the insertion of the words ' ', subject to article 10," after the word "But".

- 1.13 Article 29 of the Model Articles shall be amended by the insertion of the words "or the name of any person(s) named as the transferee(s) in an instrument of transfer executed under article 28(2)," after the words "the transmittee's name".
- 1.14 Articles 31(1)(a) to (c) (inclusive) of the Model Articles shall be amended by the deletion, in each case, of the words "either" and "or as the directors may otherwise decide". Article 31(d) of the Model Articles shall be amended by the deletion of the words "either" and "or by such other means as the directors decide"

## **DIRECTORS**

### **2 UNANIMOUS DECISIONS**

- 2.1 A decision of the directors is taken in accordance with this article when all eligible directors indicate to each other by any means that they share a common view on a matter.
- 2.2 Such a decision may take the form of a resolution in writing, where each eligible director has signed one or more copies of it, or to which each eligible director has otherwise indicated agreement in writing.
- 2.3 A decision may not be taken in accordance with this article if the eligible directors would not have formed a quorum at such a meeting.

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

Any director may call a directors' meeting by giving reasonable notice of the meeting to the directors or by authorising the company secretary (if any) to give such notice.

### **4 QUORUM FOR DIRECTORS' MEETINGS**

For so long as the number of directors of the Company is one, the quorum for the transaction of business at a meeting of directors is one director. If and whenever the number of directors of the Company exceeds one, then the quorum for the transaction of business at a meeting of directors is two directors.

### **5 CASTING VOTE**

If the numbers of votes for and against a proposal at a meeting of directors are equal, the Chairman of the meeting shall have a casting vote.

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

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

- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the company or in which the company is otherwise (directly or indirectly) interested;
- (b) shall be an eligible director for the purposes of any proposed decision of the directors (or committee of directors) in respect of such contract or proposed contract in which he is interested;

- (c) shall be entitled to vote at a meeting of directors (or of a committee of the directors) or participate in any unanimous decision, in respect of such contract or proposed contract in which he is interested;
- (d) may act by himself or his firm in a professional capacity for the company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a director;
- (e) may be a director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the company is otherwise (directly or indirectly) interested; and
- (f) shall not, save as he may otherwise agree, be accountable to the company for any benefit which he (or a person connected with him (as defined in section 252 of the Act)) derives from any such contract, transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such contract, transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act.

## **7 DIRECTORS' CONFLICTS OF INTEREST**

- 7.1 Any director may authorise any matter or situation proposed to them by any director (including himself if there is only one 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).
- 7.2 Any authorisation under this article 7 will be effective only if 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.
- 7.3 Any authorisation of a Conflict under this article 7 may (whether at the time of giving the authorisation or subsequently):
  - (a) extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised;
  - (b) provide that, 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
  - (c) 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.
- 7.4 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.
- 7.5 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.

- 7.6 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.

## **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 one.

## **10 APPOINTMENT OF DIRECTORS**

- 10.1 A majority of the Shareholders shall be entitled to remove any director from office on written notice and appoint a replacement if they so decide.
- 10.2 In any case where, as a result of death or bankruptcy, the company has no shareholders and no directors, the transmittee(s) of the last shareholder to have died or to have a bankruptcy order made against him (as the case may be) have the right, by notice in writing, to appoint a natural person (including a transmittee who is a natural person), who is willing to act and is permitted to do so, to be a director.

## **11 APPOINTMENT AND REMOVAL OF ALTERNATE DIRECTORS**

- 11.1 Any director (appointor) may appoint as an alternate any other director, or any other person approved by resolution of the directors, to:
- (a) exercise that director's powers; and
  - (b) carry out that director's responsibilities,
- in relation to the taking of decisions by the directors, in the absence of the alternate's appointor.
- 11.2 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.
- 11.3 The notice must:
- (a) identify the proposed alternate; and
  - (b) in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the director giving the notice.

