

**Dated**

**2023**

**FRISBEE TOPCO LIMITED  
MINORITY SHAREHOLDERS  
FRISBEE BIDCO LIMITED**

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**SHAREHOLDERS'  
AGREEMENT  
relating to  
FRISBEE BIDCO LIMITED**

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## PARTIES

- (1) **Frisbee Topco Limited**, a company registered in the Isle of Man (company number 021088V), whose registered office is at First Names House, Victoria Road, Douglas, IM2 4DF, Isle of Man ("**Topco**");
- (2) The **Minority Shareholders** from time to time; and
- (3) **Frisbee Bidco Limited**, a company registered in the Isle of Man (company number 021089V), whose registered office is at First Names House, Victoria Road, Douglas, IM2 4DF, Isle of Man (the "**Company**").

## PREAMBLE

- (A) The Initial Minority Shareholders will acquire shares in the Company upon the successful completion of the Acquisition.
- (B) The Company was incorporated on 18 August 2023 and has not traded other than for the purposes of implementing the Acquisition.
- (C) Topco, the Initial Minority Shareholders and the Company have agreed to enter into this agreement (the "**Agreement**") to regulate their relationship and the operation and management of the Company following completion of the Acquisition.

## OPERATIVE TERMS

### 1 INTERPRETATION

#### 1.1 In this Agreement:

"**A Shares**" means the voting A ordinary shares of £0.01 each in the capital of the Company, having the rights and being subject to the restrictions set out in this Agreement and the New Articles;

"**Act**" means the Isle of Man Companies Act 2006;

"**Acquisition**" means the acquisition of some or all of the entire issued share capital of the Target;

"**Acquisition Issue**" means any issue of Equity Securities to one or more third parties on bona fide arm's length terms in connection with an acquisition from such parties of any shares, securities, assets, undertaking or business where Equity Securities are being issued to such third parties in payment (whether wholly or in part) for the purposes of funding such acquisition;

"**Acting in Concert**" has the meaning given to it in the Code;

"**Adequate Procedures**" means adequate procedures as referred to in section 7(2) of the UK Bribery Act 2010;

"**Affected Shareholder**" has the meaning given to it in clause 14.2(a);

"**Affiliate**" means in relation to:

- (a) any person (including any Shareholder):
  - (i) any Member of the Same Group as such person;
  - (ii) any other person that, directly or indirectly (including without limitation through one or more intermediaries), Controls, is Controlled by, or is under common Control with such person; and
- (b) the DBAY Advisors, any DBAY Advisors Affiliates;
- (c) any person who is an Investor:
  - (i) any Member of the Same Fund Group as such Investor;
  - (ii) any Member of the Same Investor Group of such Investor; and

and for the avoidance of doubt, Topco, the DBAY Advisors and the DBAY Advisors Affiliates, DouglasBay Capital IV Fund L.P. and Fixtaia Limited are Members of the Same Fund Group for this purpose;

**"Alternative Minority Shareholder Nominee"** has the meaning given to it in clause 6.3(b);

**"Anti-Corruption Laws"** means any laws or regulations concerning bribery, corruption or similar activities including the US Foreign Corrupt Practices Act of 1977 and the rules and regulations under that act, the UK Bribery Act 2010 and any other law or regulation similar to either of those acts and to which the Company or a Group Company is subject in the operation of its business;

**"Anti-Money Laundering Laws"** means all laws, regulations or orders relating to money laundering or the proceeds of criminal activity including, without limitation, (i) European Union Money Law implementing legislation, (ii) the UK Proceeds of Crime Act 2002 and (iii) the U.S. Bank Secrecy Act, USA PATRIOT Act and other U.S. legislation relating to money laundering;

**"Articles"** means the articles of association of the Company as amended from time to time, and references in this Agreement to an **"Article"** shall be construed accordingly;

**"Asset Sale"** means a sale by the Company or any other member of the Group of all or substantially all of the Group's business, assets and undertakings to a single buyer or to one or more buyers as part of a single transaction or series of related transactions (other than as part of a Reorganisation Transaction);

**"B Shares"** means the non-voting B ordinary shares of £0.01 each in the capital of the Company, having the rights and being subject to the restrictions set out in this Agreement and the New Articles;

**"Board"** means the board of directors of the Company from time to time;

**"Business"** means the business of a UK speciality bakery manufacturer of cake, bread and morning goods for retail and foodservice channels or as may otherwise be contemplated from time to time;

**"Business Day"** means any day which is not a Saturday, a Sunday or a bank or public holiday in England or the Isle of Man;

**"Business Integrity Laws"** means all Anti-Corruption Laws, Anti-Money Laundering Laws and Economic Sanctions Laws;

**"Business Plan"** means the business plan of the Group, from time to time, prepared in accordance with clause 16;

**"Called Shareholders"** has the meaning given to it in clause 24.1;

**"Called Shares"** has the meaning given to it in clause 24.2(a)(i);

**"CEO"** means the Chief Executive Officer of the Company and, should it be so determined, the Target;

**"CFO"** means the Chief Financial Officer of the Company and, should it be so determined, the Target;

**"Chairman"** has the meaning given to it in clause 6.5(a)(i);

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

**"Company Change of Control"** means a person and its Affiliates and any persons Acting in Concert with him acquiring more than 50% of those Equity Shares which have voting rights in the Company;

**"Clawback Notice"** shall mean a notice served under clause 22.1;

**"Clawback Period"** has the meaning given to it in clause 22.1(c);

**"Clawback Sale Documents"** has the meaning given to it in clause 22.2(f);

**"Clawback Shares"** has the meaning given to it in clause 22.2(b)(i)(A);

**"Code"** means the City Code on Takeovers and Mergers;

**"Code Announcement"** means the announcement of the Acquisition made in accordance with Rule 2.7 of the Code on or around the date hereof;

**"Competitor"** means any undertaking or business carried on substantially in competition with the Company or any other Group Company;

**"Compulsory Transfer"** shall mean any transfer made in accordance with clause 22;

**"Confidential Information"** has the meaning given to it in clause 32.1;

**"connected person"** has the meaning given to that expression in section 1122 of the UK Corporation Taxes Act 2010 and a **"person connected"** with a party shall have a corresponding meaning;

**"Control"** in relation to any entity means any of:

- (a) the right to exercise more than 50% of the votes of equity holders in that entity; or
- (b) the contractual right to designate more than half of the members of that entity's board of directors or similar governing body; or

- (c) the power to control, directly or indirectly, the direction of the management or policies of such entity, whether such power is effected through ownership of shares or other securities, by contract, by proxy or otherwise, and "**Controlling**" and "**Controlled**" shall be construed accordingly;

"**Continuing Shareholder**" has the meaning given to it in clause 22.2(b)(i)(3);

"**DBAY Advisors**" shall mean DBAY Advisors Limited, a company registered in the Isle of Man (company number 126150C) having its registered office at 4th Floor, Derby House, 64 Athol Street, Douglas, Isle of Man, IM1 1JD;

"**DBAY Advisors Affiliate**" means DBAY Advisors, each of its Affiliates, any trust of DBAY Advisors or any of its Affiliates is a trustee, any partnership of which DBAY Advisors or any of its Affiliates is a partner and any trust, fund or other entity which is managed by, or is under the control of, DBAY Advisors or any of its Affiliates (including for the avoidance of doubt DouglasBay Capital IV Fund L.P. and LDG PLC) **provided that** any such trust, fund or other entity which has been established for at least 6 months solely for the purpose of making, purchasing or investing in loans or debt securities and which is managed or controlled independently from all other trusts, funds or other entities managed or controlled by DBAY Advisors or any of its Affiliates which have been established for the primary or main purpose of investing in the share capital of companies shall not constitute a DBAY Advisors Affiliate;

"**Debt Securities**" means any loan notes, shareholder loans or other shareholder debt or debt-like security in a Group Company, but excluding any Third Party Finance;

"**Deed of Adherence**" means a deed substantially in the form set out in Schedule 3 with such amendments as the Investor Majority may approve in writing;

"**Directors**" mean the directors of the Company from time to time;

"**Dispute**" has the meaning given to it in clause 48;

"**Distressed Situation**" means:

- (a) an event of default occurring and/or subsisting under, pursuant to, or in respect of any Third Party Finance; or
- (b) the Group, in the reasonable opinion of the Investor Majority, will, within a period of less than 20 Business Days, be in a position in which it cannot satisfy its debts as they fall due;

"**Distribution**" means a dividend, return of assets, capital reduction, redemption or any other distribution by the Company or any other Group Company (other than a repurchase in accordance with clause 22);

"**Drag Along Notice**" has the meaning given to it in clause 24.2(a);

"**Drag Along Option**" has the meaning given to it in clause 24.1;

"**Drag Completion Date**" has the meaning given to it in clause 24.3(a);

"**Drag Consideration**" has the meaning given to it in clause 24.3(a);

"**Drag Documents**" has the meaning given to it in clause 24.3(a);

"**Drag Purchaser**" has the meaning given to it in clause 24.1;

"**Dragging Shareholders**" has the meaning given to it in clause 24.1;

"**Economic Sanctions Laws**" means all applicable economic or financial sanctions, restrictive measures, trade embargoes or export control laws imposed, administered or enforced from time to time by any Sanctions Authority;

"**Effective Date**" has the meaning given to it in the Code Announcement;

"**Election**" means an election by a Target Shareholder for the Alternative Offer (as that term is defined in the Code Announcement) in respect of its Target Shares by such deadline as the Company shall advise in due course;

"**Emergency Issue**" has the meaning given to it in clause 14.2(a);

"**Emergency Subscriber**" has the meaning given to it in clause 14.2(a);

"**Employee**" means an employee or director (other than an Investor Director, the Chairman, a Non-Executive Director or the Minority Shareholder Director) of, or consultant to, any Group member and references to "**employment**" shall be construed accordingly;

"**Employee Incentive Plan**" means any employee share option or other incentive plan(s) of the Company, the terms of which have been approved by an Investor Majority;

"**Employee Issue**" means the issue of Equity Securities exclusively to one or more Employees (or any nominee(s) on behalf of such Employees) in accordance with Employee Incentive Plan;

"**Encumbrance**" means a charge, debenture, mortgage, pledge, lien, security interest, title retention, assignment, restriction, right of first refusal, option, right of pre-emption or other third party right or interest of any kind, whether granted for the purpose of security or not and "**Encumbrances**" means all those kinds of right or interest;

"**End Date**" has the meaning given to it in clause 14.1(a);

"**Equity Securities**" means Shares (other than Preference Shares) or securities or other rights convertible into or exercisable or exchangeable for, or carrying the right to subscribe for, Shares (other than Preference Shares);

"**Equity Shares**" means the A Shares and the B Shares, and, save to the extent provided otherwise in this Agreement, any reference to a percentage of Equity Shares shall be calculated on the basis of the number of Equity Shares in issue from time to time and on the basis that the A Shares and B Shares were a single class (irrespective of the nominal value of such A Shares or B Shares);

"**Excess Securities**" has the meaning given to it in clause 14.1(e)(ii);

"**Exit**" means a Sale, Asset Sale, an IPO, SPAC Transaction or a Winding-up;

"**Failing Shareholder**" has the meaning given to it in clause 15.2;

"**Family Trust**" means in relation to a Shareholder, a trust set up for the benefit of that Shareholder and/or that Shareholder's Privileged Relations;



**"Financial Year"** means a financial year of the Company, being the year from 1 January to 31 December;

**"Fully Diluted B Shares"** means the non-voting B ordinary shares of £0.01 each in the fully diluted capital of the Company (which for the avoidance of doubt shall include any unissued non-voting B ordinary shares of £0.01 each which are at the relevant time the subject of an option to subscribe for such shares granted by the Company);

**"Fund"** means any investment company, limited partnership, investment fund, collective investment scheme or unit trust, managed account or other investment vehicle (howsoever structured) or entity formed by a Fund for the purposes of investments;

**"Fund Manager"** means, in relation to a Fund, any general partner, managing member, management or advisory company, investment manager, investment adviser, or any other person or entity whose business includes managing or advising on investments by such Fund;

**"Funding Notice"** has the meaning given to it in clause 15.1(b);

**"Group"** means the Company and its subsidiaries from time to time and **"Group Company"** and **"member of the Group"** shall be construed accordingly;

**"Initial Minority Shareholders"** means the persons whose names and addresses are set out in Schedule 1;

**"Insolvency Event"** means, in respect of a party, that:

- (a) it has suspended or ceased (or threatened to suspend or cease) all or a substantial part of its operations;
- (b) any expropriation, attachment, sequestration, distress or execution or analogous process in any jurisdiction has been levied against all or substantially all of its assets and is not discharged within 30 days;
- (c) it is unable or admits inability to pay its debts as they fall due or is deemed to or declared to be unable to pay its debts under applicable law, suspends or threatens to suspend making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness;
- (d) the value of its assets is less than its liabilities (taking into account contingent and prospective liabilities);
- (e) a moratorium is declared in respect of its indebtedness;
- (f) any corporate action, legal proceedings or other procedure or step is taken in relation to it for:
  - (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise);
  - (ii) any composition, compromise, assignment or arrangement with any creditor;

- (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any member of the Group or any of its assets; or
- (iv) enforcement of any mortgage, charge, pledge, lien or other security interest securing any obligation of that company or any other agreement or arrangement having a similar effect;
- (v) or any analogous procedure or step is taken in any jurisdiction, but paragraph (f) will not apply to:
  - (A) a solvent reconstruction or amalgamation; or
  - (B) any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within seven days of commencement, or if earlier, before the date on which it is advertised;
- (g) an individual:
  - (i) becomes bankrupt or insolvent or if an application is made for the approval of a voluntary arrangement by or with an individual under the Insolvency Act 1986 (on which an order is subsequently made); or
  - (ii) makes any composition or arrangement with or for the benefit of his creditors generally;
  - (iii) has a county court administration order made against him under the County Court Act 1984; or
  - (iv) or any analogous procedure or step is taken in any jurisdiction;

**"IPO"** means the admission of all or any part of the ordinary share capital or depository receipts (or equivalent) representing ordinary shares of the Company (or any New Holding Company) to an internationally recognised stock exchange;

**"Irrevocable Undertaking"** means the irrevocable commitments to be given by each Initial Minority Shareholder to make an Election;

**"Investor Director"** means a director of the Company appointed from time to time by the Investor Majority in accordance with clause 6.2;

**"Investor Majority"** means:

- (a) the Investors together (and with their nominees) holding 50% or more of the A Shares from time to time in issue; or
- (b) in case there is only one Investor, such Investor;

**"Investor Reserved Matter"** shall mean any matter set out in Schedule 2 to this Agreement;

**"Investors"** means:

- (a) Topco (or any Permitted Transferee of Topco from time to time) for as long as it (or any person who holds legal title to Shares as nominee, custodian or trustee on its behalf) holds any Shares; and

- (b) any other person who acquires A Shares and who has executed a Deed of Adherence, and **"Investor"** means any of them;

**"Liquid Securities"** means any shares or other securities listed on an internationally recognised stock exchange which can be readily sold in the market for cash without materially affecting its price;

