

BR2

CHFP010

This form should be completed in black.

Return by an overseas company subject to branch registration of an alteration to constitutional documents

(Pursuant to Schedule 21A, paragraph 7(1) of the Companies Act 1985)

Company Number

FC026682

Branch Number

BR008722

Company Name

HILWOOD RESORTS AND HOTEL
MANAGEMENT LIMITED

Branch Name

CONSTITUTIONAL DOCUMENTS

On

Day	Month	Year
25	05	2006

 an alteration was made

to the constitutional document(s) of the company

A copy of the new instrument is attached

* A certified translation is also attached

*Delete as applicable

Note:-
A company is only required to make a return in respect of a branch where the document altered is included amongst the material registered in respect of that branch

Signed

For and on behalf of
DV3 Administration UK I Ltd

* Director / Secretary / Permanent representative

Date

19th September 2006

When completed, this form should be returned to the address overleaf

To whom should Companies House direct any enquires about the information on this form



A18
COMPANIES HOUSE

A62G2J8G

256
21/09/2006

Name HELEN PROBERT
Address C/O DELANCEY, 6th FLOOR, LANSDOWN
HOUSE, BERKELEY SQUARE, LONDON
W1J 6ER Tel: 020 7448 1456

BLUEPRINT

2000

When completed, this form should be delivered to:-

For branches registered in England and Wales

The Registrar of Companies
Companies House
Crown Way
Cardiff
CF14 3UZ

For branches registered in Scotland

The Registrar of Companies
Companies House
37 Castle Terrace
Edinburgh
EH1 2EB

No. 1011398



**British Virgin Islands
BVI Business Companies Act, 2004**

AMENDED AND RESTATED

**Memorandum of Association
and
Articles of Association
of**

Hilwood Resorts and Hotels Management Limited

A COMPANY LIMITED BY SHARES

Incorporated 17th February 2006

(amended and restated 25th May 2006)

**HARNEYS CORPORATE SERVICES LIMITED
Craigmuir Chambers
Road Town
Tortola
British Virgin Islands**



TERRITORY OF THE BRITISH VIRGIN ISLANDS
THE BVI BUSINESS COMPANIES ACT, 2004

MEMORANDUM OF ASSOCIATION
OF
Hilwood Resorts and Hotels Management Limited
A COMPANY LIMITED BY SHARES

1. DEFINITIONS AND INTERPRETATION

1.1 In this Memorandum of Association and the attached Articles of Association, if not inconsistent with the subject or context:

"Act" means the BVI Business Companies Act, 2004 (No. 16 of 2004) and includes the regulations made under the Act;

"Adviceco" means the Company;

"Articles" means the attached Articles of Association of the Company;

"business day" means any day other than a Saturday, a Sunday or any other day which is a public holiday in England;

"company" includes any body corporate;

"Chairman of the Board" has the meaning specified in Regulation 12;

"Completion" means completion of the transactions contemplated by the Investment Agreement;

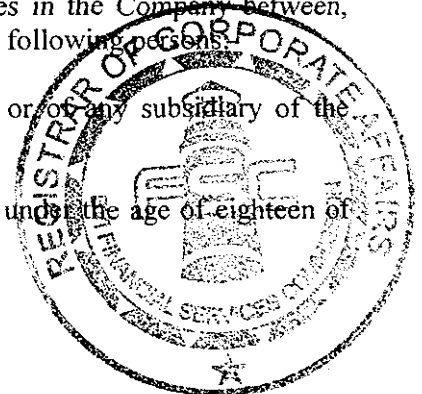
"Distribution" in relation to a distribution by the Company to a Shareholder means the direct or indirect transfer of an asset, other than Shares, to or for the benefit of the Shareholder, or the incurring of a debt to or for the benefit of a Shareholder, in relation to Shares held by a Shareholder, and whether by means of the purchase of an asset, the purchase, redemption or other acquisition of Shares, a transfer of indebtedness or otherwise, and includes a dividend;

"Eligible Person" means individuals, corporations, trusts, the estates of deceased individuals, partnerships and unincorporated associations of persons;

"Employee" means an individual who is employed by, or is a director (other than an Investor Director) of, a Group Company or an individual whose services are otherwise made available to a Group Company (and **"employment"** shall be construed accordingly to include such an arrangement);