## **12 RIGHTS AND RESPONSIBILITIES OF ALTERNATE DIRECTORS**

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



12.2 Except as the Articles specify otherwise, alternate directors:

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

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

12.3 A person who is an alternate director but not a director:

- (a) may be counted as participating for the purposes of determining whether a quorum is present (but only if that person's appointor is not participating);
- (b) may participate in a unanimous decision of the directors (but only if his appointor is an eligible director in relation to that decision, but does not participate); and
- (c) shall not be counted as more than one director for the purposes of articles 12.3(a) and (b).

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

12.5 An alternate director may be paid expenses and may be indemnified by the company to the same extent as his appointor but shall not be entitled to receive any remuneration from the company for serving as an alternate director except such part of the alternate's appointor's remuneration as the appointor may direct by notice in writing made to the company

### **13 TERMINATION OF ALTERNATE DIRECTORSHIP**

An alternate director's appointment as an alternate terminates:

- (a) when the alternate's appointor revokes the appointment by notice to the company in writing specifying when it is to terminate;
- (b) on the occurrence, in relation to the alternate, of any event which, if it occurred in relation to the alternate's appointor, would result in the termination of the appointor's appointment as a director;
- (c) on the death of the alternate's appointor; or
- (d) when the alternate's appointor's appointment as a director terminates.

### **14 SECRETARY**

The directors may appoint any person or persons who is or are willing to act as the secretary or joint secretaries for such term, at such remuneration and upon such

conditions as they may think fit and from time to time remove such person and, if the directors so decide, appoint a replacement, in each case by a decision of the directors.

## SHARES AND DECISION MAKING BY SHAREHOLDERS

### 15 VOTING

Subject to any restrictions imposed by these Articles, each Share shall, on a poll, have one vote per Share.

### 16 DIVIDENDS

The directors may, in their absolute discretion, and subject to the Act, declare such dividends and interim dividends as they determine. Dividends may be declared in relation to any class or classes of Shares to the exclusion of any other class or classes. Dividends may be declared at different rates on different classes of Shares.

### 17 CAPITAL

17.1 On a sale of the entire issued share capital of the Company the Available Proceeds shall be allocated to each class of shares in the Company as follows:

- (a) the C Shares — the C Percentage;
- (b) the D Shares — the D Percentage;
- (c) the E Shares — the E Percentage;
- (d) the F Shares — the F Percentage;
- (e) the A Shares — the balance of Available Proceeds.

17.2 All amounts payable to any class of shares in accordance with article 17.1 shall be paid and distributed amongst the holders of such class *pari passu* in accordance with the number of shares in the relevant class held by each such holder.

17.3 On a return of capital, whether on liquidation, return of capital or otherwise (but not on a sale of shares) the value available for distribution shall be distributed to each Shareholder *pari passu* in accordance with the number of shares held by each such Shareholder.

### 18 TRANSFERS OF SHARES: GENERAL

18.1 In this Article:

- (a) "**Relevant Transfer**" means any transfer of shares from or to any Secured Party or any receiver (or similar officer) and any transfer of shares executed by any such person in the name of, or on behalf of, any other person which, in each case, is made pursuant to or in accordance with the relevant security document(s), including (without limitation) any such transfer made in order to perfect any mortgage, charge or other security interest in such shares or in exercise of any power of sale or other enforcement power; and
- (b) "**Secured Party**" means, in respect of any shares, any person to which such shares have been mortgaged or charged (or in favour of which any other security interest in such shares has been created) and any nominee, agent or trustee of or for any such person.