**"Long Stop Date"** means has the meaning given to it in the Code Announcement;

**"Mandatory Action Provisions"** has the meaning given to it in clause 27.1;

**"Mandatory Action Attorney"** has the meaning given to it in clause 27.1;

**"Member of the Same Fund Group"** means, in relation to any person:

- (a) if such person is a Fund:
- (i) any Fund Manager of such Fund or any Member of the Same Group as any such Fund Manager;
  - (ii) any Fund which has the same Fund Manager as such Fund or is managed by a Member of the Same Group as that Fund Manager;
  - (iii) any successor fund to the Fund;
  - (iv) any nominee, trustee, custodian or operator of such Fund;
- (b) if such person is a Fund Manager:
- (i) any Member of the Same Group as such Fund Manager;
  - (ii) any Fund in respect of which that person or any Member of the Same Group as such person is a Fund Manager;
  - (iii) any nominee, trustee, custodian or operator of such Fund Manager;

**"Member of the Same Group"** means as regards any body corporate, any other body corporate which is from time to time a holding company, parent undertaking or subsidiary of such body corporate, or a subsidiary of any such parent undertaking of such body corporate;

**"Member of the Same Investor Group"** means, in relation to an Investor, any subsidiary undertaking of that Investor, any parent undertaking of that Investor or any subsidiary undertaking of any such parent undertaking from time to time (in each case, excluding any portfolio company thereof);

**"Minority Shareholders"** means:

- (a) the Initial Minority Shareholders;
- (b) any other persons who acquire B Shares from time to time and who have executed a Deed of Adherence as a Minority Shareholder,

and **"Minority Shareholder"** means any of them;

**"Minority Shareholder Consent"** means the prior written consent of the holders of 50% or more of the aggregate of the Fully Diluted B Shares from time to time;

**"Minority Shareholder Director"** has the meaning given to it in clause 6.3(a);

**"Minimum Shareholding Requirement"** means the Fully Diluted B Shares, as applicable, representing, in aggregate, 20% or more of the Equity Shares at the given time;

**"New Articles"** means the new articles of association of the Company in the agreed form as at the date of this Agreement;

**"New Issue Notice"** has the meaning given to it in clause 14.1(a);

**"New Holding Company"** means any new holding company of the Company formed for the purpose of facilitating a Reorganisation Transaction, Refinancing or IPO;

**"New Shareholder"** has the meaning given to it in clause 24.6;

**"Non-Executive Directors"** has the given to it in clause 6.5(a)(ii);

**"OFAC"** means the Office of Foreign Assets Control of the U.S. Department of the Treasury;

**"Ordinary Resolution"** has the meaning given to it in the Articles;

**"Permitted Issues"** means any Equity Securities issued:

- (a) as part of an Employee Issue;
- (b) in connection with an Acquisition Issue;
- (c) in connection with an Emergency Issue;
- (d) to any third party in connection with an IPO;
- (e) as part of a Reorganisation Transaction;
- (f) in connection with a Refinancing; or
- (g) in connection with any capitalisation of any intercompany loan with the Group, such capitalisation first being approved by the Investor;

**"Permitted Transfer"** means a transfer of Shares authorised by clause 21;

**"Permitted Transferee"** means a person to whom or which Shares have been, or may be, transferred pursuant to a Permitted Transfer;

**"Preference Shares"** means any preference shares or other shares (not being Equity Securities) that carry a preferred return on profits, capital or otherwise, in the capital of the Company;

**"Privileged Relation"** means, in relation to a Shareholder who is an individual, member or deceased or former member means:

- (a) a spouse, Civil Partner or child (which shall include step and adopted children) who is not a minor; or

(b) a Family Trust;

**"Proceeds of Sale"** means the consideration payable (including any deferred and/or contingent consideration) whether in cash or otherwise to those Shareholders selling Shares under a Sale less any Sale Costs;

**"Process Document"** has the meaning given to it in clause 49;

**"Proposed Purchaser"** means:

- (a) a bona fide third party that is not an Investor who at the relevant time has made an offer on arm's length terms;
- (b) Related Fund of any Investor; or
- (c) a person described at clause 21.2(c);

**"Refinancing"** has the meaning given to it in clause 18.1(b);

**"Related Fund"** in relation to a fund (the **"first fund"**), means a fund which is managed or advised by the same investment manager or investment adviser as the first fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first fund;

**"Relevant Proportion"** means, in respect of each Shareholder, the percentage of the total Equity Shares of the Company held by that Shareholder at the relevant time;

**"Relevant Securities"** means any Equity Securities in the capital of the Company excluding any Permitted Issues;

**"Remaining Ordinary Shareholders"** has the meaning given to it in clause 14.1(f);

**"Reorganisation Transaction"** means a reorganisation of the Group by any means including the acquisition of the Company by a New Holding Company or any other reorganisation of the Group involving the Group's share or debt capital (including the conversion, consolidation, sub-division or re-designation (as appropriate) of the Shares into a single class of ordinary shares) in preparation for an internal Group reorganisation, Exit or Refinancing and which may involve the exercise of the rights set out in clause 19;

**"Replacement Securities"** has the meaning given to it in clause 19(b)(i);

**"Restricted Person"** means any person:

- (a) who is a director or employee of any Competitor or of a controlling shareholder of any Competitor;
- (b) any person who is prohibited (or has been prohibited at any time in the preceding five years) by a court, regulator or otherwise under applicable law from acting as a director or officer of a company or corporation in any jurisdiction;
- (c) any person who has been convicted or has been charged or is subject to an investigation in respect of an alleged breach of any Business Integrity Law or other serious criminal offence;

- (d) any person who at the relevant date is, or in the five years preceding such date was, listed on any Sanctions List;
- (e) any person otherwise targeted under any Economic Sanctions Law;
- (f) any person who does not satisfy the 'know your customer', anti-money laundering, sanctions checks and other compliance reviews required to be undertaken by the Investors or the Company pursuant to applicable law or regulation or their respective bona fide internal compliance policies; or
- (g) any person Controlled (directly or indirectly) by any person referred to under paragraphs (a) to (f) above or who such person has (directly or indirectly) any interest in a Competitor;

**"Sale"** means the transfer (which shall include a transfer by way of sale, merger, consolidation, grant of a right to acquire or to dispose of or otherwise) of any Shares (in one transaction or as a series of transactions) which will result a Company Change of Control, except as part of a Reorganisation Transaction or an SPAC Transaction;

**"Sale Costs"** means any fees, costs and expenses payable in respect of such a Sale as approved by the Investor Majority;

**"Sanctions Authority"** means (i) the United States, (ii) the United Nations Security Council, (iii) the European Union or any member state thereof, (iv) the United Kingdom or (v) the respective governmental institutions of any of the foregoing including, without limitation, OFAC, the U.S. Department of Commerce, the U.S. Department of State, any other agency of the U.S. government, and His Majesty's Treasury;

**"Sanctions List"** means a list of designated persons or entities held by a Sanctions Authority (as amended, supplemented or substituted from time to time);

**"Scheme"** means a scheme of arrangement under Part 26 of the Companies Act to acquire the Target Shares;

**"Shareholders"** means the Investors and the Minority Shareholders and **"Shareholder"** means any one of them;

**"Shares"** means shares in the share capital of the Company;

**"SPAC Transaction"** means a transaction (by way of merger, consolidation, share exchange or otherwise) with a publicly traded special purpose acquisition vehicle or one of its subsidiaries (collectively, **"SPAC"**) in which the share capital or common stock of the SPAC or its successor entity is listed on a regulated market or other recognised investment exchange immediately following such SPAC Transaction;

**"Surviving Provisions"** means clause 32 (Confidentiality And Announcements) and all provisions necessary to enforce that clause;

**"Sale Agreement"** has the meaning given to it in clause 24.2(a)(v);

**"Securities"** means Shares, Equity Securities, Preference Shares and Debt Securities in the capital of the Company;

**"Sellers' Shares"** has the meaning given to it in clause 24.1;

"**Selling Shareholders**" has the meaning given to it in clause 23.1;

"**Specified Price**" has the meaning given to it in clause 23.5(a)(i);

"**Subscription Price**" means in relation to a share, the price at which the share is subscribed for and paid up or credited as paid up in respect of the nominal value plus any share premium thereon;

"**Supplemental Consideration**" has the meaning given to it in clause 23.5(a)(i);

"**Tag Along Documents**" has the meaning given to it in clause 23.3(a);

"**Tag Along Purchaser**" has the meaning given to it in clause 23.1;

"**Tag Along Shares**" has the meaning given to it in clause 23.2(d);

"**Tag Attorney**" has the meaning given to it in clause 27.2;

"**Tag Completion Date**" has the meaning given to it in clause 23.2(b);

"**Tag Notice**" has the meaning given to it in clause 23.2(b);

"**Tag Offer**" has the meaning given to it in clause 23.2(a);

"**Tag Offer Period**" has the meaning given to it in clause 23.2(b);

"**Tag Provision**" has the meaning given to it in clause 27.2;

"**Tag Transfer**" has the meaning given to it in clause 23.1;

"**Tagging Shareholder**" has the meaning given to it in clause 23.2(d);

"**Tagging Shares**" has the meaning given to it in clause 23.2(e);

"**Tagging Transfer**" has the meaning given to it in clause 23.3(b);

"**Target**" means Finsbury Food Group plc, a public limited company registered in England and Wales with company number 00204368 having its registered office at Maes Y Coed Road, Cardiff, CF14 4XR;

"**Target Shareholders**" mean the shareholders of the Target as at the date of this Agreement;

"**Target Shares**" means entire issued and to be issued ordinary share capital in the Target and "**Target Share**" means each ordinary share of the Target;

"**Third Party Finance**" has the meaning given in clause 13.2;

"**Transaction Costs**" means all of the professional and related costs, fees (including any arrangement fees payable) and taxes thereon borne or to be borne by the any Group Company in respect of, and/or in connection to, the matters contemplated by this Agreement and the Transaction Documents;

"**Transaction Documents**" means this Agreement, documents related to it and/or each of the documents referred to in this Agreement as being entered into on the same date as this

Agreement or as being in the agreed form and any document from time to time entered into pursuant to or in connection with this Agreement;

**"transfer"** means the transfer of either or both of the legal and beneficial ownership in a Share and/or the grant of an option to acquire either or both of the legal and beneficial ownership in a Share, and shall include:

- (a) any direction (by way of renunciation or otherwise) by a person entitled to an allotment or issue of any Share that such Share be allotted or issued to some other person;
- (b) any sale or other disposition of any legal or equitable interest in a Share (including any attached voting right) and whether or not by the registered holder thereof and whether or not for consideration or otherwise and whether or not effected by an instrument in writing;
- (c) any grant or creation of an Encumbrance over any Share; and
- (d) any agreement, whether or not subject to any conditions, to do any of the matters set out in paragraphs (a), (b) or (c) above,

and **"transferee"**, **"transferor"** and **"transferred"** shall all be interpreted accordingly;

**"Treasury Shares"** means shares in the capital of the Company held by the Company as treasury shares;

**"US\$ or \$"** means the lawful currency of the United States;

**"Winding up"** means a distribution to Shareholders pursuant to a winding-up, dissolution or liquidation of the Company or any New Holding Company; and

**"writing"** means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

1.2 In this Agreement:

- (a) a reference to a clause, paragraph or schedule is, unless stated otherwise, a reference to a clause or paragraph of, or schedule to, this Agreement;
- (b) a reference in a schedule to a paragraph is, unless otherwise stated, a reference to a paragraph in that schedule or, where that schedule is split into parts, a reference to a paragraph in that part of that schedule;
- (c) a reference to any statute or statutory provision is a reference to that statute or statutory provision as re-enacted, amended or extended before the date of this Agreement and includes reference to any subordinate legislation (as re-enacted, amended or extended) made under it before the date of this Agreement;
- (d) a reference to a **"person"** includes any individual, company, corporation, firm, partnership, joint venture, association, state, state agency, institution or trust (whether or not having a separate legal personality);
- (e) a reference to one gender is a reference to all or any genders;



- (f) a reference to a particular time of day is, unless stated otherwise, a reference to that time in London, England;
- (g) a reference to "**including**" or "**includes**" does not limit the scope of the meaning of the words preceding it;
- (h) where a party has to "**procure**" anything under this Agreement the obligation is only to do so to the extent permitted by law or any relevant regulatory body or authority;
- (i) a reference to a document being in the "**agreed form**" is a reference to a document in the form and terms approved and, for the purposes of identification only, initialled, by or on behalf of Topco and the Initial Minority Shareholders on or before the date of this Agreement with any alterations that are agreed in writing by or on behalf of such parties at any time before the Effective Date;
- (j) a reference to a document includes an amendment or supplement to, or replacement or novation of, that document but disregarding any amendment, supplement, replacement or novation made in breach of this Agreement;
- (k) a reference to a "**holding company**" or a "**subsidiary**" means a holding company or a subsidiary (as the case may be) section 220 of the Act or section 1159 of the Companies Act 2006 (in the case of a subsidiary incorporated in England and Wales or in Scotland);
- (l) a reference to a person's "**Group**" is, unless otherwise stated, a reference to that person, its subsidiaries, its holding companies and any other subsidiaries of its holding companies;
- (m) a reference to "**parties**" or a "**party**" means the parties, or a party, to this Agreement whether by virtue of being an original signatory to it or agreeing to be bound by its terms by virtue of executing a Deed of Adherence; and
- (n) "**to the extent that**" and not solely "**if**", and similar expressions shall be construed in the same way.

1.3 The schedules form part of this Agreement and a reference to "**this Agreement**" includes its schedules.

1.4 The headings in this Agreement do not affect its interpretation.

## **2 CONDITIONS**

### **2.1 Time for satisfaction or waiver of condition**

- (a) The obligations of the parties under this Agreement are conditional on the Effective Date occurring on or before the Long Stop Date.
- (b) To the extent that it has not done so already, on the date of execution of this Agreement each Initial Minority Shareholder shall execute and deliver their Irrevocable Undertaking to the Company.

## **2.2 Effect of condition not being satisfied or waived**

If the condition specified in clause 2.1 has not been satisfied by the respective times specified in that clause, this Agreement automatically terminates and each party's rights and obligations under this Agreement cease immediately on termination except that:

- (a) each party must continue to comply with the Surviving Provisions; and
- (b) each party's accrued rights and obligations shall not be affected, including a party's right to claim for a breach of any other party's obligations in relation to this Agreement if that breach occurred before termination and each party must continue to comply with each provision of this Agreement necessary for a party to enforce such a right.

## **3 CONSIDERATION**

In consideration of the various agreements and undertakings set out in this Agreement, the parties have granted the rights and accepted the obligations contained in this Agreement.

## **4 OBLIGATIONS WITHIN 14 CALENDAR DAYS OF THE EFFECTIVE DATE**

### **4.1 Obligations within 14 calendar days of the Effective Date**

By no later than the date which is 14 calendar days after the Effective Date (to the extent that the same has not already occurred), Topco must procure that:

- (a) a general meeting of the Company is held, or a written resolution is adopted, to adopt the New Articles and authorise the allotment of the Shares set out under paragraph (b) below;
- (b) a Board meeting of the Company is held at which:
  - (i) the B Shares to be allotted as part of the consideration for the Acquisition are allotted and issued to the Minority Shareholders, credited, in each case, as fully paid up, and share certificates are authorised to be issued for such shares;
  - (ii) the Minority Shareholders are entered into the register of members of the Company;
  - (iii) such number of A Shares are allotted to Topco as determined by Topco (acting reasonably) taking into account the Irrevocable Undertakings and other Elections and notified in writing to, and agreed by, the Minority Shareholders (such agreement not to be unreasonably withheld or delayed);
  - (iv) the following Directors are appointed:
    - (A) the people who the Investor Majority chooses to appoint as the initial Investor Directors under clause 6.2;
    - (B) if applicable, the person who the Minority Shareholders choose to be appointed as the initial Minority Shareholder Director under clause 6.3;
    - (C) the person who the Investor Majority chooses to appoint as the initial Chairman under clause 6.5(a)(i);

(D) the person or the people who the Investor Majority chooses to appoint as the initial Non-Executive Directors under clause 6.5(a)(ii); and

(v) any other business.