"employee benefit trust" means a trust established, with the prior written approval of an Investor Director, for the purpose of enabling or facilitating transactions in shares in the Company between, and/or the acquisition of beneficial ownership of such shares by, any of the following persons:

- (a) the bona fide employees or former employees of the Company or of any subsidiary of the Company; or
- (b) the wives, husbands, widows, widowers, children or stepchildren under the age of eighteen of any such employees or former employees;



"Excluded Person" means

- (a) any Employee whose employment or directorship with a Group Company is subject to notice of termination pursuant to his service agreement or terms of engagement (as applicable) and as a consequence of such termination will no longer be in the employment, or a director, of any Group Company;
- (b) any person who was, but has ceased to be, an Employee;
- (c) any Related Party of any person within (a) or (b) above;

"Family Members" means in relation to any person, the spouse, parents and every child and remoter descendant of that person (including stepchildren and adopted children);

"Family Trust" means in relation to any person, trusts established by that person in relation to which only such person and/or Family Members of that person are capable of being beneficiaries thereof;

"financial year" and **"financial period"** means an accounting reference period of the Company;

"Group" means Adviceco, Holdco and their respective subsidiary undertakings from time to time, or any of them as the context requires and **"Group Company"** shall be construed accordingly;

"Holdco" means DV3 Properties Hotel Limited;

"Holdco Memorandum" the attached Memorandum of Association of DV3 Properties Hotel Limited which, to the extent necessary to interpret this Memorandum of Association, will be deemed incorporated herein;

"Investment Agreement" means the agreement dated [], 2006 made between, amongst others, the Company (1) those persons described therein as the Managers (2) and the person described therein as the Investor (3), as amended, supplemented, adhered to or restated from time to time;

"Investor" means DV3 Holdings Hotel Limited, together with any other person for the time being holding Shares who has agreed to be bound by the Investment Agreement as an "Investor" (as defined therein);

"Investor Director" means a person nominated and appointed by the Investor as an Investor Director of Adviceco;

"Managers" means Arvinder Walia and Gregor Ritchie;

"Manager Director" means the Managers nominated and appointed as Manager Directors of Adviceco;

"Member" means a holder of Shares;

"a member of the same group" means as regards any company, a company which is for the time being a holding company or a subsidiary of that company or of any such holding company;

"Memorandum" means this Memorandum of Association of the Company;

"Option Agreement" means the option agreement dated [], 2006 made between, amongst others, the Company (1) those persons described therein as the Managers (2) and the person described therein as the Investor (3), and any other option agreement entered into by a person pursuant to the Investment Agreement on or before their becoming a Member, in each case, as amended, supplemented, adhered to or restated from time to time;

"Ordinary Shares" means the ordinary shares of £1 each in the Company referred to in clause 6 hereof;

"Ordinary Shareholders" means the holders of the issued Ordinary Shares from time to time;

"Registrar" means the Registrar of Corporate Affairs appointed under section 229 of the Act;

"Related Party" means in respect of any person:-

- (a) that person's personal representatives;
- (b) any Family Member of that person;
- (c) the trustee(s) of a Family Trust of that person;
- (d) any nominee of any of the above;

"Relevant Shares" means (so far as the same remain held by the trustees of any Family Trusts) the Shares originally transferred or issued to the trustees and any additional Shares issued to such trustees by way of capitalisation or acquired by such trustees on the exercise of any right or option granted or arising by virtue of the holding of the Relevant Shares or any of them;

"Resolution of Directors" means either:

- (a) a resolution approved at a duly convened and constituted meeting of directors of the Company or of a committee of directors of the Company by the affirmative vote of a majority of the directors present at the meeting who voted except that where a director is given more than one vote, he shall be counted by the number of votes he casts for the purpose of establishing a majority; or
- (b) a resolution consented to in writing by all directors or by all members of a committee of directors of the Company, as the case may be;

"Resolution of Shareholders" means either:

- (a) a resolution approved at a duly convened and constituted meeting of the Shareholders of the Company by the affirmative vote of a majority of 75% or more of the votes of the Shares entitled to vote thereon which were present at the meeting and were voted; or
- (b) a resolution consented to in writing by the holders of all of the votes of Shares entitled to vote thereon;