- 18.2 The Directors shall not decline to register (and shall not suspend the registration of) any Relevant Transfer and shall register any Relevant Transfer immediately upon receipt.
- 18.3 There is no requirement that any Shares the subject of a Relevant Transfer should be offered to the Shareholders for the time being of the Company or any of them and no such Shareholder shall have any right under the Articles or otherwise to require any such Shares to be transferred to them.
- 18.4 The Directors shall not issue any share certificate (whether by way of replacement or otherwise) without the prior written consent of any Secured Party.
- 18.5 If there is any inconsistency between any provision of Articles 18.1 to 18.4 and any provision of any other Article, the provision of Articles 18.1 to 18.4 shall apply.
- 18.6 In these Articles, reference to the transfer of a Share includes the transfer, assignment or other disposal of a beneficial or other interest in that Share, or the creation of a trust or encumbrance over that Share, and reference to a Share includes a beneficial or other interest in a Share.
- 18.7 No Share shall be transferred, and the directors shall refuse to register a transfer of any Share, unless it is made in accordance with these Articles. Subject to article 18.5, the directors shall register any duly stamped transfer made in accordance with these Articles, unless they suspect that the proposed transfer may be fraudulent.
- 18.8 If a Shareholder transfers (or purports to transfer) a Share other than in accordance with these Articles, he shall be deemed to have immediately served a Transfer Notice in respect of all Shares held by him.
- 18.9 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, in favour of the Company agreeing to be bound by the terms of any shareholders' agreement (or similar document) in force between any of the Shareholders and the Company, in such form as the directors may reasonably require (but not so as to oblige the transferee to have any obligations or liabilities greater than those of the proposed transferor). If any condition is imposed in accordance with this article 18.9, the transfer may not be registered unless and until that deed has been executed and delivered to the Company's registered office by the transferee.
- 18.10 To enable the directors to determine whether or not there has been any transfer (or purported transfer) of Shares, the directors may, and shall if so requested by any Shareholder require:
- (a) any holder (or the legal representatives of a deceased holder); or
  - (b) any person named as a transferee in a transfer lodged for registration; or
  - (c) such other person as the directors 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.
- 18.11 If any such information or evidence referred to in article 18.10 is not provided to enable the directors to determine to their reasonable satisfaction that no breach has occurred, or that as a result of the information and evidence provided the directors are reasonably satisfied that a breach has occurred, the directors shall immediately notify the holder of such Shares of that fact in writing and then, unless otherwise determined by the majority of the directors:

- (a) the relevant Shares shall cease to confer on the holder of them any rights:
  - (i) to vote (whether on a show of hands, on a poll or otherwise and whether in person, by proxy or otherwise) including in respect of any resolution of any class of Shares;
  - (ii) to receive dividends or other distributions otherwise attaching to those Shares; or
  - (iii) to participate in any future issue of Shares issued in respect of those Shares; and

the directors may, by notice in writing to the relevant holder, determine that a Transfer Notice shall be deemed to have been given in respect of some or all of his Shares with effect from the date of service of the notice (or such later date as may be specified in such notice).

- (b) The directors may reinstate the rights referred to in article 18.11(a) at any time.

## **19 PERMITTED TRANSFERS OF SHARES**

19.1 The Pre-emption provisions on transfer contained in Article 20 shall not apply to a Permitted Transfer in accordance with this article 19.

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

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

without any price or other restriction.

19.3 If the Permitted Transfer has been made to a Privileged Relation of the Original Shareholder, the Permitted Transferee (or the transmittee(s) of any such person), shall within 10 Business Days of ceasing to be a Privileged Relation of the Original Shareholder (whether by reason of death, divorce or otherwise) either:

- (a) execute and deliver to the Company a transfer of the Shares held by him to the Original Shareholder (or to any Permitted Transferee of the Original Shareholder) for such consideration as may be agreed between them; or
- (b) give a Transfer Notice to the Company in accordance with article 20,

failing which a Transfer Notice shall be deemed to have been given in respect of such Shares on the expiry of the period set out in this article 19.4. This article 19.4 shall not apply to a transmittee of a Permitted Transferee if that transmittee is also a Permitted Transferee of the Original Shareholder, to the extent that such transmittee is legally or beneficially entitled to those Shares.

