

THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

- OF -

UPSIDE TECHNOLOGIES LTD

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CONTENTS

Article		Page
1	Application of model articles	1
2	Definitions and interpretation	1
3	Company name	3
4	Directors to take decisions collectively	3
5	Unanimous decisions	3
6	Quorum for directors' meetings	4
7	Authorisation of directors' conflicts of interest	4
8	Voting at directors' meetings	4
9	Directors voting and counting in the quorum	5
10	Appointing and removing directors	5
11	Termination of director's appointment	5
12	Appointment and removal of alternates	5
13	Rights and responsibilities of alternate directors	6
14	Termination of alternate directorship	6
15	Directors' remuneration and other benefits	6
16	Share capital	7
17	Share rights	17
18	All shares to be fully paid up	7
19	Powers to issue different classes of share	8
20	Issue of new shares	8
21	Purchase of own shares	8
22	Transfer of shares	8
23	Procedure for declaring dividends	9
24	No interest on distributions	9
25	Quorum for general meetings	9
26	Communications	9
27	Company seals	10
28	Indemnities, insurance and funding of defence proceedings	10

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UPSIDE TECHNOLOGIES LTD

(the “Company”)

(Adopted by special resolution passed on 24 December 2020)

1 Application of model articles

1.1 The model articles of association for private companies contained in Schedule 1 to The Companies (Model Articles) Regulations 2008 (“**Model Articles**”) as in force at the date of adoption of these Articles shall apply to the Company, save insofar as they are excluded or modified by, or are inconsistent with, the following Articles.

1.2 In these Articles, reference to a particular Model Article is to that article of the Model Articles.

2 Definitions and interpretation

2.1 The Model Articles shall apply as if the following paragraph were included in the list of defined terms in Model Article 1:

“**clear days**: in relation to a period of a notice means that period excluding the day when the notice is deemed to be received (or, if earlier, received) and the day of the meeting;”

and as if the following words were deleted from Model Article 41(5):

“(that is, excluding the date of the adjourned meeting and the day on which the notice is given)–”.

2.2 In these Articles the following words and expressions have the following meanings:

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

A Ordinary Shares: A ordinary shares of £0.001 each in the capital of the Company;

A Shareholders: the holders of A Ordinary Shares (and each an “**A Shareholder**”);

alternate: as defined in Article 12 and **alternate director** has a corresponding meaning;

B Ordinary Shares: B ordinary shares of £0.0001 each in the capital of the Company;

B Shareholders: the holders of B Ordinary Shares (and each a “**B Shareholder**”);

Commencement Date: the date of the adoption of these Articles;

Conflict Situation: a situation in which a director has, or can have, a direct or indirect interest that conflicts, or may possibly conflict, with the interests of the Company, including in relation to the exploitation of any property, information or opportunity and regardless of whether the Company could take advantage of the property, information or opportunity itself, but excluding a situation which could not reasonably be regarded as likely to give rise to a conflict of interest (and any reference in this definition to a conflict of interest includes a conflict of interest and duty and a conflict of duties);

Connected: has the meaning attributed by s.1122 Corporation Tax Act 2010;

Control: the meaning given by s.995 of the Income Tax Act 2007;

Controlling Shareholder: the holder from time to time of more than one half in nominal value of the issued A Ordinary Shares including and any member holding all of the issued A Ordinary Shares of the Company;

member: a person who is the holder of a share in the capital of the Company;

Reorganisation: a transaction whereby a new holding company acquires the Company in circumstances where there is a complete or substantial identity between the holders of shares before the reorganisation and the holders of ordinary shares in the capital of the new holding company after the reorganisation;

Sale: the completion of a sale of shares (other than a Reorganisation) which results in the acquisition of Control of the Company by any person, or such person and any other person(s):

- (a) who in relation to him is Connected; or
- (b) with whom he is acting in concert, as defined in The City Code on Takeovers and Mergers; and

Sale Proceeds: the aggregate consideration payable (including any deferred and/or contingent consideration and whether in cash, securities or otherwise, or in any combination) to those members selling shares (taking account of both the purchase price for the shares sold and any other consideration (in cash, securities or otherwise, or in any combination) received or receivable by such members which having regard to the substance of the transaction as a whole can reasonably be regarded as an addition to the purchase price paid or payable for the shares sold) (less any fees and expenses payable by the members in relation to the relevant Sale).