4.2 Following the Effective Date, the relevant Group Company shall, upon receipt of the relevant invoices, pay the Transaction Costs.

#### 4.3 **Waiver of pre-emption rights etc**

(a) For the avoidance of doubt, Topco consents to the subscriptions provided for in respect of each of the Minority Shareholders under this clause 4, and waives or agrees to procure the waiver of any rights or restrictions which may exist in the Articles or otherwise, and which might otherwise prevent any such subscriptions.

(b) For the avoidance of doubt, each of the Minority Shareholders consents to the subscriptions provided for to Topco under this clause 4, and waives or agrees to procure the waiver of any rights or restrictions which may exist in the Articles or otherwise, and which might otherwise prevent any such subscriptions.

#### 4.4 **Subscription by Initial Minority Shareholders**

Each Initial Minority Shareholder shall be entitled, subject to the consent of the Investor Majority and in accordance with the terms of this Agreement, to direct that any B Shares to be issued to it under this clause 4 be registered in the name of any nominee or custodian holding such B Shares on its behalf as bare nominee or to any of its Affiliates and the provisions of this clause 4 shall be interpreted accordingly. Any direction under this clause must be given by notice in writing to the Company, accompanied by the notice details of such nominee, custodian or Affiliate for the purposes of clause 36, and any such nominee, custodian or Affiliate shall be deemed to be an Initial Minority Shareholder under this Agreement.

#### 4.5 **No rescission**

This Agreement may not be rescinded after the Effective Date.

### 5 **RIGHTS ATTACHING TO SHARES**

#### 5.1 **Ranking**

Other than in respect of voting, the A Shares and B Shares shall rank *pari passu* in all respects (including for any Distribution and on an Exit), but shall constitute separate classes of shares.

#### 5.2 **Income**

The Company may, subject to compliance with the Act, determine to distribute all or any part of the balance of the profits in respect of any Financial Year after accrual of any preferential dividends and subject to the terms of any new class of Securities issued following the Effective Date, amongst the holders of A Shares and the holders of B Shares equally as if the A Shares and the B Shares constituted one class of shares according to the number of A Shares and B Shares held by them respectively.

### 5.3 **Capital**

On return of assets on Winding-up or a capital reduction or other return of capital (including, for the avoidance of doubt, any distribution otherwise than from profits but excluding any redemption or purchase by the Company of any shares), the assets of the Company available for distribution amongst its members after payment of its liabilities (including any outstanding Debt Securities in the Company) shall, subject to compliance with the Act and the terms of any new class of Securities issued following the Effective Date, be distributed amongst the holders of A Shares and the holders of B Shares equally as if the A Shares and the B Shares constituted one class of shares according to the number of A Shares and B Shares held by them respectively.

### 5.4 **IPO**

Immediately prior to, and conditionally upon, an IPO, the Company's share capital shall be reorganised (with the consent of the Investor Majority) to the extent necessary to ensure that the proceeds of the IPO together with any ordinary shares to be held by the Shareholders immediately following the IPO, which is to be valued at a price per share at which the ordinary shares of the Company (or any other Group member or New Holding Company, as the case may be) are being offered for sale, placed or otherwise marketed as part of such IPO are payable to or held by the Shareholders in such amounts, as in such order of priority, as would be applicable on a capital distribution pursuant to and on the same basis as clause 5.3.

### 5.5 **Re-designations**

- (a) Any Equity Shares that are to be transferred to an Investor, an Affiliate of an Investor or another holder of A Shares will be re-designated as A Shares, unless determined otherwise by the Investor Majority.
- (b) Any Equity Shares that are to be transferred to a Minority Shareholder or another holder of B Shares will be re-designated as B Shares, unless determined otherwise by the Investor Majority.

## 6 **APPOINTMENT AND REMOVAL OF DIRECTORS**

### 6.1 **Method of appointing directors**

Subject to the terms of this Agreement and the Articles, any person who is willing to act as a Director and is permitted by law to do so, may be appointed to be a Director:

- (a) by ordinary resolution;
- (b) by a decision of the Directors with the prior written consent of the Investor Majority; or
- (c) in accordance with clauses 6.2, 6.3, 6.4 and 6.5.

### 6.2 **Investor Directors**

The Investor Majority has the right to appoint, maintain in office and remove (and appoint other persons in place of those removed), such number of persons as determined by the Investor Majority from time to time (each Director so appointed being an "**Investor Director**").

### 6.3 **Minority Shareholder Directors**

- (a) If from time from to time and for so long as they meet the Minimum Shareholding Requirement, the Minority Shareholders (acting by the holders of at least 50% of the Fully Diluted B Shares) shall have the right, but not the obligation, to appoint, maintain in office and remove (and appoint another person in place of those removed), one person as Director (the Director so appointed being a "**Minority Shareholder Director**") in accordance with the Articles.
- (b) The Investor Majority may object (acting reasonably) to any person nominated to be a Minority Shareholder Director. Where such an objection has been raised, the Minority Shareholders may put forward an alternative nominee to the person so objected to (the "**Alternative Minority Shareholder Nominee**"). The Investor Majority shall have no further objection right in respect of the Alternative Minority Shareholder Nominee unless he or she is a Restricted Person.
- (c) If at any time the Minority Shareholders cease to meet the Minimum Shareholding Requirement the Minority Shareholders shall (within 10 Business Days of such event) cause the removal from office of the Minority Shareholder Director appointed by, failing which, the Investors shall have the right (to be exercised by notice in writing by or on behalf of the Investor Majority to the relevant Director and the Company) to remove the Minority Shareholder Director from office with immediate effect), so that there is no Minority Shareholder Director in office.
- (d) If at any time the parties have become aware that the Minority Shareholder Director is, or has become, a Restricted Person, the Minority Shareholders shall (within 10 Business Days of such event) cause the removal from office of the Minority Shareholder Director appointed by the Minority Shareholders, failing which, the Investors shall have the right (to be exercised by notice in writing by or on behalf of the Investor Majority to the relevant Director and the Company) to remove the Minority Shareholder Director from office with immediate effect). Where a Minority Shareholder Director is removed in accordance with this clause 6.3(d), the Minority Shareholders (acting by the holders of at least 50% of the Fully Diluted B Shares) shall have the right to appoint another person in place of those removed.
- (e) Any Minority Shareholder Director removed in accordance with clause 6.3(c) or 6.3(d) from office as a director shall from the time of removal also cease to be a member of any committee of the Board and any member of the board (or committee of the board) of any other Group Companies to which such Director was appointed in accordance with clause 6.7(c).

### 6.4 **Executive Directors**

- (a) Without prejudice and in addition to the Investors' other rights under this Agreement, the Articles and the Act, to appoint Directors to the Board, the Investor Majority shall have the right by written notice to the Company from time to time to appoint, maintain in office, remove and replace:
  - (i) one Employee of the Group as Director and CEO; and
  - (ii) one Employee of the Group as Director and CFO.

- (b) Without prejudice to the rights of the Investor Majority at clause 6.4(a), John Duffy and Stephen Boyd shall at the date of this Agreement be directors in their capacity as CEO and CFO respectively.

#### 6.5 **Non-executive Directors**

- (a) Without prejudice and in addition to the Investors' other rights under this Agreement, the Articles and the Act to appoint Directors to the Board, the Investor Majority shall have the right to appoint:
  - (i) one independent non-executive chairman of the Board (the "**Chairman**"); and
  - (ii) additional independent non-executive Directors (the "**Non-Executive Directors**").

#### 6.6 **Alternates**

- (a) A Director is entitled to appoint one alternate at any time to act on his or her behalf as a Director.
- (b) An alternate Director is entitled to receive notice of all meetings of the Board, to attend and vote at any such meeting at which the Director appointing him or her is not personally present and to exercise and discharge all the functions, powers and duties of his or her appointor as a Director.
- (c) An alternate Director must automatically vacate his or her office as an alternate if the Director who appointed him or her ceases to be a Director, and the Shareholder(s) which appointed the Director must procure that this happens.
- (d) No person who has been objected to pursuant to clause 6.3(b) may be appointed as an alternate Director.

#### 6.7 **Appointments and removals**

- (a) Any appointment or removal (or the appointment of a replacement) of an Investor Director, a CEO, a CFO, a Chairman or a Non-Executive Director by the Investor Majority shall be in writing served on the Company and signed by or on behalf of the Investor Majority and shall take effect on delivery to the Company at the registered office or presentation at any meeting of the Board.
- (b) Any appointment (or the appointment of a replacement) of Minority Shareholder Director by the Minority Shareholders shall be in writing served on the Company and signed by or on behalf of the Minority Shareholders (acting by the holders of at least 50% of the Fully Diluted B Shares) and shall take effect on delivery to the Company at the registered office or presentation at any meeting of the Board.
- (c) Any removal (or the appointment of a replacement) of a Minority Shareholder Director shall be in writing served on the Company and signed by or on behalf of Minority Shareholders holding at least 50% of the Fully Diluted B Shares and shall take effect on delivery to the Company at the registered office or presentation at any meeting of the Board.
- (d) The Investor Majority and the Minority Shareholders are entitled to request the Company to appoint or remove (or appoint a replacement of) any director to the board

of directors of any other Group Company or Group Companies on the same basis as it may appoint or remove (or appoint a replacement of) a Director to the Board pursuant to clauses 6.2, 6.3, 6.4 and 6.5. Any such request shall be served in writing on the Company and signed by or on behalf of the Investor Majority or the Minority Shareholders (acting by the holders of at least 50% of the Fully Diluted B Shares), as the case may be. The Company shall procure that any director so nominated shall be appointed to the board of directors of the relevant Group Company or Group Companies.

## **6.8 Committees**

Subject always to the Articles, the Board may delegate any of the powers which are conferred on it under the Articles or this Agreement or under the Act to such person or committee (including an audit committee and/or remuneration committee) by such means (including where permissible pursuant to any applicable law by power of attorney), to such an extent, in relation to such matters or territories and on such terms and conditions in each case as they think fit (subject to prior written consent of the Investor Majority), provided that the Minority Shareholder Director shall be entitled to attend any such committee.

## **6.9 No remuneration**

- (a) No Director other than the CEO, the CFO, the Chairman, the Minority Shareholder Director and the Non-Executive Directors or any other directors appointed by the Investor Majority in accordance with the terms of this Agreement, subject to clause 9.5(b), will be entitled to any remuneration in his capacity as a Director. Directors who are so entitled shall be remunerated in such amounts as determined by the Board (subject to prior written consent of the Investor Majority).
- (b) Each Director shall also be entitled to reimbursement by the Company for out-of-pocket expenses properly incurred in connection with the performance of their duties).

## **7 MANAGEMENT**

### **7.1 Appointment of CEO**

- (a) The CEO shall at all times be appointed and removed by the Investor Majority at its sole discretion.
- (b) For the avoidance of doubt, the CEO may be (but is not required to be) a Director appointed by the Investor Majority pursuant to clause 6.4(a)(i).

### **7.2 Appointment of CFO**

- (a) The CFO shall at all times be appointed and removed by the Investor Majority at its sole discretion.
- (b) For the avoidance of doubt, the CFO may be (but is not required to be) a Director appointed by the Investor Majority pursuant to clause 6.4(a)(i).

## **8 CONDUCT OF THE BUSINESS**

### **8.1 Purpose**

The purpose of the Company is to be the indirect holding company of the Target and the purpose of the Target is to carry on the Business. The Business will be conducted in accordance with the terms of this Agreement and the Business Plan and otherwise in a manner consistent with promoting and developing the Business to the best advantage of the Company.

### **8.2 Dealings with Shareholders**

All transactions entered into between a Minority Shareholder and/or any persons connected with any of them (on the one hand) and the Company or any other Group Company (on the other hand) must be conducted in good faith and on the basis set out or referred to in this Agreement or, if not provided for in this Agreement, as may be agreed by the Investor Majority and the Company and, in the absence of such agreement, on an arm's length, commercial basis.

## **9 MANAGEMENT OF THE COMPANY AND BOARD**

### **9.1 Supervision and Management of the Company**

- (a) The Board shall be the main decision making body of the Group. Subject to the Investor Reserved Matters, the Board shall have responsibility for overall direction, management and supervision of the Group and its Business and setting the operations and business policies of the Group in accordance with the Business Plan adopted from time to time.
- (b) The Directors must act in the best interest of the Company and take into account the interest of all Shareholders.
- (c) The business of the Company is to be the indirect holding company of the Target and the purpose of the Target is to carry on the Business and the Directors shall not be obligated to bring any other opportunities to or through the Company.
- (d) Matters arising at any meeting of the Board will be resolved by a simple majority of votes.
- (e) At any meeting of the Directors at which one or more Investor Directors are present, such Directors shall be entitled to such number of votes as shall comprise a majority of the votes of the eligible Directors.

### **9.2 Frequency and method of calling Board meetings**

- (a) Board meetings must be held at least four times a year and generally at not more than three monthly intervals.
- (b) Five clear Business Days' written notice must be given to each of the Directors of all Board meetings (unless there are exceptional circumstances and at least one Investor Director agrees to shorter notice).
- (c) A notice of a Board meeting must specify a reasonably detailed agenda and be accompanied by any relevant papers. If any matter is not identified in reasonable



detail, the matter must not be considered by the Board unless all the Directors present agree.

- (d) In addition to meetings convened in accordance with clause 9.2(a), a meeting of the Board may be requested by any Director at any time, provided that such meeting is convened in accordance with clauses 9.2(b) and (c).
- (e) The Board may conduct meetings by telephone or by any other means which will enable each Director:
  - (i) to hear (or otherwise receive real-time communications made by) each of the other Directors participating in the meeting; and
  - (ii) to address (or otherwise communicate in real time with) all of the other Directors participating in the meeting simultaneously,

even if all the Directors are not physically present in the same place. A Board meeting held in this manner is taken to be held in the United Kingdom, save where the Chairman of the meeting decides otherwise.

- (f) If a technological link fails, the Board meeting will be adjourned until the failure is rectified.

### 9.3 **Quorum for Board meetings**

- (a) At a Board meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
- (b) Except where required otherwise pursuant to this Agreement, the Articles or the Act, a quorum shall consist of two Directors, of whom one must be an Investor Director.
- (c) If a quorum is not present within 30 minutes of the time when the meeting should have started, or, if during the meeting there is no longer a quorum, the meeting must be adjourned and reconvened for the date being two Business Days after, and at the same time and place as the meeting in question.
- (d) At any reconvened meeting, if a quorum is not present within 30 minutes of the time when the meeting should have started, or if during the meeting, there is no longer a quorum, any one Investor Director will be a quorum.