## 20 PRE-EMPTION RIGHTS ON THE TRANSFER OF SHARES

- 20.1 Any Shareholders who wish to transfer Shares (individually or together a Seller) shall, before transferring or agreeing to transfer any Shares, give notice in writing (a Transfer Notice) to the Company specifying:
- (a) the number of Shares he wishes to transfer (Sale Shares);
  - (b) the name of the proposed transferee, if any;
  - (c) the price per Sale Share (in cash), if any, at which he wishes to transfer the Sale Shares (the Proposed Sale Price); and
  - (d) whether the Transfer Notice is conditional on all or a specific number of the Sale Shares being sold (a Minimum Transfer Condition).
- 20.2 Where the Transfer Price of the Sale Shares comprised within a Transfer Notice is to be the Fair Value and such Fair Value is less than the Proposed Sale Price the Seller may, within 5 Business Days of receipt of notification of the Fair Value, withdraw the Transfer Notice. Otherwise, a Transfer Notice may only be withdrawn with the consent of the directors.
- 20.3 A Transfer Notice constitutes the Company the agent of the Seller for the sale of the Sale Shares at the Transfer Price.
- 20.4 As soon as practicable following the later of:
- (a) receipt of a Transfer Notice; and
  - (b) the determination of the Transfer Price,
- the directors shall (unless the Transfer Notice is withdrawn in accordance with article 20.2) offer the Sale Shares for sale in the manner set out in the remaining provisions of this article 20 at the Transfer Price. Each offer shall be in writing and give details of the number and Transfer Price of the Sale Shares offered.
- 20.5 The Company shall first offer the Sale Shares to the holders of the A Shares inviting them to apply in writing within the period from the date of the offer to the date 15 Business Days after the offer (both dates inclusive) (the Offer Period) for the maximum number of Sale Shares they wish to buy.
- 20.6 If any Sale Shares remain unsold after the offer in article 20.5 above, then the Company shall offer the remaining Sale Shares to the remaining Shareholders (other than the Seller (**Continuing Shareholders**)) inviting them to apply in writing within the period from the date of the offer to the date 15 Business Days after the offer (both dates inclusive) (the Offer Period) for the maximum number of Sale Shares they wish to buy.
- 20.7 If:
- (a) at the end of the Offer Period, the number of Sale Shares applied for is equal to or exceeds the number of Sale Shares, the directors shall allocate the Sale Shares to each Continuing Shareholder who has applied for Sale Shares in the proportion which his existing holding of Shares bears to the total number of Shares of the class being offered held by all Continuing Shareholders. Fractional entitlements shall be rounded down to the nearest whole number (save where such rounding would result in not all Sale Shares being allocated, in which case, the allocation of any such fractional entitlements shall be determined by the directors. No allocation shall be made to a Shareholder of

more than the maximum number of Sale Shares which he has stated he is willing to buy;

- (b) not all Sale Shares are allocated following allocations in accordance with article 20.7(a), but there are applications for Sale Shares that have not been satisfied, the directors shall allocate the remaining Sale Shares to such applicants in accordance with the procedure set out in article 20.7(a). The procedure set out in this article 20.7(b) shall apply on any number of consecutive occasions until either all Sale Shares have been allocated or all applications for Sale Shares have been satisfied; and
- (c) at the end of the Offer Period, the total number of Sale Shares applied for is less than the number of Sale Shares, the directors shall allocate the Sale Shares to the Continuing Shareholder in accordance with their applications. The balance (the Surplus Shares) shall, subject to article 20.8, be offered to any other person in accordance with article 20.13.

20.8 Where the Transfer Notice contains a Minimum Transfer Condition:

- (a) any allocation made under article 20 shall be conditional on the fulfilment of the Minimum Transfer Condition; and
- (b) if the total number of Sale Shares applied for under article 20 is less than the number of Sale Shares, the Company shall notify the Seller and all those Shareholders to whom Sale Shares have been conditionally allocated stating that the condition has not been met and that the relevant Transfer Notice has lapsed with immediate effect.