2.3 Save as expressly provided otherwise in these Articles, words or expressions contained in the Model Articles and in these Articles bear the same meaning as in the Act as in force from time to time. The Model Articles shall apply as if the last paragraph of Model Article 1 (beginning "Unless the context otherwise requires") were deleted.

2.4 In the Model Articles and in these Articles, save in Article 1.1 or as expressly provided otherwise in these Articles:

2.4.1 any reference to any statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, whether before, on, or after the date of adoption of these Articles;

2.4.2 any reference to any legislation including to any statute, statutory provision or subordinate legislation ("**Legislation**") includes a reference to that Legislation as from time to time amended or re-enacted, whether before, on, or after the date of adoption of these Articles; and

2.4.3 any reference to re-enactment includes consolidation and rewriting, in each case whether with or without modification.

3 **Company name**

The name of the Company may only be changed by:

- 3.1 special resolution of the members; or
 - 3.2 a decision of the directors; or
- otherwise in accordance with the Act.

4 **Directors to take decisions collectively**

- 4.1 The general rule about decision-making by directors is that any decision of the directors must be either a majority decision at a meeting or a decision taken in accordance with Article 5.

- 4.2 If:

- 4.2.1 the Company only has one director, and

- 4.2.2 no provision of the Articles requires it to have more than one director,

the general rule in Article 4.1 does not apply, and the director may (for so long as he remains the sole director) take decisions without regard to any of the provisions of the Articles relating to directors' decision-making including, for the avoidance of doubt, Article 5.

- 4.3 Model Article 7 shall not apply.

5 **Unanimous decisions**

- 5.1 A decision of the directors is taken in accordance with this Article when all eligible directors indicate to each other by any means that they share a common view on a matter.

- 5.2 Such a decision may take the form of a resolution in writing, of which each eligible director has signed one or more copies or to which each eligible director has otherwise indicated agreement in writing.

- 5.3 References in this Article 5 to eligible directors are to directors who would have been entitled to vote on the matter had it been proposed as a resolution at a directors' meeting (but exclude in respect of the authorisation of a Conflict Situation, the director subject to that Conflict Situation).

- 5.4 Notwithstanding the requirements of Articles 5.1 to 5.3:

- 5.4.1 if a person who is an alternate director indicates on behalf of their appointor whether or not they share the common view their appointor is not also required to do so in order to satisfy those requirements;

- 5.4.2 if a director who has appointed an alternate indicates pursuant to Article 5.1 whether or not they share the common view their alternate is not also required to do so in order to satisfy those requirements.

- 5.5 A decision may not be taken in accordance with this Article if the eligible directors would not have formed a quorum at such a meeting.

- 5.6 Model Article 8 shall not apply.

6 Quorum for directors' meetings

- 6.1 The quorum for directors' meetings may be fixed from time to time by a decision of the directors, but, save as set out in Articles 4.2 and 6.2, it must never be less than two, and unless otherwise fixed it is two. Model Article 11(2) shall not apply.
- 6.2 For the purposes of any directors' meeting (or part of a meeting) at which it is proposed to authorise a Conflict Situation in respect of one or more directors, if there is only one director in office other than the director or directors subject to the Conflict Situation, the quorum for such meeting (or part of a meeting) shall be one director.
- 6.3 At a directors' meeting:
- 6.3.1 a director who is also an alternate director may be counted more than once for the purposes of determining whether a quorum is participating;
 - 6.3.2 a person who is an alternate director, but is not otherwise a director, shall be counted as participating for the purposes of determining whether a quorum is participating,

but only, in each case, if that director's or other person's appointor is not participating. If on that basis there is a quorum, the meeting may be held notwithstanding the fact (if it is the case) that only one director is participating.