### 9.4 **Chairman**

The Chairman will be appointed in accordance with clause 6.5(a)(i). The Chairman does not have a second or casting vote at meetings of the Board or meetings of the Shareholders.

### 9.5 **Ongoing fees and costs**

The relevant Group Company shall pay:

- (a) any applicable monitoring fees and costs and expenses of the Investor and/or its Affiliates and/or any relevant employees thereof for monitoring the performance of the Group up to £1,000,000 (plus VAT if appropriate) per Financial Year; and

- (b) up to £150,000 plus applicable VAT a year in respect of the services of each Investor Director appointed from time to time or any other director appointed by the Investor from time to time in accordance with the terms of this Agreement,

in each case as directed by the Investor and no other monitoring, arrangement, exit or similar fees shall be payable by a Group Company save as set out in this clause.

## **10 SHAREHOLDER MEETINGS**

### **10.1 Voting at Shareholder meetings**

- (a) Each holder of A Shares is entitled to receive notice of, and to attend and vote at, general meetings of the Company and shall be entitled to vote on any written resolution of the Company and each such holder who is present at such meetings, as an individual (in person or by proxy) or a corporate entity (present by a duly authorised representative or by proxy) or eligible to vote on any such written resolution, has:
  - (i) on a show of hands at a meeting, one vote; or
  - (ii) on a poll at a meeting or written resolution, one vote for each A Share of which that person is a holder.
- (b) Except where required otherwise pursuant to the Articles or the Act, the B Shares shall carry no right to vote and the holders of B Shares shall not have the right to receive notice of or attend and speak at any general meeting of the Company (save in respect of any meetings of such class of Shares or class resolutions or class variations).

### **10.2 Written resolutions**

The provisions of the Act shall apply with respect to written resolutions of the Company, provided that only holders of A Shares shall be entitled to vote on any such written resolutions with respect to their A Shares.

## **11 INVESTOR RESERVED MATTERS**

For the purposes of protecting the investment of each Investor:

- (a) each Minority Shareholder agrees with each Investor that he or it will, to the extent of its rights from time to time, vote as a member and/or director (as the case may be) of each Group member to procure that; and
- (b) the Company agrees with each Investor as a separate and independent covenant (to the extent it is legally able to do so) that it will act, and will procure that,

neither the Company nor any Group Company shall take any action in respect of any Investor Reserved Matter, save as consented to in writing by the Investor Majority.

## **12 B SHAREHOLDER RESERVED MATTERS**

- 12.1 For the purposes of protecting the investment of each Minority Shareholder, no Group Company shall (or shall agree to) without Minority Shareholder Consent:

- (a) allot and issue of shares or other securities (including shareholder debt) otherwise than in accordance with the terms of the Articles or this Agreement;
- (b) carry out any capital reduction in relation to, or repurchase or redemption of, any class of Equity Shares otherwise than on a reduction on a pro rata basis across all classes of Equity Shares (save where an Investor Majority has consented to a repurchase or redemption of shares held by any holder other than an Investor or save in the event of a purchase of any Clawback Shares in accordance with the Articles / this Agreement); or
- (c) effect any changes to the Articles or this Agreement which have a material adverse effect on the rights of the Minority Shareholders thereunder where there is no equivalent and proportionate effect on the rights of the Investors and for the avoidance of doubt:
  - (i) the issue of prior ranking Securities to those held by Minority Shareholders; and/or
  - (ii) the issue of any Relevant Securities and/or Debt Securities in accordance with this Agreement and/or the Articles (as applicable),

shall not be treated as having a material adverse effect on the rights of the Minority Shareholders and shall be deemed to have an equivalent and proportionate effect on the rights of the Investors)

## **13 FURTHER FUNDING**

### **13.1 Company to be self-financing**

The Shareholders intend that the Group will finance itself from the cash flow of the Business.

### **13.2 Third Party Finance**

If the Board resolves that the Group requires additional working capital or funding for capital expenditure or other investment opportunities, the Board will seek a loan from its principal bankers and/or independent third party financial institutions ("**Third Party Finance**").

### **13.3 No shareholder guarantees and indemnities**

No Shareholder is obliged to give any guarantee, indemnity or security in respect of the Company's liabilities or obligations.

## **14 ISSUE OF NEW EQUITY SECURITIES**

### **14.1 Pre-emption rights**

- (a) Subject to clauses 14.2 and 14.3 below, if the Company proposes to allot any Relevant Securities in the capital of the Company for cash, no such Relevant Securities will be so allotted unless such allotment is made pursuant to this clause 14.1 and each Shareholder has first been given an opportunity, which shall remain open for not less than 10 Business Days (such date as chosen being the "**End Date**") to subscribe, at the same time and on the same terms, and at the same price per Relevant Security, for its Relevant Proportion. Such opportunity shall be offered to

each Shareholder in the form of a notice in writing from the Company which shall include the relevant terms and conditions of the offer (the "**New Issue Notice**").

- (b) In case of an issue of Shares, each Investor shall receive its Relevant Proportion of Relevant Securities in the form of A Shares and each Minority Shareholder shall receive its Relevant Proportion of Relevant Securities in the form of B Shares.
- (c) The New Issue Notice shall indicate the total number of Relevant Securities to be allotted, the Relevant Proportion of each Shareholder and the subscription price of each Relevant Security.
- (d) If a Shareholder wishes to subscribe for any or all of its Relevant Proportion of the Relevant Securities, it shall give notice in writing to the Company on or before the End Date, failing which the relevant Shareholder shall be deemed to have declined to subscribe for all of its Relevant Proportion in connection with the New Issue Notice. Any notice given by a Shareholder pursuant to this clause 14.1(d) shall be irrevocable.
- (e) Within 5 Business Days of the End Date, the Company shall give notice in writing to each Shareholder of:
  - (i) the number and price of the Relevant Securities for which that Shareholder has committed to subscribe;
  - (ii) any Relevant Securities which have been declined by any Shareholder (the "**Excess Securities**"); and
  - (iii) the place and time on which the subscription is to be completed and the account details for the telegraphic transfer of the required subscription monies.
- (f) Any Excess Securities shall be offered to any other Shareholders who have committed to subscribe for the full amount of their relevant entitlement ("**Remaining Ordinary Shareholders**"), pro rata to such Remaining Ordinary Shareholders' Relevant Proportion, provided that the terms of such allotment are the same as those previously offered to the declining Shareholder. Any Excess Securities that remain unsubscribed for after the process described in this clause 14.1(f) do not need to then be the subject of further offer rounds.
- (g) To the extent that any Shareholder declines, or is deemed to decline, an offer pursuant to this clause 14.1 to subscribe for any Relevant Securities, the Board shall deal with such declined Relevant Securities as determined by the Board with the consent of the Investor Majority.
- (h) Any Relevant Securities offered under this clause 14.1 to:
  - (i) an Investor, may be accepted in full or in part only by any Affiliate of that Investor,
  - (ii) any other Shareholder, may be accepted in full or in part only by any Permitted Transferee of that Shareholder, subject to the consent of the Investor Majority (such consent not to be unreasonably withheld),

in accordance with the terms of this clause 14.1.

## 14.2 Emergency Issues

- (a) The Company is not required to provide notice to the relevant Shareholders pursuant to clause 14.1 if so determined by the Investor Majority, where there has occurred and is continuing a Distressed Situation or an Insolvency Event, in which case the Company shall issue the Relevant Securities to any person (the "**Emergency Subscriber**") as directed by the Investor Majority (an "**Emergency Issue**") and any rights of pre-emption for each of the other Shareholders in respect of the Emergency Issue (each, an "**Affected Shareholder**") shall be deemed to be waived. Notwithstanding the foregoing, where required in order to enable an Emergency Issue to be made each Shareholder entitled to vote thereon shall promptly pass a special resolution to increase the Company's authorised share capital to facilitate the issue of the Relevant Securities.
- (b) Following an Emergency Issue:
  - (i) each Affected Shareholder is entitled, but not obliged, to subscribe for or acquire from the Emergency Subscriber(s) (as specified in the relevant notification from the Investor Majority pursuant to clause 14.2(b)(ii)) such number of each class of Shares comprising the Emergency Issue (at the same price and on the same terms as the Emergency Subscriber(s) in the Emergency Issue) as it would otherwise have been entitled to subscribe for pursuant to clause 14.1;
  - (ii) within 10 Business Days following such Emergency Issue, the Company shall notify each Affected Shareholder in writing of its entitlement pursuant to clause 14.2(b)(i), specifying the number and class of Shares to which it is entitled to subscribe for or acquire, the price per class of Share, and the time (being not less than 20 Business Days) within which the offer, if not accepted by notice in writing, will be deemed to be declined, and each Emergency Subscriber hereby agrees to sell and transfer to each Affected Shareholder such a number of Shares as are determined to be acquired in accordance with this clause 14.2(b)(ii).
- (c) Any notification given by the Investor Majority in respect of an Emergency Issue provided pursuant to clause 14.2(b)(ii) shall specify whether the entitlement of the Affected Shareholders pursuant to clause 14.2(b)(ii) shall be in respect of subscriptions for new Shares from the Company, or acquisitions of existing Shares from the Emergency Subscriber(s).

## 14.3 Permitted Issues

- (a) The parties agree that the Board with consent of the Investor Majority may from time to time determine to and issue Equity Securities and Debt Securities which are Permitted Issues on terms to be specified pursuant to a recommendation of the Board with consent of the Investor Majority and subject always to any such person who is not a party to this Agreement entering into a Deed of Adherence.
- (b) Each of the parties hereby consents (for all purposes) to, and waives any rights of pre-emption (whether under the New Articles, clause 14 (Issue of New Equity Securities) and clause 15 (Issue of New Debt Securities) or otherwise) in connection with, any subscription and/or the grant of any option to subscribe for Equity Securities pursuant to clause 14.3(a).

## 15 ISSUE OF NEW DEBT SECURITIES

### 15.1 Debt funding rights

- (a) If, subject to clause 14.3(a) and notwithstanding clauses 13.1 and 13.2, the Company wishes to pursue the issue of any Debt Securities of the Company or any other Group Company, the Investors may, should the Investors and the Company decide to do so, subscribe for such Debt Securities in, or advance such Debt Securities to, the Company or the relevant Group Company. If the Investors so subscribe for Debt Securities in, or advance such Debt Securities to, the Company or the relevant Group Company, the Minority Shareholders shall be given the opportunity to subscribe for or advance Debt Securities on the same terms in each case as to their Relevant Proportion.
- (b) The Company shall communicate any opportunity under paragraph (a) above to the Shareholders by written notice (a "**Funding Notice**"), containing details of the total amount of Debt Securities to be raised, the amount of their Relevant Proportion of such debt Securities and the terms and conditions of such Debt Securities (including the required date of advance).
- (c) Within 10 Business Days of the date of a Funding Notice, each Minority Shareholder must confirm to the Company whether it will provide all or part of its Relevant Proportion of such Debt Securities (and failure to so reply shall be deemed to be a refusal), which acceptance shall be a commitment to subscribe for or advance to the Company or the relevant Group Company its Relevant Proportion of the total amount specified in the Funding Notice by way of the Debt Securities on the basis set out in paragraph (d) below, but otherwise on arm's length commercial terms as agreed by the Board and the Investors (and as were specified in the Funding Notice).
- (d) Any loans made by a Shareholder in connection with a particular Funding Notice must rank *pari passu* in all respects as to repayment, rate of interest and otherwise and on terms that a repayment to one Shareholder may not be made by the Company unless an equal or, as appropriate, a proportionate repayment is made to every other Shareholder at the same time.
- (e) Any Debt Securities offered under this clause 15.1 to:
  - (i) an Investor, may be accepted in full or in part only by any Affiliate of that Investor; or
  - (ii) any other Shareholder, may be accepted in full or in part only by any Permitted Transferee of that Shareholder, subject to the consent of the Investor Majority (such consent not to be unreasonably withheld),

in each case in accordance with the terms of this clause 15.1.

### 15.2 Shareholder not fulfilling funding obligation

If a Shareholder agrees to subscribe for or advance any Debt Securities under clause 15.1 but fails to subscribe for or advance the same when required (in this clause 15.2, the "**Failing Shareholder**"), the Investors may, but are not bound to, subscribe for or advance the Failing Shareholder's contribution instead of such Failing Shareholder and such Failing Shareholder shall cease to have any rights to subscribe for or advance the relevant Debt Securities under clause 15.1.

### **15.3 Intra-group issuances**

The Company is not required to provide a Funding Notice to the relevant Shareholders pursuant to clause 15.1 in connection with the issue of Debt Securities in any Group Company to another Group Company.

## **16 THE BUSINESS PLAN**

### **16.1 Preparation**

In each Financial Year, the Company must prepare or procure the preparation of a draft Business Plan for the next Financial Year which must be submitted to the Board for approval before the end of the Financial Year in which it is prepared.

### **16.2 Failure to agree Business Plan**

If a draft Business Plan is not approved by the Board, the current Business Plan will continue to apply until such time as the draft Business Plan is approved except that all financial amounts in the current Business Plan must be adjusted for inflation during the Financial Year of the current Business Plan.

## **17 ACCOUNTS AND ACCESS TO INFORMATION**

### **17.1 Duty to maintain records**

The Company must at all times maintain accurate and complete accounting and other financial records including all corporation tax computations and related documents (including correspondence with relevant tax authorities) in accordance with the requirements of all applicable laws and generally accepted accounting principles adopted by the Company.

### **17.2 Company to provide financial information to Investors**

The Company must supply Investors with:

- (a) a copy of the accounts of the Company, prepared in accordance with all applicable laws and generally accepted accounting principles adopted by the Company, within three weeks of their being approved by the Board; and
- (b) management accounts (including a profit and loss account, a balance sheet and a cash flow statement) of the Company and any Group Company for the six-month periods finishing on 30 June of each year within twenty Business Days of the end of the period.

### **17.3 Shareholders entitled to copies**

The Company must (subject to any legal, regulatory and/or confidentiality restrictions) promptly, on receipt of a written request by a Shareholder, provide that Shareholder with copies of such documents, information and correspondence (at the cost of the Shareholder making the request) which that Shareholder reasonably requires to enable it to comply with any filing, elections, returns or any other requirements of any tax or regulatory authority.

## **18 EXIT, REFINANCING AND DISTRIBUTIONS**

### **18.1 Timing of Events**

The Investor Majority shall, in its absolute discretion, establish the timing, structure, pricing and other terms and conditions of:

- (a) any Exit;
- (b) any debt financing or any refinancing of the existing debt or equity financing arrangements of the Group (a "**Refinancing**"); or
- (c) any Distribution by any Group member.

### **18.2 Action in relation to an Exit or Refinancing**

Each party agrees to take such action, and to procure that such action is taken, as is reasonably requested by the Board (with the consent of the Investor Majority) or the Investor Majority to achieve any Exit or Refinancing, including:

- (a) appointment by the Company of professional and corporate finance advisers approved by the Investor Majority for and on behalf of the Company (and/or relevant Group member); and
- (b) assisting in the production and negotiation of such documentation as is required to effect the Exit or Refinancing.

### **18.3 Warranties and other arrangements**

The parties acknowledge that, on an Exit, unless determined otherwise by the Investor Majority, the Investors and the Investor Directors will not give any representations, warranties or indemnities in connection with the Group, except for a warranty to be given by each Investor as to the title to the Securities held by it in the capital of the Company and as to its capacity to sell those Securities.