20.9 Where either:

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

the directors shall, when no further offers or allocations are required to be made under article 20.8, give notice in writing of the allocations of Sale Shares (an Allocation Notice) to the Seller and each Shareholder to whom Sale Shares have been allocated (each an Applicant). The Allocation Notice shall specify the number of Sale Shares allocated to each Applicant and the place and time for completion of the transfer of the Sale Shares (which shall be at least 10 Business Days, but not more than 15 Business Days, after the date of the Allocation Notice).

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

20.11 If the Seller fails to comply with article 20.10

- (a) the Chairman (or, failing him, any other director or some other person nominated by a resolution of the directors) may, as agent and attorney on behalf of the Seller):
  - (i) complete, execute and deliver in his name all documents necessary to give effect to the transfer of the relevant Sale Shares to the Applicants;
  - (ii) receive the Transfer Price and give a good discharge for it (and no Applicant shall be obliged to see to the distribution of the Transfer Price); and

(iii) (subject to the transfer being duly stamped) enter the Applicants in the register of Shareholders as the holders of the Shares purchased by them; and

(b) the Company shall pay the Transfer Price into a separate bank account in the Company's name on trust (but without interest) for the Seller until he has delivered his certificate(s) for the relevant Shares (or an indemnity, in a form reasonably satisfactory to the directors, in respect of any lost certificate, together with such other evidence (if any) as the directors may reasonably require to prove good title to those Shares) to the Company.

20.12 Where a Transfer Notice lapses pursuant to article 20.9(b) or an Allocation Notice does not relate to all the Sale Shares, then, the Seller may, at any time during the 15 Business Days following the date of lapse of the Transfer Notice, or the date of service of the Allocation Notice as the case may be, transfer the Sale Shares (in the case of a lapsed offer) or the Surplus Shares (as the case may be) to any person at a price at least equal to the Transfer Price. The sale of the Sale Shares (following the lapse of a Transfer Notice) in accordance with this article 20.12 shall continue to be subject to any Minimum Transfer Condition.

20.13 The Seller's right to transfer Shares under article 20.13 does not apply if the directors reasonably consider that:

(a) the transferee is a person (or a nominee for a person) whom the directors determine to be a competitor (or a Member of the Same Group as a competitor) of the business of any Group Company;

(b) the sale of the Sale Shares is not bona fide or the price is subject to a deduction, rebate or allowance to the transferee; or

(c) the Seller has failed or refused to promptly provide information available to him and reasonably requested to enable it to form the opinion referred to in article 20.13.

## **21 VALUATION**

21.1 The Transfer Price for each Sale Share the subject of a Transfer Notice shall, save where expressly provided otherwise in these Articles, be the price per Sale Share (in cash) agreed between the directors (any director with whom the Seller is connected not voting), and the Seller or, in default of agreement within 20 Business Days of the date of service of the Transfer Notice, the Fair Value of each Sale Share.

21.2 The Fair Value shall be the price per Sale Share determined by the Independent Expert on the following bases and assumptions:

(a) valuing the Sale Shares as on an arm's-length sale between a willing seller and a willing buyer as at the date the Transfer Notice was served (or deemed served);

(b) if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so;

(c) that the Sale Shares are capable of being transferred without restriction;

(d) valuing the Sale Shares as a rateable proportion of the total value of all the issued Shares without any premium or discount being attributable to the percentage of the issued share capital of the Company which they represent; and