7 Authorisation of directors' conflicts of interest

If a Conflict Situation arises, the directors may authorise it for the purposes of s.175(4)(b) of the Act by a resolution of the directors made in accordance with that section and these Articles if the Controlling Shareholder so permits by express written consent. At the time of the authorisation, or at any time afterwards, the directors may impose any limitations or conditions or grant the authority subject to such terms which (in each case) they consider appropriate and reasonable in all the circumstances. Any authorisation may be revoked or varied at any time in the discretion of the directors.

8 Voting at directors' meetings

- 8.1 Subject to these Articles, each director participating in a directors' meeting has one vote.
- 8.2 A director who is also an alternate director has an additional vote on behalf of their appointor provided:
- 8.2.1 their appointor is not participating in the directors' meeting; and
 - 8.2.2 in respect of a particular matter:
 - 8.2.2.1 their appointor would have been entitled to vote if he were participating in it; and
 - 8.2.2.2 that matter is not the authorisation of a Conflict Situation of their appointor.
- 8.3 A person who is an alternate director, but is not otherwise a director, only has a vote if:
- 8.3.1 their appointor is not participating in the directors' meeting; and
 - 8.3.2 in respect of a particular matter:
 - 8.3.2.1 their appointor would have been entitled to vote if he were participating in it; and

- 8.3.2.2 that matter is not the authorisation of a Conflict Situation of their appointor.

9 Directors voting and counting in the quorum

- 9.1 Save as otherwise specified in these Articles or the Act and subject to any limitations, conditions or terms attaching to any authorisation given by the directors for the purposes of s.175(4)(b) of the Act, a director (or his/her alternate) may vote on, and be counted in the quorum in relation to any resolution relating to a matter in which he (or, in the case of an alternate, his/her appointor) has, or can have:

9.1.1 a direct or indirect interest or duty which conflicts, or possibly may conflict, with the interests of the Company; and

9.1.2 a conflict of interest arising in relation to an existing or a proposed transaction or arrangement with the Company,

provided such conflict has been authorised in accordance with Article 7, and subject to any limitations, conditions or terms attaching to any such authorisation.

- 9.2 Model Article 14 shall not apply.

10 Appointing and removing directors

- 10.1 The Controlling Shareholder shall have the right at any time and from time to time to appoint one or more persons to be a director or directors of the Company. Any such appointment shall be effected by notice in writing to the Company by the Controlling Shareholder and the Controlling Shareholder may in like manner at any time and from time to time remove from office any director (whether or not appointed by it pursuant to this Article). The appointment or removal takes effect immediately on such notice being given, or on such later date (if any) specified in the notice.

- 10.2 Subject to the Controlling Shareholder's prior express written consent, the directors shall have the right at any time and from time to time to:

10.2.1 appoint one or more persons to be a director or directors of the Company; and

10.2.2 remove from office any director (whether or not appointed by the directors or by the Controlling Shareholder pursuant to this Article),

and such appointment or removal takes effect immediately on the date on which the directors agree to such appointment or removal or on such later date (if any) as agreed by the directors (and provided in each case the Controlling Shareholder has given its consent).

- 10.3 In any case where, as a result of death, the Company has no shareholders and no directors, the personal representatives of the last shareholder to have died have the right, by notice in writing, to appoint a person to be a director.

- 10.4 Model Article 17 shall not apply.

11 Termination of director's appointment

In addition to the circumstances set out in Model Article 18, a person also ceases to be a director if he is removed from office pursuant to Article 10 of these Articles, or as a result of their death.