### **18.4 Sale**

On a Sale, the Proceeds of Sale shall be distributed in the order of priority set out in clause 5.3 and the Directors shall not register any transfer of Shares if the Proceeds of Sale are not so distributed save in respect of any Shares not sold in connection with that Sale provided that if the Proceeds of Sale are not settled in their entirety upon completion of the Sale:

- (a) the Directors shall not be prohibited from registering the transfer of the relevant Shares so long as the Proceeds of Sale that are settled have been distributed in the order of priority set out in clause 5.3; and
- (b) the Shareholders shall take any action required by an Investor Majority to ensure that the Proceeds of Sale in their entirety are distributed in the order of priority set out in clause 5.3.

In the event that the Proceeds of Sale are distributed on more than one occasion (for any deferred or contingent consideration or otherwise), the consideration so distributed on any further occasion shall be paid by continuing the distribution from the previous distribution of consideration in the order of priority set out in clause 5.3.



## 18.5 **Asset sale**

On an Asset Sale the surplus assets of the Company remaining after payment of its liabilities shall be distributed (to the extent that the Company is lawfully permitted to do so) in the order of priority set out in clause 5.3 provided always that if it is not lawful for the Company to distribute its surplus assets in accordance with the provisions of this Agreement, the Shareholders shall take any action required by an Investor Majority (including, but without prejudice to the generality of this clause 18.5, actions that may be necessary to put the Company into voluntary liquidation) so that clause 5.3 applies.

## 18.6 **Non-cash consideration**

For the purposes of clauses 5, 18.4 and 18.5, where the relevant proceeds comprise non-cash consideration (including, without limitation, any Liquid Securities), any valuation of such proceeds for the purpose of or in connection with the relevant Distribution, Sale or Asset Sale approved in writing by the Investor Majority (acting reasonably) shall apply.

## 18.7 **IPO or SPAC Transaction**

- (a) In the event that, in accordance with clause 18.1, the Investor Majority has determined to undertake an IPO or an SPAC Transaction, the Shareholders shall co-operate fully with each other and the Company and their respective financial and other advisers and use their reasonable endeavours to assist the Company to achieve an IPO or SPAC Transaction in accordance with the rules and regulations of the relevant exchange and other applicable laws and regulations.
- (b) If the Company and the Investor Majority approve an IPO or SPAC Transaction, each Minority Shareholder will have the right to participate according to its Relevant Proportion on a *pari passu* basis in relation to the Shares held by it and shall generally be treated equally (in its capacity as Shareholders) with the Investors in relation to the IPO or SPAC Transaction.
- (c) In the event of an IPO or SPAC Transaction, certain Shareholders may be required, on the instruction of the investment bank advising on the IPO or SPAC Transaction, to enter into 'lock-in' arrangements for a period of up to 180 days after the date of a IPO or SPAC Transaction (or such longer period as may be required by regulations or rules applicable to the IPO or SPAC Transaction) whereby such Shareholders will not be able to deal freely in their shares in the Company or its New Holding Company for such period and each of the Shareholders undertake to the Company to enter into any such arrangements if requested to do so.
- (d) Each of the parties undertakes to the others to execute (and or otherwise complete) any documents, resolutions, class consents, information requests, agreements, certificates, transfers or other contracts (including without limitation any share exchange agreements, amendments to any memorandum or articles of association of any Group Company, due diligence questionnaires, disclosure schedules, underwriting agreements, share purchase agreements or other documents reasonably required by an investment bank to complete an IPO or SPAC Transaction) (in their capacity as Shareholders and/or Directors (where applicable) of the Company and any other member of the Group) which are necessary or desirable to achieve an IPO or SPAC Transaction if that has been approved by the Investor Majority.

## 19 REORGANISATION TRANSACTIONS AND SYNDICATION

- (a) Upon the approval of the Board (with the consent of the Investor Majority), the Company may take, and may cause any Group Company to take, any actions necessary, appropriate or desirable to effect a Reorganisation Transaction so as to optimise the Group's corporate structure for the purposes of an Exit or Refinancing as shall be appropriate in light of tax, legal or other professional advice received by the Investors and/or the Group.
- (b) Each Shareholder acknowledges and agrees that:
  - (i) subject to clause 19(c), it may receive any shares or securities of any class issued by any Group member, as determined by the Board (with consent of the Investor Majority), by way of a dividend or distribution in kind or in exchange for, or otherwise in replacement of, Shares (the "**Replacement Securities**") as part of any such Reorganisation Transaction (in which case, to the extent applicable, this Agreement shall apply to any New Holding Company as if references to the Company were references to it); and
  - (ii) it shall enter into any documentation, provide any consents and exercise its voting rights (as Shareholder or otherwise) as are required to give effect to the Reorganisation Transaction.
- (c) The number of Replacement Securities to be received by any Shareholder as the result of any Reorganisation Transaction will, to the extent such Replacement Securities have not been sold or otherwise disposed of by such Shareholder in any IPO or otherwise after such Reorganisation Transaction in accordance with this Agreement, reflect the fair market value of the investment, prior to such Reorganisation Transaction, of such Shareholders in any Shares that are exchanged as part of the Reorganisation Transaction.
- (d) Investors acting by Investor Majority (**Syndicators**) may identify one or more persons (**Syndicatee**) to acquire up to 49% of the Shares or Debt Securities held by the Syndicators (**Syndication Shares or Syndication Debt** (as applicable)).
- (e) In respect of any Syndication Shares and Syndication Debt transferred to the Syndicatee, the Syndicatee must duly execute a Deed of Adherence and if so required by Investor Direction, accede in such capacity to any relevant banking documents as the Investor Majority requires.
- (f) No claim may be brought by the Syndicatee against a Group Company or any other party to this Agreement without consent of the Majority Investor.
- (g) Each party consents to any transfer of Syndication Shares and/or Syndication Debt made in accordance with this clause and waives any rights and other restrictions (including any rights of pre-emption) in connection with the transfer of the Syndication Shares and/or Syndication Debt to the Syndicatee, and agrees with the Syndicators to exercise their rights in any Group Company (whether as a holder of Shares or Debt Securities or as a director or both) to procure (so far as it is able) that full effect is given to the provisions of this clause and, in particular (but without limitation), to procure that the Syndicatee is approved by the Board of the Company (and any relevant Group Company) and entered in the Company's register of members (and the Company's register of persons with significant control, if relevant).

- (h) By adhering to this Agreement the relevant Syndicatee shall not be deemed to have assumed any obligations to, or to have entered into any fiduciary relationship with, the Syndicators. The Syndicators shall have no liability to the Syndicatee in respect of its decision to invest in the Group and the Syndicatee acknowledges and confirms to the Syndicators that it has not relied, and does not rely, on any information or advice provided by or on behalf of the Syndicators, or on any appraisal or investigation of the financial condition, affairs, status or nature of the Group carried out by or on behalf of the Syndicators and that the Syndicatee has made, and shall continue to make, its own assessment of such matters and of its investment in the Group.
- (i) To the extent lawful, the reasonable costs and expenses incurred by the Syndicators in connection with any transfer of Syndication Shares or Syndication Debt Securities in accordance with this clause, including out-of-pocket costs and fees of professional advisers, shall be borne by the Company or such other Group Company as the Company may nominate.

## **20 PROHIBITION ON SHARE TRANSFERS**

- (a) A Minority Shareholder must not, and must not agree to, transfer in any manner whatsoever and whether in whole or in part its legal or beneficial interest in its Shares unless it is expressly permitted or required under this Agreement or is to an Investor or has the prior written consent of the Investor Majority.
- (b) Each Investor shall be entitled to transfer the legal and/or beneficial interest of any of its Shares to any person without restriction as to price or otherwise, subject to compliance with this Agreement and the Articles.

## **21 PERMITTED TRANSFERS**

### **21.1 General**

- (a) Any transfer by a Shareholder made in accordance with clauses 14.2(b), 21.2, 21.2(a), 21.4 or **Error! Reference source not found.** (a "**Permitted Transfer**") may be made at any time without restriction as to price or otherwise other than as set out in such clauses (including clauses 23 and 24 which shall not apply to Permitted Transfers unless expressly stated therein).
- (b) Any Shareholder wishing to make a Permitted Transfer must give not less than 10 Business Days' prior written notice thereof to the Company and, before making the transfer, procure that the Permitted Transferee executes a Deed of Adherence.
- (c) Notwithstanding any other provision of this Agreement to the contrary, no Permitted Transfer shall be made by any Minority Shareholder to any Restricted Person.

### **21.2 Transfers by the Investor**

An Investor (with the consent of the Investor Majority) may transfer any Shares of which it is the holder to:

- (a) an Affiliate;
- (b) a Related Fund;

- (c) any other investment fund to whom the Shares are being transferred alongside investments (whether by way of shares or other securities) in other businesses or entities as part of a transaction pursuant to which a portfolio of investments managed by the original manager or adviser of the transferor is to be acquired by a new investment fund or investment funds managed by a replacement or successor manager or adviser;
- (d) any unitholder, shareholder, partner or participant in, or manager or adviser (or an officer or employee, past or present, of such partner, manager or adviser) of the Investor, any Affiliate or Related Fund; or
- (e) the beneficial owner or owners in respect of which the transferor is a nominee or custodian;
- (f) a Syndicatee in accordance with this Agreement;
- (g) any manager or custodian or nominee or other person so authorised, to be held solely on behalf of any person referred to in clauses 21.2(a) to 21.2(f) above (both inclusive);
- (h) any person on an Exit; or
- (i) any person in connection with a Reorganisation Transaction.

### 21.3 **Transfers by individuals**

A Shareholder who is an individual may, subject to the consent of the Investor Majority (such consent not to be unreasonably withheld), transfer any Shares of which it is the holder to any of its Privileged Relations and in accordance with the New Articles and/or the Shareholders' Agreement.

### 21.4 **Transfers with consent of the Investor Majority**

A Shareholder (who is not an Investor) may transfer any Shares of which it is the holder subject to the consent of the Investor Majority.

### 21.5 **Transfers following an Emergency Issue**

Any Shares which are issued to an Emergency Subscriber pursuant to an Emergency Issue may be transferred in accordance with clause 14.2(b).

### 21.6 **Action if transferee ceases to be a Privileged Relation**

If a Shareholder who holds Shares transferred to it under clause 21.3 is about to cease to be a Privileged Relation, the Shareholder must:

- (a) immediately notify the Company of such fact; and
- (b) transfer all the Shares it holds to the original Shareholder (or another Privileged Relation of the original Shareholder); and
- (c) before the transfer procure that the transferee executes a Deed of Adherence.

## 21.7 Provision of information to ensure compliance

For the purpose of ensuring that a transfer of Shares under clause 21.3 fulfils the criteria required by that clause, the Company may require the transferor to provide such information and evidence as it deems reasonably necessary including (but not limited to) the names, addresses and interests of all persons respectively having interests in the shares in the capital of the Company from time to time registered in the holder's name. If the information requested is not provided within 30 days of any such request being made, the transferor must not complete, and the Shareholders must procure that the Directors do not register, the transfer in question.

## 22 CLAWBACK

### 22.1 Compulsory Transfers

The Board shall (with the prior written consent of the Investor Majority) have the right to serve a Clawback Notice on:

- (a) any person entitled to a Share in consequence of the bankruptcy of a Shareholder;
- (b) any Shareholder in relation to which an Insolvency Event has occurred;
- (c) any Minority Shareholder who fails to make a transfer where required under clause 21.4 or 21.5 within the time period set out in such clause;
- (d) any Minority Shareholder who commits a material breach of this Agreement that is, following notification of such breach by the Company or the Investor Majority, is not remedied by the Shareholder to the reasonable satisfaction of the Company and the Investor Majority within 30 days of the notice of breach; and
- (e) any Minority Shareholder who suffers a change of Control such that it becomes Controlled by a Competitor.

### 22.2 Clawback process

- (a) If the Board serves a Clawback Notice in accordance with clause 22.1, the Shareholder who is subject to a Clawback Notice shall be deemed to have appointed the Company (acting by the Board) as the agent of the Shareholder for the sale of the Clawback Shares at the price set out in the Clawback Notice which shall be the Subscription Price of the Clawback Shares.
- (b) The terms of any Clawback Notice served under paragraph 22.1 above shall be as follows:
  - (i) the Shareholder who is subject to the Clawback Notice shall be considered as having sent:
    - (A) firstly, the Investors an irrevocable offer to purchase all the Shares held by it (the "**Clawback Shares**") on a pro rata basis by reference to the Relevant Proportions of the Investors;
    - (B) secondly, if the Investors have not exercised their rights under (1) above, the Company (subject to the Act) an irrevocable offer to purchase all the Clawback Shares; and

- (C) thirdly, if the Investors and the Company have not exercised their rights under (1) and (2) above, the other Shareholders (including the Investors) (the "**Continuing Shareholders**") an irrevocable offer to purchase all the Clawback Shares on a pro rata basis by reference to the Relevant Proportions of the other Shareholders (disregarding any Shares held by the Shareholder who is subject to the Clawback Notice); and (ii) the purchase price for each Clawback Share subject to the Clawback Notice shall be its Subscription Price.
- (c) If, following the service of a Clawback Notice, the Investors and the Company have not purchased the Clawback Shares in accordance with clause 22.2(b)(i) above, the Company shall send a written notice to each Continuing Shareholder indicating the total number of Clawback Shares that each Continuing Shareholder shall be entitled to purchase, the purchase price for the relevant Clawback Shares and the time during which the offer shall be open, which shall be not less than 10 Business Days (the "**Clawback Period**").
- (d) If a Continuing Shareholder wishes to purchase any or all of its Relevant Proportion of the Clawback Shares, it shall give notice in writing to the Company on or before the end of the Clawback Period, failing which the relevant Continuing Shareholder shall be deemed to have declined to subscribe for all of its Relevant Proportion in connection with the clawback. Any notice given by a Continuing Shareholder pursuant to this paragraph (d) shall be irrevocable.
- (e) Within 5 Business Days of the end of the Clawback Period, the Company shall give notice in writing to each Continuing Shareholder of the number of Clawback Shares which that Continuing Shareholder has committed to purchase and the time and place on which the sale and purchase is to be completed and the account details for the telegraphic transfer of the purchase moneys.
- (f) The Shareholder who is subject to the Clawback Notice shall be bound to transfer its Shares with full title guarantee and free from all Encumbrances in accordance with this clause 22 and deliver to each transferee a properly executed transfer form together with the relevant share certificate(s) (or, if not available, an indemnity in customary format) and such other documents are determined by the Company (the "**Clawback Sale Documents**").
- (g) If the Shareholder fails to deliver duly executed Clawback Sale Documents to the Company by the date set for the transfer by the Company, each Director shall be authorised as agent for and on behalf of such Shareholder to effect the relevant transfer(s) to the relevant purchaser(s) on the terms set out in the Clawback Notice (including by the execution and delivery of any Clawback Sale Documents on behalf of the defaulting Shareholder and delivery of stock transfer forms for the relevant Clawback Shares) and any consideration paid in respect of the Clawback Shares to the Company shall be held on trust for the Shareholder without any obligation to pay interest. The Directors shall then authorise registration of the transfer of the Clawback Shares, subject only to appropriate stamp duty having been paid. The transfer and receipt of the Company of any applicable consideration shall be a good discharge to the relevant purchaser to the purchase for the Clawback Shares. The defaulting Shareholder shall surrender his share certificate (or provide an appropriate indemnity) for his Clawback Shares to the Company. On surrender, he shall be entitled to any consideration due to him pursuant to clause 22.