- (e) reflecting any other factors which the Independent Expert reasonably believes should be taken into account.
- 21.3 If any difficulty arises in applying any of these assumptions or bases, then the Independent Expert shall resolve that difficulty in whatever manner it shall in its absolute discretion think fit.
- 21.4 The directors will give the Independent Expert access to all accounting records or other relevant documents of the Group, subject to it agreeing such confidentiality provisions as the directors may reasonably impose.
- 21.5 The parties are entitled to make written submissions to the Independent Expert and shall provide (or procure that others provide) the Independent Expert with such assistance and documents as the Independent Expert may reasonably require for the purpose of reaching a decision.
- 21.6 The Independent Expert shall act as expert and not as arbitrator and its determination shall be final and binding on the parties (in the absence of fraud or manifest error).
- 21.7 The Independent Expert shall be requested to determine the Fair Value within 25 Business Days of its appointment and to deliver its certificate to the Company. Forthwith upon receipt, the Company shall deliver a copy of the certificate to the
- 21.8 The cost of obtaining the Independent Expert's certificate shall be borne by the parties equally or in such other proportions as the Independent Expert directs unless the Seller withdraws the relevant Transfer Notice in accordance with article 20.2 in which case the Seller shall bear the cost.

## **22 FURTHER ISSUES OF SHARES: AUTHORITY**

- 22.1 The directors are generally and unconditionally authorised, for the purpose of section 551 of the Act, to exercise any power of the Company to:
  - (a) offer or allot;
  - (b) grant rights to subscribe for or to convert any security into; or
  - (c) otherwise deal in, or dispose of,any shares in the Company to any person, at any time and subject to any terms and conditions as the directors think proper.
- 22.2 The authority referred to in article 22.1:
  - (a) shall be limited to an aggregate maximum nominal amount of share capital in issue of £6,091, or such other amount as may from time to time be authorised by the Company by ordinary resolution;
  - (b) shall only apply insofar as the Company has not, subject to these Articles, renewed, waived or revoked it by ordinary resolution; and
  - (c) may only be exercised for a period of five years from the date of adoption of these Articles, save that the directors may make an offer or agreement which would, or might, require shares to be allotted after the expiry of such authority (and the directors may allot shares in pursuance of an offer or agreement as if such authority had not expired).



**23 POLL VOTES**

- 23.1 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.
- 23.2 Article 44(3) of the Model Articles shall be amended by the insertion of the words "A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made" as a new paragraph at the end of that article.

**24 PROXIES**

- 24.1 Article 45(1)(d) of the Model Articles shall be deleted and replaced with the words "is delivered to the company in accordance with the Articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in accordance with any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate".
- 24.2 Article 45(1) of the Model Articles shall be amended by the insertion of the words "and a proxy notice which is not delivered in such manner shall be invalid, unless the directors, in their discretion, accept the notice at any time before the meeting" as a new paragraph at the end of that article.

**ADMINISTRATIVE ARRANGEMENTS**

**25 MEANS OF COMMUNICATION TO BE USED**

- 25.1 Any notice, document or other information shall be deemed served on or delivered to the intended recipient:
  - (a) if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted (or five business days after posting either to an address outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom, if (in each case) sent by reputable international overnight courier addressed to the intended recipient, provided that delivery in at least five business days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider); (b) if properly addressed and delivered by hand, when it was given or left at the appropriate address;
  - (b) if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied; and
  - (c) if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website.

For the purposes of this article, no account shall be taken of any part of a day that is not a working day.

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

## **26 INDEMNITY**

26.1 Subject to article 18.7, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:

(a) each relevant officer shall be indemnified out of the company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer:

(i) in the actual or purported execution and/or discharge of his duties, or in relation to them; and

(ii) in relation to the company's (or any associated company's) activities as trustee of an occupational pension scheme (as defined in section 235(6) of the Act),

including (in each case) any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him, in his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the company's (or any associated company's) affairs; and

(d) 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 18(1)(a) and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.

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

26.3 In this article:

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

(b) a "relevant officer" means any director or other officer of the company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act), but excluding in each case any person engaged by the company (or associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor).

## **27 INSURANCE**

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

27.2 In this article:

(a) a "relevant officer" means any director or other officer of the company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act), but excluding in each case any person engaged by the company (or associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor);

- (b) a "relevant loss" means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the company, any associated company or any pension fund or employees' share scheme of the company or associated company; and
- (c) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.