12 Appointment and removal of alternates

- 12.1 Subject to the Controlling Shareholder's express written consent, any director (the "appointor") may appoint as an alternate any other director, or any other person approved by a decision of the directors and of the Controlling Shareholder:

- 12.1.1 to exercise that director's powers and carry out that director's responsibilities in relation to the taking of decisions by the directors; and
- 12.1.2 generally to perform all the functions of that director's appointor as a director, in each case in the absence of the alternate's appointor.
- 12.2 Any appointment or removal of an alternate must be effected by notice in writing to the Company signed by the appointor, or in any other manner approved by the directors.
- 12.3 The notice must:
 - 12.3.1 identify the proposed alternate;
 - 12.3.2 confirm that the proposed alternate is willing to act as the alternate of the director giving the notice; and
 - 12.3.3 confirm that the Controlling Shareholder has given express written consent to the appointment as required under Article 12.1.
- 12.4 No person may be appointed as alternate to more than one director of the Company.
- 13 **Rights and responsibilities of alternate directors**
- 13.1 An alternate director has the same rights, in relation to any directors' meeting or a decision taken in accordance with Article 5, as the alternate's appointor.
- 13.2 Except as these Articles specify otherwise, alternate directors:
 - 13.2.1 are deemed for all purposes to be directors;
 - 13.2.2 are liable for their own acts and omissions;
 - 13.2.3 are subject to the same restrictions as their appointors; and
 - 13.2.4 are not deemed to be agents of or for their appointors.
- 13.3 An alternate director is not entitled to receive any remuneration from the Company for serving as an alternate director except such part of the alternate's appointor's remuneration as the appointor may direct by notice in writing made to the Company.
- 14 **Termination of alternate directorship**
- An alternate director's appointment as an alternate terminates:
 - 14.1 when the alternate's appointor, with the Controlling Shareholder's express written consent, revokes the appointment by notice to the Company in writing specifying when it is to terminate;
 - 14.2 on the occurrence in relation to the alternate of any event which, if it occurred in relation to the alternate's appointor, would result in the termination of the appointor's appointment as a director;
 - 14.3 on the death of the alternate's appointor; or
 - 14.4 when the alternate's appointor's appointment as a director terminates.
- 15 **Directors' remuneration and other benefits**
- 15.1 A director may undertake any services for the Company that the directors decide.

- 15.2 A director is entitled to such remuneration as the directors decide (i) for their services to the Company as director, and (ii) for any other service which he undertakes for the Company, provided that the amount of such remuneration shall not exceed such amount as the Controlling Shareholder may agree in writing.
- 15.3 A director's remuneration may (i) take any form, and (ii) include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that director.
- 15.4 Unless the directors decide otherwise, a director's remuneration accrues from day to day.
- 15.5 Unless the directors decide otherwise, no director is accountable to the Company for any remuneration or other benefit which he receives as a director or other officer or employee of any of the Company's subsidiary undertakings or of any parent undertaking of the Company from time to time or of any other body corporate in which the Company or any such parent undertaking is interested.
- 15.6 Model Article 19 shall not apply.

16 **Share capital**

The share capital of the Company at the date of adoption of these Articles comprises 1,076 A Ordinary Shares and 1,000 B Ordinary Shares.

17 **Share rights**

The A Ordinary Shares and the B Ordinary Shares shall have the following rights and be subject to the following restrictions:

17.1 **Income**

Amounts distributed (in cash or in specie) by the Company in or in respect of any financial year shall be apportioned pro rata to the A Shareholders and the B Shareholders.

17.2 **Capital**

On a return of capital on liquidation, winding up or otherwise, the surplus assets of the Company remaining after payment of its liabilities shall be distributed pro rata to the A Shareholders and the B Shareholders.

17.3 **Sale Proceeds**

On a Sale, the Sale Proceeds shall be allocated pro rata amongst the members who are selling shares pursuant to such Sale.