- (h) If any Clawback Shares have not been sold under this clause 22, the Board shall be entitled to nominate any one or more persons (at the Board's discretion subject to the prior written consent of the Investor Majority) to whom any such unsold Clawback Shares shall be transferred at the Subscription Price of such Shares.
- (i) Any Clawback Shares offered under this clause 22 to an Investor may be accepted in full or in part only by any Affiliate of that Investor in accordance with the terms of this clause 22.
- (j) Any Clawback Share purchased by an Investor (or any Affiliate of that Investor) under this clause 22 shall be automatically and without requirement or resolution of the Board or the Members redesignated as an A Share.

## 23 TAG ALONG RIGHT

### 23.1 Tag Transfer

Except in the case of a Permitted Transfer (other than to a Proposed Purchaser), a Reorganisation Transaction, a Compulsory Transfer or any transfer pursuant to clause 24 (Drag along), the provisions of this clause 23 will apply if one or more Investors (the "**Selling Shareholders**") propose to transfer in one or a series of related transactions any Equity Shares (the "**Tag Transfer**") to a purchaser (the "**Tag Along Purchaser**") which would, if put into effect, result in a Company Change of Control.

### 23.2 Tag Offer

- (a) The Selling Shareholders must, before making a Tag Transfer, procure the making by the Tag Along Purchaser of an offer (the "**Tag Offer**") to the other Shareholders to acquire all of the Equity Shares held by them for a consideration per share the value of which is at least equal to the Specified Price (as defined in clause 23.5).
- (b) The Tag Offer must be given by written notice (a "**Tag Notice**") to the Company and the other Shareholders at least 10 Business Days (the "**Tag Offer Period**") prior to the proposed sale date ("**Tag Completion Date**"). The Proposed Sale Notice must set out, to the extent not described in any accompanying documents, the identity of the Tag Along Purchaser, the purchase price and other terms and conditions of payment, the proposed Tag Completion Date and the number of Shares proposed to be purchased by the Tag Along Purchaser.
- (c) If any other Shareholder is not offered the opportunity to participate pursuant to the rights accorded to them by this clause 23, the Selling Shareholders will not be entitled to complete their sale and the Company will not register any transfer intended to carry that sale into effect.
- (d) If a Shareholder wishes to exercise its Tag Along Right (in such event, a "**Tagging Shareholder**") with respect to its Shares (the "**Tag Along Shares**"), the Tagging Shareholder shall notify the Tag Along Sellers within the Tag Offer Period. Any Shareholder that does not notify the Tag Along Sellers within the Acceptance Period shall be deemed to have waived its Tag Along Right.
- (e) If the Tag Offer is accepted by any Tagging Shareholder within the Tag Offer Period, the completion of the Tag Transfer will be conditional upon the completion of the purchase of all the Shares held by Tagging Shareholders (the "**Tagging Shares**").

### 23.3 Tag Along Documents

- (a) Following expiry of the Tag Offer Period, the Selling Shareholders shall deliver to each Tagging Shareholder, not less than 5 Business Days prior to the proposed Tag Completion Date, the definitive sale and purchase agreement and any ancillary transfer documents (the "**Tag Along Documents**") to be executed by the Tagging Shareholders in relation to the Tag Along Shares.
- (b) The Tag Along Documents shall provide for the sale by the Tagging Shareholder to the Tag Along Purchaser of the Tag Along Shares with full title guarantee and free from all Encumbrances (each, a "**Tagging Transfer**"):
  - (i) for the Specified Price after deduction of the costs set out clause 23.4(b); and
  - (ii) in the case of the Tagging Shareholders, the only other warranties, representations or indemnities such persons shall be required to provide in the Tag-Along Documents are title and capacity warranties and indemnities limited in liability to an amount to be contributed by the respective Tagging Shareholders to a retention fund to cover any liability in relation to any matter under the Tag Along Documents, on a pro rata basis, as such indemnities and contributions to a retention fund are provided by the Selling Shareholders.
- (c) Not less than two Business Days prior to the proposed Tag Completion Date, each Tagging Shareholder shall return to the Company the duly executed Tag-Along Documents and the relevant share certificate(s) (or a duly executed indemnity for lost certificate in a form acceptable to the Board) all of which shall be held against payment of the aggregate consideration due to the Tagging Shareholder.

### 23.4 Tag Consideration

- (a) The consideration for the Shares sold by the Selling Shareholders and the Tag Along Shares (which may be cash consideration and/or non-cash consideration (including, without limitation, any Liquid Securities)) shall, following payment of any Sale Costs, be paid to the Selling Shareholders and the Tagging Shareholders (or, in the case of non-cash consideration, issued, paid, transferred or otherwise satisfied) in accordance with the provisions of clauses 5 and 18.
- (b) Each Tagging Shareholder shall bear such Tagging Shareholder's share of the Sale Costs of the Tag Transfer and the Tagging Transfers in the same proportions the Selling Shareholders and the Tagging Shareholders are entitled to share in the total consideration paid by the Tag Along Purchaser in respect of the Tag Transfer and the Tagging Transfers.

### 23.5 Specified Price

- (a) For the purpose of this clause:
  - (i) the expression "**Specified Price**" shall mean in respect of each Share a sum in cash equal to the highest price per Share offered or paid by the Tag Along Purchaser:
    - (A) in the Tag Transfer; or



- (B) in any related or previous transaction by the Tag Along Purchaser or any person Acting in Concert with the Tag Along Purchaser in the 12 months preceding the date of the Tag Transfer,

plus an amount equal to the Relevant Sum, as defined in clause 23.5(a)(ii), of any other consideration (in cash or otherwise) paid or payable by the Tag Along Purchaser or any other person Acting in Concert with the Tag Along Purchaser, which having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or payable for the Shares (the "**Supplemental Consideration**") provided that the total consideration paid by the Tag Along Purchaser in respect of the Tag Transfer and the Tagging Transfers is distributed to the Selling Shareholders and the Tagging Shareholders in accordance with the provisions of clauses 5 and 18;

- (ii) "**Relevant Sum**" =  $C \div A$

where: A = number of Equity Shares being sold in connection with the relevant Tag Transfer;

C = the Supplemental Consideration.

## 23.6 Default

If a Tagging Shareholder fails to deliver duly executed Tag Along Documents to the Company or the Tag Along Purchaser by the Tag Completion Date, each Director shall be authorised as agent for and on behalf of such Tagging Shareholder to effect the relevant Tagging Transfer to the relevant Tag Along Purchaser on the terms set out in the Tag Notice (including by the execution and delivery of any Tag Along Documents on behalf of the Tagging Shareholder and delivery of stock transfer forms for the relevant Tagging Shares) and any consideration paid to the Company under the Tag Along Documents in respect of the Tagging Shares shall be held on trust for the Tagging Shareholder without any obligation to pay interest. The Directors shall then authorise registration of the transfer of the Tagging Shares, subject only to appropriate stamp duty (if any is required) having been paid. The transfer and receipt by the Company of any consideration due shall be a good discharge to the relevant purchaser to the purchase for the Tagging Shares. The defaulting Tagging Shareholder shall surrender his share certificate (or provide an appropriate indemnity) for his Tagging Shares to the Company. On surrender, he shall be entitled to the consideration due to him pursuant to clause 23.4.

## 24 DRAG ALONG OPTION

### 24.1 Trigger

If the Investors constituting an Investor Majority (the "**Dragging Shareholders**") wish to transfer all their interest in Shares on arm's length terms (the "**Sellers' Shares**") to a Proposed Purchaser, the Dragging Shareholders shall have the option (the "**Drag Along Option**") to compel each other holder of Shares (each a "**Called Shareholder**" and together the "**Called Shareholders**") to sell and transfer all their Shares to the Proposed Purchaser or as the Proposed Purchaser shall direct (the "**Drag Purchaser**") in accordance with the provisions of this clause 24.

### 24.2 Drag Along Notice

- (a) The Dragging Shareholders may exercise the Drag Along Option by giving a written notice to that effect (a "**Drag Along Notice**") to the Company, which the Company

shall forthwith copy to the Called Shareholders, at any time before the transfer of the Sellers' Shares to the Drag Purchaser. A Drag Along Notice shall specify that:

- (i) the Called Shareholders are required to transfer all their Shares (the "**Called Shares**") under this clause 24;
- (ii) the person to whom they are to be transferred;
- (iii) the consideration (whether in cash or Liquid Securities but not other non-cash consideration) for which the Called Shares are to be transferred (calculated in accordance with this clause 24);
- (iv) the proposed date of transfer, and
- (v) the form of any sale agreement or form of acceptance or any other document of similar effect that the Called Shareholders are required to sign in connection with such sale (the "**Sale Agreement**"),

(and, in the case of paragraphs (ii) to (iv) above, whether actually specified or to be determined in accordance with a mechanism described in the Drag Along Notice). No Drag Along Notice or Sale Agreement may require a Called Shareholder to agree to any terms except those specifically provided for in this clause 24.

- (b) Drag Along Notices shall be irrevocable but will lapse if for any reason there is not a sale of the Sellers' Shares by the Dragging Shareholders to the Drag Purchaser within 60 Business Days after the date of service of the Drag Along Notice. The Dragging Shareholders shall be entitled to serve further Drag Along Notices following the lapse of any particular Drag Along Notice.

### 24.3 Drag Documents

- (a) Within three Business Days of the Company copying the Drag Along Notice to the Called Shareholders (or such later date as may be specified in the Drag Along Notice) (the "**Drag Completion Date**"), each Called Shareholder shall deliver:
  - (i) duly executed stock transfer form(s) for its Shares in favour of the Drag Purchaser;
  - (ii) the relevant share certificate(s) (or a duly executed indemnity for lost certificate in a form acceptable to the Board) to the Company; and
  - (iii) duly executed Sale Agreement, if applicable, in the form specified in the Drag Along Notice or as otherwise specified by the Company,(together the "**Drag Documents**").
- (b) The Drag Documents shall provide for the sale by the Called Shareholders to the Drag Purchaser of the Shares with full title guarantee and free from all Encumbrances:
  - (i) for the Drag Consideration after deduction of the costs set out in clause 24.4(b); and
  - (ii) in the case of the Called Shareholders, the only other warranties, representations or indemnities such persons shall be required to provide in

the Drag Documents are title and capacity warranties and (where relevant) leakage undertakings and such title and capacity warranties shall be limited in liability to an amount to be contributed by the respective Called Shareholders to a retention fund to cover any liability in relation to any matter under the Drag Documents, on a pro rata basis, as such indemnities and contributions to a retention fund are provided by the Dragging Shareholders.

#### 24.4 Drag Consideration

- (a) The consideration (in cash or Liquid Securities but not other non-cash consideration) for which the Called Shareholders shall be obliged to sell each of the Called Shares shall be that to which they would be entitled, following the payment of any Sale Costs, if the total consideration proposed to be paid, allotted or transferred by the Drag Purchaser were distributed to the holders of the Called Shares and the Sellers' Shares in accordance with the provisions of clauses 5 and 18 (the "**Drag Consideration**").
- (b) Each Called Shareholder shall bear such Called Shareholder's share of the Sale Costs of the sale by the Dragging Shareholders and the Called Shareholders in the same proportions the Dragging Shareholders and the Called Shareholders are entitled to share in the total consideration paid by the Drag Purchaser in respect of such sale.
- (c) On the Drag Completion Date, where:
  - (i) it is possible and reasonably practicable for the Buyer to pay any Called Shareholder directly, it shall do so in accordance with the terms of any Sale Agreement; or
  - (ii) the Buyer is not able to pay any Called Shareholder directly, the Company shall pay or transfer to each Called Shareholder, on behalf of the Drag Purchaser, the Drag Consideration that is due to the extent the Drag Purchaser has paid, allotted or transferred such consideration to the Company. The Company's receipt of the Drag Consideration shall be a good discharge to the Drag Purchaser. Following the Company's receipt of the Drag Consideration, but pending its payment or transfer to the Called Shareholder, the Company shall hold the Drag Consideration in trust for each of the Called Shareholders without any obligation to pay interest.

#### 24.5 Default

- (a) To the extent that the Drag Purchaser has not, on the Drag Completion Date, paid, allotted or transferred the Drag Consideration that is due to the Company, the Called Shareholders shall be entitled to the immediate return of the Drag Documents for the relevant Shares and the Called Shareholders shall have no further rights or obligations under this clause 24 in respect of their Shares.
- (b) If a Called Shareholder fails to deliver the Drag Documents for its Shares to the Company by the Drag Completion Date, the Company and each Director shall be constituted the agent of such defaulting Called Shareholder to take such actions and enter into any Drag Document or such other agreements or documents as are necessary to effect the transfer of the Called Shareholder's Shares pursuant to this clause 24 and the Directors shall, if requested by the Drag Purchaser, authorise any Director to transfer the Called Shareholder's Shares on the Called Shareholder's behalf to the Drag Purchaser. The Board shall then authorise registration of the transfer once appropriate stamp duty (if any is required) has been paid. The defaulting

Called Shareholder shall surrender his share certificate for his Shares (or suitable executed indemnity) to the Company. On surrender, he shall be entitled to the Drag Consideration due to him.

#### **24.6 New Shareholders**

On any person, following the issue of a Drag Along Notice, becoming a Shareholder pursuant to the exercise of a pre-existing option or warrant to acquire shares in the Company or pursuant to the conversion of any convertible security of the Company (a "**New Shareholder**"), a Drag Along Notice shall be deemed to have been served on the New Shareholder on the same terms as the previous Drag Along Notice who shall then be bound to sell and transfer all Shares so acquired to the Drag Purchaser and the provisions of this Article shall apply with the necessary changes to the New Shareholder except that completion of the sale of the Shares shall take place immediately on the Drag Along Notice being deemed served on the New Shareholder.

#### **25 NO VOTING ARRANGEMENTS**

Each Minority Shareholder hereby undertakes to the Investors that it will not collude with, or in any way direct, or enter into any voting arrangement with any other Minority Shareholders to vote in a particular way in relation to any matter set out under this Agreement. For the avoidance of doubt, this provision does not prevent the Minority Shareholders from discussing and sharing views amongst themselves on the Company, Target, the Business or this Agreement.

#### **26 DEED OF ADHERENCE**

##### **26.1 No allotment or transfer without a Deed of Adherence**

Without prejudice to any other provision of this Agreement, a person (who is not already a party) acquiring any Shares (whether by allotment, issue, transfer or transmission) must not be registered as the holder of those Shares unless and until that person has entered into and delivered to the Board a Deed of Adherence in a legally binding manner, and a party transferring any Shares must procure that the transferee (if not already a party), by the time of transfer, enters into and delivers a Deed of Adherence to the Company.

##### **26.2 Designation as Minority Shareholder or Investor**

- (a) A person (other than a Minority Shareholder) who enters into a Deed of Adherence because that person acquires A Shares from an Investor (or an Investor's nominee) must be designated by the Deed of Adherence as an Investor unless the Investor Majority designates otherwise.
- (b) A person (other than an Investor) who enters into a Deed of Adherence because that person acquires B Shares from a Minority Shareholder must be designated in the Deed of Adherence as a Minority Shareholder unless the Investor Majority designates otherwise.
- (c) A subscriber for new Shares must be designated in the manner determined by the Investor Majority.

## 26.3 **Benefit and burden of Agreement**

A person who has entered into a Deed of Adherence in accordance with this Agreement has the benefit, and is subject to the burden, of all the provisions of this Agreement as if that person is a party in the capacity designated in the Deed of Adherence, and this Agreement must be interpreted accordingly.

## 27 **POWER OF ATTORNEY**

### 27.1 **Mandatory Actions**

In order to secure their obligations under clauses 18 (Exit, Refinancing And Distributions), 19 (Reorganisation Transactions), 22 (Clawback) and 24 (Drag Along Option) (the "**Mandatory Action Provisions**"), each Minority Shareholder hereby irrevocably appoints the Company and any person or persons nominated by the Investor Majority (each, a "**Mandatory Action Attorney**") by way of security to severally act as his or its attorney with authority in the Minority Shareholders Name and on his or its behalf:

- (a) to act on his or its behalf and execute and sign any and all agreements, instruments, deeds or other papers and documents and to do all things in the Minority Shareholder's name as the Mandatory Action Attorney may in its discretion consider necessary or desirable to satisfy such obligations under the Mandatory Action Provisions; and
- (b) to receive notice of and consent to the holding of any meetings of the Company or of any class of shareholders at short notice, to attend and vote at any meeting of the Company or of any class of shareholders including at any adjournment of any such meeting and to sign any written resolutions of the Company or of any class of shareholders in respect of any Mandatory Action Provisions,

and each Mandatory Action Attorney will be entitled to delegate the exercise of such authority from time to time, but such delegate will not be authorised to delegate such authority further.

### 27.2 **Tag Along**

In order to secure their obligations under clause 23 (Tag Along Right) (the "**Tag Provision**"), each Minority Shareholder who accepts a Tag Offer, with effect from the time at which such Minority Shareholder accepts the relevant Tag Offer, irrevocably appoints the Company and any person or persons nominated by the Investor Majority (each, a "**Tag Attorney**") to act as his attorney with authority in the Minority Shareholder's name and on his or its behalf:

- (a) to act on his or its behalf and execute and sign any and all agreements, instruments, deeds or other papers and documents and to do all things in the Minority Shareholder's name as the Tag Attorney may in its discretion consider necessary or desirable to satisfy such obligations under the Tag Provision; and
- (b) to receive notice of and consent to the holding of any meetings of the Company or of any class of shareholders at short notice, to attend and vote at any meeting of the Company or of any class of shareholders including at any adjournment of any such meeting and to sign any written resolutions of the Company or of any class of shareholders in respect of a Tag Transfer and the Tagging Transfers,

and the Tag Attorney will be entitled to delegate the exercise of such authority from time to time, but such delegate will not be authorised to delegate such authority further.

## 27.3 Declarations

- (a) Each Minority Shareholder hereby declares that the powers of attorney granted by them under this clause 27 are conclusive and binding on him and that each and every act and thing done by any Mandatory Action Attorney and/or Tag Attorney pursuant to this clause 27 will be good and effectual as if the same had been done by them and each Minority Shareholder hereby undertakes at all times hereafter to ratify and confirm whatsoever Mandatory Action Attorney and/or Tag Attorney lawfully does or causes to be done by virtue of this power of attorney.
- (b) Each Minority Shareholder irrevocably and unconditionally undertakes at all times to indemnify and keep indemnified the Mandatory Action Attorney and/or Tag Attorney against all or any actions, proceedings, claims, costs, expenses and liabilities whatsoever arising from the exercise or purported exercise of the powers conferred or purported to be conferred by this power of attorney provided that such exercise or purported exercise does not constitute an act of wilful misconduct, deliberate default or fraud.
- (c) Each Minority Shareholder declares that the powers of attorney granted by him under this clause 27, having been given by them to the Mandatory Action Attorney and/or Tag Attorney to secure their obligations under the Mandatory Action Provisions and the Tag Provision, will be irrevocable in accordance with section 4 of the Powers of Attorney Act 1971.

## 28 MINORITY SHAREHOLDERS ACKNOWLEDGMENTS

- (a) Each Minority Shareholder acknowledges that:
  - (i) it or they are not owed any duty of care or other obligation by any Investor, any Affiliate of an Investor or any Investor Director in connection with their decision to enter into this Agreement and the transactions contemplated by this Agreement (other than as expressly set out in this Agreement).
  - (ii) it or they have sought independent advice in connection with their decision to enter into this Agreement and the transactions contemplated by this Agreement.
- (b) The Company and each Minority Shareholder acknowledges and confirms that:
  - (i) it or they are not being treated as a client of an Investor (or an Affiliate of an Investor); and
  - (ii) no Investor or Affiliate of an Investor is responsible to any of them for providing the protections afforded to such person's clients or advising any of them in relation to this Agreement and the transactions contemplated by this Agreement.

## 29 DURATION

### 29.1 When Agreement terminates

This Agreement terminates:

- (a) On an Exit (provided in the case of a Sale, the Exit shall not be deemed to have occurred for the purposes of this clause until all holders of Shares have ceased to hold any Shares and in the case of an Asset Sale the Exit shall not be deemed to have occurred for the purposes of this clause until the proceeds from such Asset Sale have been applied and distributed in accordance with this Agreement), the provisions of this Agreement shall cease to have effect except that:
  - (i) the Surviving Provisions shall continue to apply in relation to the obligations of the Minority Shareholders; and
  - (ii) each party's accrued rights and obligations shall not be affected, including a party's right to claim for a breach of the other party's obligations in relation to this Agreement if that breach occurred before termination and each party must continue to comply with each provision of this Agreement necessary for a party to enforce such a right; or
- (b) when the Shares are no longer held by two or more persons who are members of different Groups.

## 29.2 Rights and obligations of departing Shareholders

A Shareholder ceases to have any further rights or obligations under this Agreement on ceasing to hold any Shares, except that:

- (a) the Surviving Provisions shall continue to apply in relation to the obligations of the Minority Shareholders; and
- (b) each party's accrued rights and obligations shall not be affected.

## 30 CONSENTS

- (a) Where any provision of this Agreement requires any consent or approval of the Minority Shareholders (or such consent or approval is otherwise sought), or provides for any action or direction by the Minority Shareholders (including with respect to any Minority Shareholder Veto), such consent, approval, action or direction shall be given (or withheld) by the Minority Shareholders (acting by the holders of at least 50% of the Fully Diluted B Shares) (acting reasonably and in good faith) and shall be valid only if in writing.
- (b) Where any provisions of this Agreement requires any consent or approval of the Investors, or provides for any action or direction by the Investors:
  - (i) such consent, approval, action or direction shall be given by the Investor Majority on behalf of the investors and shall be valid only if in writing; and
  - (ii) the Investor Majority shall have a complete and unfettered discretion as to whether or not to give the consent, approval, action or direction and whether or not to impose any terms, conditions or limitations on any such consent or approval.
- (c) No Director shall be authorised to give any consent, approval, action or direction on behalf of the Investors or the Investor Majority.

## **31 STATUS OF AGREEMENT**

### **31.1 Shareholders to give effect to the Agreement**

The Shareholders must execute and perform all such deeds, documents, assurances, acts and things and exercise all powers and rights available to them, including the convening of all meetings and the giving of all waivers and consents and passing of all resolutions (including at class meetings) reasonably required to ensure that the Shareholders, the Directors appointed by them (and any alternate Directors) and, so far as any obligations are expressed to be imposed on them, the Company and any of its subsidiaries give effect to the terms of this Agreement.

### **31.2 Conflict with articles of association**

Without prejudice to clause 31.1, the Shareholders agree that if any provision in the Articles conflicts with any provision of this Agreement:

- (a) this Agreement will prevail; and
- (b) the Shareholders must exercise their powers of voting and any other rights and powers they have to amend waive or suspend the conflicting provision to the extent necessary to permit the Company and the Business to be carried on as provided by this Agreement.

## **32 CONFIDENTIALITY AND ANNOUNCEMENTS**

### **32.1 Confidential information**

"**Confidential Information**" means all or any information of a confidential nature disclosed (whether before or after the date of this Agreement) by or on behalf of one party and all information concerning the business or property of the Company or a Group Company or any business, property or transaction in which the Company or a Group Company may be or may have been concerned or interested.

### **32.2 Confidentiality undertaking**

Except as provided in clauses 32.4, 32.5, 32.6 or 32.7 or otherwise by this Agreement, each party must:

- (a) keep the others' Confidential Information strictly confidential;
- (b) not use, reproduce or record in any medium or form any of the other's Confidential Information except to the extent that it is strictly necessary for the proper purposes of this Agreement; and
- (c) not disclose the others' Confidential Information to any third party.

### **32.3 Announcements**

- (a) Except as provided by clause clauses 32.4, 32.5, 32.6 or 32.7, a party must not, without the prior written consent of the other parties:
  - (i) release any press statement regarding its relationship with any other; or
  - (ii) make any announcement relating to the relationship of the parties.



- (b) No party shall, without the prior written consent of the Investor Majority, make any announcement or issue any communication, circular or press release or make any other public statement, before or after the Effective Date, in connection with the existence or the subject matter of this Agreement or its investment in the Group.

#### **32.4 Permitted disclosures**

32.4.1. Each party may disclose Confidential Information to those of its directors, employees and professional advisers who in each case reasonably require the information for the purposes of this Agreement, performing their respective obligations under this Agreement and/or enjoying their respective rights and benefits under this Agreement, and each party must place all such persons to whom it permits access to such information under confidentiality obligations substantially equivalent to those contained in this clause 32 (but which must also include an obligation on such persons not to disclose the terms of this Agreement save where it falls within an exception contained in clause 32.7) and must take all reasonable steps open to it to enforce such obligations.

32.4.2 The Parties further recognise that under the disclosure requirements of the Code in connection with the Acquisition, certain details and terms of this Agreement shall be required to be publicly disclosed.

#### **32.5 Disclosure of information by Investor Directors**

Each Investor Director may disclose any information received from a Group member (or any information, whether Confidential Information or not, of or relating to, a Group member) to each Investor.

#### **32.6 Disclosure of information by Investors**

Each Investor may disclose any information received from a Group member or an Investor Director (or any information, whether Confidential Information or not, of or relating to, a Group member) to:

- (a) an Affiliate of that Investor;
- (b) any limited partner, shareholder, unitholder or other participant or prospective participant in that Investor or any manager, trustee or nominee of that Investor or any Affiliate of that Investor;
- (c) any director, employee or officer or agent or adviser of an Investor or any other person falling within this clause 32.6;
- (d) any custodian, depository or external valuer of that Investor or any of its Affiliates;
- (e) a potential purchaser of or investor in shares or securities in a Group member or of assets (or the whole or part of the undertaking) of a Group member or otherwise in connection with an Exit, proposed Exit or other sale of shares or securities by an Investor or Affiliate of an Investor;
- (f) a professional adviser to a person falling within this clause 32.6;
- (g) a person to whom it is required to pass or publish the information by law or by any rule having legal effect of, or by, any regulatory body or authority or any taxation authority to which an Investor or any Affiliate of an Investor is subject; and

- (h) a Related Fund.

### **32.7 Exceptions**

The obligations of confidentiality and restrictions on announcements and public statements imposed in this clause 32 do not apply to any Confidential Information:

- (a) that the recipient is required to disclose, or to any announcement or public statement which a party is required to make, by any applicable law (including the Code) or by any competent authority (including tax authorities and the rules of any relevant stock exchange or listing authority) provided that, to the extent lawfully permitted, the party making such disclosure notifies the other parties before (or if that is not practicable, immediately after) such disclosure is made and makes reasonable attempts to ensure that the information is treated as confidential by such authority;
- (b) which the recipient can reasonably demonstrate is in the public domain otherwise than by a breach of this Agreement by the disclosing party or by any person subject to an obligation of confidentiality;
- (c) which is already known to the recipient (as evidenced by its written records) at the date of disclosure; or
- (d) which is required to be disclosed by a court order.

### **33 PARTNERSHIP**

The parties to this Agreement are not in partnership with each other and there is no relationship of principal and agent between them.

### **34 LANGUAGE**

This Agreement is in English. If this Agreement is translated into another language, the English language version will prevail.

### **35 ASSIGNMENT**

#### **35.1 Generally no assignment**

Except as provided in this Agreement, no party may assign or in any other way dispose of any of its rights or obligations under this Agreement without the prior written consent of the Investor Majority (in the case of the Group or the Minority Shareholders) or Minority Shareholder Consent (in the case of the Investors).

#### **35.2 Transfer of rights and obligations to Investor Permitted Transferees**

Rights under this Agreement may be assigned (and obligations novated to) by an Investor to any Affiliate or Related Fund of such Investor or any Syndicatee or any other person becomes a holder of A Shares in accordance with this Agreement and/or the Articles without the consent of any other party.

## 36 NOTICES

### 36.1 Method of giving a notice or other communication

A notice, permission or other communication under or in connection with this Agreement must be:

- (a) in writing;
- (b) in English;
- (c) dated with the date it is served/given; and
- (d) be left at the address of the addressee, or sent by pre-paid registered post to the address of the addressee or sent by e-mail to the e-mail address of the addressee which is specified in this clause 36.2 or to such other address or e-mail address as may be notified by such addressee by giving notice in accordance with this clause 36.1.

### 36.2 Addresses

The contact, address and email address number for each party and copy recipient is (unless otherwise notified under clause 36.1):

- (a) in the case of Topco as follows:

Address: [◆]  
E-mail address: [◆]  
For the attention of: [◆]

With a copy (which shall not constitute notice) to:

Address: [◆]  
E-mail address: [◆]  
For the attention of: [◆]

- (b) in the case of each Minority Shareholder, to the address, email address and attention of such persons named in Schedule 1, in the case of each Initial Minority Shareholder, in the case of other Minority Shareholders, as notified under the acceptance documentation in connection with the Acquisition and/or relevant Deed of Adherence;

- (c) in the case of the Company as follows:

Address: [◆]  
E-mail address: [◆]  
For the attention of: [◆]

With a copy (which shall not constitute notice) to:

Address: [◆]  
E-mail address: [◆]  
For the attention of: [◆]

### **36.3 Time that notice or communication is deemed given**

Unless there is evidence that it was received earlier, a notice or other communication that complies with clause 36.1 is deemed given:

- (a) if delivered by hand, at the time of delivery, except as provided in clause 36.4;
- (b) if sent by recorded delivery post, at 9.00 am on the Business Day after the day of posting;
- (c) if sent by e-mail, when despatched (subject to confirmation of delivery by a delivery receipt), except as provided in clause 36.4.

### **36.4 Effect of delivery by hand after 6.00 pm or on a non-Business Day**

- (a) If deemed delivery under clause 36.3 of a notice or other communication delivered by hand occurs before 9.00 am on a Business Day, the notice or other communication is deemed delivered at 9.00 am on that day.
- (b) If deemed delivery under clause 36.3 of a notice or other communication delivered by hand occurs after 6.00 pm on a Business Day or on a day which is not a Business Day, the notice or communication is deemed to have been given at 9.00 am on the next Business Day.

### **36.5 Relevant time of day**

In this clause, a reference to time is to local time in the country in which the recipient of the notice or communication is located.