17.4 **Voting**

On a vote:

17.4.1 on a show of hands, every A Shareholder who (being an individual) is present in person or (not being an individual) is present by an authorised representative, shall have one vote and every proxy duly appointed by one or more of the A Shareholders (or, where more than one proxy has been duly appointed by the same member, all the proxies appointed by that member taken together) shall have one vote, save that a proxy shall have one vote for and one vote against the resolution if:

17.4.1.1 the proxy has been duly appointed by more than one A Shareholder to vote on the resolution; and

- 17.4.1.2 the proxy has been instructed by one or more of those A Shareholders to vote for the resolution and by one or more of those A Shareholders to vote against it;
 - 17.4.2 on a poll, every A Shareholder who (being an individual) is present in person or by one or more duly appointed proxies or (not being an individual) by an authorised representative or by one or more duly appointed proxies shall have one vote for every A Ordinary Share of which he is the holder; and
 - 17.4.3 on a written resolution, every A Shareholder shall have one vote for every A Ordinary Share of which he is the holder.
- 18 **All shares to be fully paid up**
- 18.1 No share is to be issued other than fully paid.
 - 18.2 Article 18.1 does not apply to shares taken on the formation of the Company by the subscribers to the Company's memorandum.
 - 18.3 Model Article 21 shall not apply.
- 19 **Powers to issue different classes of share**
- Model Article 22(2) shall apply as if the words “, and the directors may determine the terms, conditions and manner of redemption of any such shares” were deleted.
- 20 **Issue of new shares**
- 20.1 The Company has the power to allot and issue shares in the capital of the Company and to grant rights to subscribe for, or to convert any security into, shares in the capital of the Company pursuant to those rights.
 - 20.2 The directors may only exercise the power of the Company to allot and issue shares or to grant rights to subscribe for, or to convert any security into, shares, in order to allot or issue shares to the Controlling Shareholder or to some other person expressly approved by the Controlling Shareholder in writing. The powers of the directors pursuant to s.550 of the Act shall be limited accordingly.
 - 20.3 The provisions of ss.561 and 562 of the Act shall not apply to the Company.
- 21 **Purchase of own shares**
- 21.1 The Company may purchase its own shares in accordance with the provisions of the Act.
 - 21.2 The Company may finance the purchase of its own shares in any way permitted by the Act including by way of cash reserves up to the limits provided by the Act.
- 22 **Transfer of shares**
- 22.1 The directors shall register any transfer of shares made to or by, or with the express written consent of, the Controlling Shareholder.
 - 22.2 Subject to Article 22.1, the directors may, in their absolute discretion, refuse to register the transfer of any share, and if they do so, the instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent. Model Article 26(5) shall not apply.

23 Procedure for declaring dividends

23.1 Except as otherwise provided by Article 17 and the rights attached to any shares from time to time, all dividends shall be paid to the holders of shares in proportion to the numbers of shares on which the dividend is paid which are held by them respectively, but if any share is issued on terms that it shall rank for dividend as from a particular date, or *pari passu* as regards dividends with a share already issued, that share shall rank for dividend accordingly.

23.2 Model Article 30(4) shall apply as if the words “the terms on which shares are issued” were deleted and replaced with the words “the rights attached to shares”.

24 No interest on distributions

Model Article 32(a) shall apply as if the words “the terms on which the share was issued” were deleted and replaced with the words “the rights attached to the share”.

25 Quorum for general meetings

25.1 If the Company has more than one member, the quorum for a general meeting shall be:

25.1.1 one member holding more than one half in nominal value of the issued ordinary share capital of the Company and present in person or by proxy or by representative (and the presence of such a member shall be deemed for this purpose to constitute a valid meeting); or

25.1.2 if no such member is present, two members present in person or by proxy or representative.

25.2 If the Company has only one member, s.318 of the Act shall apply.

26 Communications

26.1 The company communications provisions (as defined in the Act) shall also apply to any document or information to be sent or supplied by or to the Company pursuant to these Articles.

26.2 The provisions of s.1168 of the Act (hard copy and electronic form and related expressions) shall apply to the Company as if the words “and the Articles” were inserted after the words “the Companies Acts” in ss.1168(1) and 1168(7).

26.3 Section 1147 of the Act shall apply to any document or information to be sent or supplied by the Company to its members under the Companies Acts or pursuant to these Articles as if:

26.3.1 in s.1147(2) the words “or by airmail (whether in hard copy or electronic form) to an address outside the United Kingdom” were inserted after the words “in the United Kingdom”;

26.3.2 in s.1147(3) the words “48 hours after it was sent” were deleted and replaced with the words “when sent, notwithstanding that the Company may be aware of the failure in delivery of such document or information.”;

26.3.3 a new s.1147(4)(A) were inserted as follows:

“Where the document or information is sent or supplied by hand (whether in hard copy or electronic form) and the Company is able to show that it was properly addressed and sent at the cost of the Company, it is deemed to have been received by the intended recipient when delivered.”;

26.3.4 a new s.1147(4)(B) were inserted as follows:

“Where the document or information is sent or supplied by any other means authorised in writing by the intended recipient, it is deemed to have been received by the intended recipient when the Company has carried out the action it has been authorised to take for that purpose”; and

26.3.5 section 1147(5) were deleted.

26.4 Proof that a document or information sent by electronic means was sent in accordance with guidance issued by the Institute of Chartered Secretaries and Administrators shall be conclusive evidence that the document or information was properly addressed as required by s.1147(3) of the Act and that the document or information was sent or supplied.

26.5 In the case of members who are joint holders of shares, anything to be agreed or specified by the holder may be agreed or specified by the holder whose name appears first in the register of members. Schedule 5, Part 6, para 16(2) of the Act shall apply accordingly.

26.6 Model Article 48 shall not apply.

27 **Company seals**

Model Article 49(4)(b) shall not apply.

28 **Indemnities, insurance and funding of defence proceedings**

28.1 This Article 28 shall have effect, and any indemnity provided by or pursuant to it shall apply, only to the extent permitted by, and subject to the restrictions of, the Act. It does not allow for or provide (to any extent) an indemnity which is more extensive than is permitted by the Act and any such indemnity is limited accordingly. This Article 28 is also without prejudice to any indemnity to which any person may otherwise be entitled.

28.2 The Company:

28.2.1 shall, subject to the Controlling Shareholder's express written consent, indemnify any person who is a director of the Company and, if the Controlling Shareholder so agrees in writing, shall keep indemnified each such person after he ceases to hold office; and

28.2.2 may, subject to the Controlling Shareholder's express written consent, indemnify any other person who is an officer (other than an auditor) of the Company;

in each case out of the assets of the Company from and against any loss, liability or expense suffered or incurred by him in relation to the Company by reason of their being or having been a director or other officer of the Company.

28.3 The Company may, subject to the Controlling Shareholder's express written consent, indemnify any person who is a director of a company that is a trustee of an occupational pension scheme (as defined in s.235(6) of the Act) out of the assets of the Company from and against any loss, liability or expense suffered or incurred by him or them in connection with such company's activities as trustee of the scheme.

28.4 The directors may purchase and maintain insurance at the expense of the Company for the benefit of any person who is or was at any time a director or other officer (other than an auditor) of the Company or of any associated company (as defined in s.256 of the Act) of the Company or a trustee of any pension fund or employee benefits trust for the benefit of any employee of the Company.

28.5 The directors may, subject to the provisions of the Act, exercise the powers conferred on them by ss.205 and 206 of the Act to:

- 28.5.1 provide funds to meet expenditure incurred or to be incurred in defending any proceedings, investigation or action referred to in those sections or in connection with an application for relief referred to in s.205 of the Act; or
 - 28.5.2 take any action to enable such expenditure not to be incurred.
- 28.6 Model Articles 52 and 53 shall not apply.