### **36.6 Notification of change in notice details**

A party may notify another party of a change to any of the details for it. The notice must comply with the terms of clause 36.1 and must state the date on which the change is to occur. That date must be on or after the fifth Business Day after the date on which the notice is delivered.

## **37 COSTS**

Except where this Agreement provides otherwise, each party must pay its own costs incurred in connection with the negotiation, preparation, execution and implementation of this Agreement.

## **38 COMPLIANCE COVENANTS**

Each Shareholder undertakes to the others that:

- (a) it will not engage in any activity, practice or conduct which would constitute an offence under any Anti-Corruption Laws, Anti-Money Laundering Laws or Economic Sanctions Laws;
- (b) it has, and will maintain in place, and, to the extent that it is able in its capacity as a Shareholder and pursuant to the rights it has under this Agreement, will procure that the Company has, and will at all times maintain in place, Adequate Procedures; and

- (c) from time to time, at the reasonable request of the Investor Majority, it will confirm in writing that it has complied with its undertakings in respect of itself under clause 38(a) and clause 38(b), and will provide any information reasonably requested by the Investor Majority in support of such compliance.

### **39 VARIATION**

- (a) No amendment, change or addition to this Agreement is effective or binding on a party unless in writing and executed by the Company, the Investor Majority and the Minority Shareholders (acting by the holders of at least 50% of the Fully Diluted B Shares), except that amendments to this Agreement may be made solely by the Investor Majority and the Company in writing without the involvement or agreement of the other parties in the following circumstances:
  - (i) if the effect or application of such amendment does not materially adversely affect the economic or legal position of the rights of any other party to this Agreement in a disproportionate manner as compared to the Investors (in each case in their capacity as Shareholders) whose consent to such amendment has not been obtained; or
  - (ii) an amendment to clause 5 to reflect the rights of any new class of Securities to proceeds on a Distribution or Exit provided such Securities are issued in accordance with the provisions of this Agreement,
- (b) Any amendment, change or addition to this Agreement made in accordance with paragraph (a) shall be binding against all of the parties hereto.

### **40 WAIVER**

Failure to exercise, or a delay in exercising, a right or remedy provided by this Agreement or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies. No single or partial exercise of a right or remedy provided by this Agreement or by law prevents the further exercise of the right or remedy or the exercise of another right or remedy. A waiver of a breach of this Agreement does not constitute a waiver of a subsequent or prior breach of this Agreement.

### **41 RIGHTS AND REMEDIES ARE CUMULATIVE**

The rights and remedies provided by this Agreement are cumulative and do not exclude any rights and remedies provided by law.

### **42 COUNTERPARTS**

- (a) This Agreement may be executed in any number of counterparts and by the different parties on separate counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.
- (b) Transmission of the executed signature page of a counterpart of this Agreement by (a) fax or (b) email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this Agreement. If either method of delivery is adopted, without prejudice to the validity of the Agreement thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.

#### **43 EFFECT OF THE EFFECTIVE DATE**

Each obligation under this Agreement which has not been fully performed by the Effective Date remains in force after the Effective Date.

#### **44 ENTIRE AGREEMENT**

##### **44.1 Entire Agreement**

This Agreement sets out the entire agreement between the parties in respect of the subject matter of this Agreement and supersedes any previous agreement or arrangement between the parties relating to such subject matter.

##### **44.2 No reliance on a statement outside this Agreement**

Each party agrees and acknowledges that it has not relied on or been induced to enter into this Agreement by a warranty, statement, representation or undertaking which is not expressly included in this Agreement.

##### **44.3 No remedy for a statement outside this Agreement**

No party has any claim or remedy in respect of a warranty, statement, misrepresentation (whether negligent or innocent) or undertaking made to it by or on behalf of another party in connection with the subject matter of this Agreement or which is not expressly included in this Agreement.

##### **44.4 Clause does not apply in the event of fraud**

Nothing in this clause 44 limits or excludes liability arising as a result of fraud, wilful concealment or wilful misconduct.

#### **45 INVALIDITY**

If a provision of this Agreement is found to be illegal, invalid or unenforceable, then to the extent it is illegal, invalid or unenforceable, that provision will be given no effect and will be treated as though it were not included in this Agreement, but the validity or enforceability of the remaining provisions of this Agreement will not be affected.

#### **46 THIRD PARTY RIGHTS**

Except as expressly provided by this Agreement, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce this Agreement.

#### **47 GOVERNING LAW**

This Agreement, the jurisdiction clause contained in it and all non-contractual obligations arising in any way whatsoever out of or in connection with this Agreement are governed by, construed and take effect in accordance with English law.

#### **48 JURISDICTION**

The courts of England have exclusive jurisdiction to settle any claim, dispute or matter of difference which may arise in any way whatsoever out of or in connection with this Agreement

(including without limitation claims for set-off or counterclaim) or the legal relationships established by this Agreement (a "**Dispute**").

#### **49 SERVICE OF PROCESS**

A document which starts or is otherwise required to be served in connection with any legal action or proceedings relating to a Dispute ("**Process Document**") may be served in the same way as notices in accordance with clause 36. This sub-clause does not prevent a Process Document being served in another manner permitted by law.

#### **50 APPOINTMENT OF AGENT FOR SERVICE**

- (a) From the Effective Date, each Minority Shareholder who is not resident in England or Wales must at all times maintain an agent for service of process in England and Wales.
- (b) Any Process Document will be sufficiently served on the relevant Minority Shareholder (as the case may be) if delivered to the agent at its address for the time being.
- (c) A party must not revoke the authority of the agent it has appointed (but, for the avoidance of doubt, may appoint a replacement agent, subject to compliance with (e) below). If an agent ceases to be able to act as such or to have an address within the jurisdiction of the English courts, the relevant Minority Shareholder must promptly appoint another agent (with an address for service within the jurisdiction of the English courts).
- (d) A party must notify the other parties within 14 days of any change in the identity or address of its agent for service of process.
- (e) This clause 50 does not prevent a Process Document being served in another manner permitted by law.

**THIS DOCUMENT** has been executed as a deed and is delivered on the date stated at the beginning of it.

Executed as a deed by )  
**Frisbee Topco Limited** ) .....  
acting by a director in the presence of ) Director

.....  
Signature of witness

Name .....

Address .....

.....

Executed as a deed by )  
**Frisbee Bidco Limited** ) .....  
acting by a director in the presence of ) Director

.....  
Signature of witness

Name .....

Address .....

.....

Executed as a deed by )  
[•] )  
in the presence of ) .....

.....  
Signature of witness

Name .....

Address .....

.....



Executed as a deed by )  
[•] )  
in the presence of ) .....

.....  
Signature of witness

Name .....

Address .....

.....

Schedule 1

MINORITY SHAREHOLDERS

NAME	DETAILS FOR NOTICES
John Duffy	Address: [•] Email address: [•]
[•]	Address: [•] Email address: [•]  <b>AG Note: Others to be confirmed once agreed</b>

## Schedule 2

### INVESTOR RESERVED MATTERS

#### Part 1 - STRUCTURAL MATTERS

- 1 Permit or cause to be proposed any alteration to its share capital (including any increase or removal of the limit on the number of shares that may be allotted by the Company, any reorganisation, sub-division, consolidation, conversion or re-designation) or the rights attaching to its shares or waive any right to receive payment on any of its shares issued partly paid.
- 2 Create, allot, issue, buy-in or redeem any share or loan capital (including any Preference Shares or Debt Securities) or grant or agree to grant any options (other than pursuant to an Employee Incentive Plan) or warrants for the issue of any share or loan capital or issue any securities convertible into shares, or establish any Employee Incentive Plan, except in accordance with this Agreement.
- 3 Permit the Company to hold any Treasury Shares or permit the sale or transfer or cancellation of any shares held by the Company as Treasury Shares.
- 4 Capitalise any reserves of any Group member or apply any amount for the time being standing to the credit of the share premium account or capital redemption reserve of any Group member for any purpose.
- 5 Pass any resolution to alter the memorandum of association or articles of association of the Company or any Group member.
- 6 Pass any resolution or other action to change the name of the Company or any Group member.
- 7 Pass any resolution to wind up the Company or any Group member.

#### Part 2 - OPERATIONAL MATTERS

- 8 Declare or pay any dividend or other Distribution.
- 9 Make any change to the accounting policies of any Group member unless such change is required by law or by virtue of a new statement of standard accounting practice.
- 10 Make any material amendment to any Business Plan which has been approved by the Investor Majority or adopt any plan or take any action materially inconsistent with such annual business plan.
- 11 Effect a Reorganisation Transaction, Refinancing or an Exit.
- 12 Incur any borrowings other than in the ordinary course of trading and in accordance with the budget contained in the relevant Business Plan approved by the Investor.
- 13 Factor any debts or enter into invoice discounting arrangements.
- 14 Create, issue or allow to come into being any mortgage or charge over any assets save for charges arising by operation of law in the ordinary course of business.
- 15 Provide any guarantee or indemnity other than in the ordinary course of business.

- 16 Incur any capital expenditure not provided for in the relevant Business Plan approved by the Investor or incur any capital expenditure for any one item not specifically provided for in the relevant Business Plan in excess of £150,000.
- 17 Acquire any interest in the share capital or instruments convertible into share capital of any other company or body corporate or sell, transfer or otherwise dispose of any share or interest in any share in the capital of any Group member.
- 18 Acquire the assets and undertaking of any other business entity or sell, transfer or otherwise dispose of the whole or any part of the business, assets and undertaking of the Company or any member of the Group.
- 19 Form, enter into, terminate or withdraw from any partnership, consortium, joint venture or any other unincorporated association carrying on a trade or business or any other similar arrangement whether or not with a view to profit.
- 20 Make any material change in the nature of the business of any Group member.
- 21 Enter into or vary the terms of any contract with any Shareholder (or any connected person of a Shareholder) or any contract which is not on an arm's length basis (or waive any breach or commence legal proceedings in respect of such a contract).
- 22 Enter into any transaction out of the ordinary course of business of any Group member and not on an arm's length basis.
- 23 Appoint or remove auditors to any Group member or alter the accounting reference date of any Group member.
- 24 Appoint or remove a director (other than in accordance with this Agreement).
- 25 Appoint or remove the CEO or CFO, or enter into any service contract with or contract for services for any CEO, CFO or any other director or in either case any of his/her connected persons or vary any existing service contract with or contract for services for such person.
- 26 Commence any litigation or other legal proceedings (other than actions to recover debts in the ordinary course of business).
- 27 Enter into any negotiations concerning the sale or issue of any shares of any Group member or the sale of any material part of the business, undertaking or assets of the Group or the refinancing of the Company, or make any application or submit any business plan to any potential investor or financier with a view to attracting additional or substitute finance.
- 28 Permit the Group to cease, or propose to cease, to carry on its business or permit the Group or its directors (or any one of them) to take any step to wind up the a Group member, save where it is insolvent (within the meaning of section 123 Insolvency Act 1986).
- 29 Permit a Group member or its directors (or any one of them) to take any step to place a Group member into administration (whether by the filing of an administration application, a notice of intention to appoint an administrator or a notice of appointment), permit (other than in the ordinary course of its creditor management) a Group member or (other than in the ordinary course of its creditor management) its directors to propose or enter into any arrangement, scheme, moratorium, compromise or composition with its creditors (whether under Part 1 Insolvency Act 1986 or otherwise) or to apply for an interim order under Part 1 Insolvency Act

1986, or permit a Group Company or its directors to invite the appointment of a receiver or administrative receiver over all or any part of a Group member's assets or undertaking.

- 30 Establish any pension scheme or implement any variation to a Group member's pension scheme or any of the benefits payable to members of the scheme.
- 31 Permit a Group member or any of its directors or employees to commit a breach of any Anti-Corruption Laws, Anti-Money Laundering Laws or Economic Sanctions Laws.
- 32 The occurrence of or doing of any of the matters referred to in this Schedule in relation to any Group member.
- 33 Enter into any agreement to do any of the matters set out in this Schedule.

### Schedule 3

#### FORM OF DEED OF ADHERENCE

*The parties agree that consequential amendments to the form of this deed of adherence will be made where there is a New Shareholder but no Departing Shareholder.*

This Deed is dated [•]

#### PARTIES

- (1) **[Frisbee] Bidco Limited**, a company incorporated in the Isle of Man (registered number [•]) having its registered office at [•] (the "**Company**");
- (2) [•], a company incorporated in England and Wales (registered number: [[•]), whose registered office is at [•] (the "**Departing Shareholder**"); and
- (3) [•], a company incorporated in England and Wales (registered number: [[•]), whose registered office is at [•] (the "**New Shareholder**"); and

#### PREAMBLE

- (A) The Departing Shareholder intends to transfer, in accordance with the terms of the Shareholders Agreement, its shares in the Company to the New Shareholder (the "**Transfer**").
- (B) In accordance with the Shareholders Agreement, it is a term of the Transfer that the New Shareholder executes a deed of adherence in the form of this deed.

#### OPERATIVE TERMS

- 1 In this Deed:
  - (a) unless the context expressly requires otherwise, words and expressions used in this deed have the meaning given to them in the Shareholders Agreement;
  - (b) "**Effective Date**" means the [date of this Agreement/date of completion of the Transfer];
  - (c) "**Shareholders Agreement**" means the shareholders agreement relating to the Company dated [•] and made between the Departing Shareholder, the Company and the other Shareholders; and
  - (d) "**Transfer**" has the meaning given to it in recital (A).
- 2 The New Shareholder confirms that it has been supplied with a copy of the Shareholders Agreement and undertakes to, and covenants with, all the parties to the Shareholders Agreement (including any person who has entered into a Deed of Adherence) to comply with the provisions of, and to perform all the obligations in, the Shareholders Agreement so far as they become due to be observed and performed on or after the Effective Date [as if the New Shareholder had been an original party to the Shareholders Agreement in place of the Departing Shareholder (and shall be considered to be a Minority Shareholder) and the Shareholders Agreement will be construed and apply accordingly].
- 3 The New Shareholder shall become a [Minority Shareholder / Investor] and a Shareholder [and the Departing Shareholder shall cease to be a Shareholder] with effect from the Effective

Date from which time the New Shareholder will have the benefit of the provisions of the Shareholders Agreement [in place of the Departing Shareholder] and the Shareholders Agreement will be construed and apply accordingly.

- 4 For the purposes of the notice provisions in clause 36 of the Shareholders Agreement, the contact, address and email address number for the New Shareholder and copy recipient is as follows:

Address: [•]

E-mail address: [•]

For the attention of: [•]

With a copy (which shall not constitute notice) to: [•]

- 5 [For the avoidance of doubt, the New Shareholder is not entitled to any amount which has fallen due for payment to the Departing Shareholder before the Effective Date and is not liable for any breach or non-performance of the obligations of the Departing Shareholder under to the Shareholders Agreement before the Effective Date and the Departing Shareholder is entitled to each such amount, and is not released from any liability in respect of any such breach or non-performance].

- 6 This deed, the jurisdiction clause contained in it, and all non-contractual obligations arising in any way whatsoever out of or in connection with this deed are governed by, construed and take effect in accordance with English law.

- 7 The courts of England have exclusive jurisdiction to settle any claim, dispute or matter of difference which may arise in any way whatsoever out of or in connection with this deed or the legal relationships established by this Agreement.

**THIS DOCUMENT** has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.