"Seal" means any seal which has been duly adopted as the common seal of the Company;

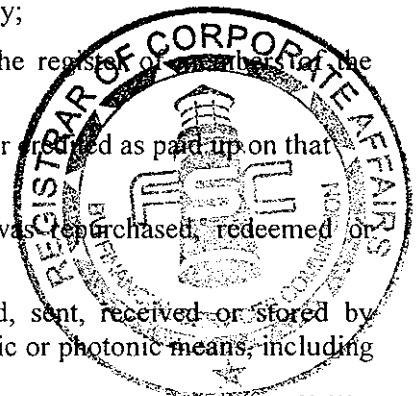
"Shares" means shares issued or to be issued of any class in the Company;

"Shareholder" means an Eligible Person whose name is entered in the register of members of the Company as the holder of one or more Shares or fractional Shares;

"Subscription Price" means in respect of any Share, the amount paid or credited as paid up on that share, including sums paid, or credited as paid, by way of premium; and

"Treasury Share" means a Share that was previously issued but was repurchased, redeemed or otherwise acquired by the Company and not cancelled; and

"written" or any term of like import includes information generated, sent, received or stored by electronic, electrical, digital, magnetic, optical, electromagnetic, biometric or photonic means, including



electronic data interchange, electronic mail, telegram, telex or telecopy, and "in writing" shall be construed accordingly.

1.2 In the Memorandum and the Articles, unless the context otherwise requires a reference to:

- (a) a "**Regulation**" is a reference to a regulation of the Articles;
- (b) a "**Clause**" is a reference to a clause of the Memorandum;
- (c) voting by Shareholders is a reference to the casting of the votes attached to the Shares held by the Shareholder voting;
- (d) the Act, the Memorandum or the Articles is a reference to the Act or those documents as amended or, in the case of the Act any re-enactment thereof; and
- (e) the singular includes the plural and vice versa.

1.3 Any words or expressions defined in the Act unless the context otherwise requires bear the same meaning in the Memorandum and the Articles unless otherwise defined herein.

1.4 Headings are inserted for convenience only and shall be disregarded in interpreting the Memorandum and the Articles.

2. NAME

The name of the Company is Hilwood Resorts and Hotels Management Limited.

3. STATUS

The Company is a company limited by shares.

4. REGISTERED OFFICE AND REGISTERED AGENT

4.1 The first registered office of the Company is at Craigmuir Chambers, Road Town, Tortola, British Virgin Islands, the office of the first registered agent.

4.2 The first registered agent of the Company is Harneys Corporate Services Limited of Craigmuir Chambers, P.O. Box 71, Road Town, Tortola, British Virgin Islands.

4.3 The Company may by Resolution of Shareholders or by Resolution of Directors change the location of its registered office or change its registered agent.

4.4 Any change of registered office or registered agent will take effect on the registration by the Registrar of a notice of the change filed by the existing registered agent or a legal practitioner in the British Virgin Islands acting on behalf of the Company.

5. CAPACITY AND POWERS

5.1 Subject to the Act and any other British Virgin Islands legislation, the Company has, irrespective of corporate benefit:

- (a) full capacity to carry on or undertake any business or activity, do any act or enter into any transaction; and
- (b) for the purposes of paragraph (a), full rights, powers and privileges.

5.2 For the purposes of section 9(4) of the Act, there are no limitations on the business that the Company may carry on.

6. NUMBER AND CLASSES OF SHARES

6.1 Shares in the Company shall be issued in any currency.

6.2 The Company is authorised to issue a maximum of four Shares of a single class with a par value of £1.

6.3 The Company may issue fractional Shares and a fractional Share shall have the corresponding fractional rights, obligations and liabilities of a whole share of the same class or series of shares.

- 6.4 Shares may be issued in one or more series of Shares as the directors may by Resolution of Directors determine from time to time.

7. RIGHTS OF SHARES

- 7.1 Each Ordinary Share in the Company confers upon the Shareholder the following rights:

(a) Return of value

Any Return (as defined in the Holdco Memorandum) made by the Company shall be made to those Ordinary Shareholders who hold Ordinary Shares, A Ordinary Shares, B Ordinary Shares and/or C Ordinary Shares in Holdco. Clause 7 of the Holdco Memorandum (which is annexed hereto) shall be deemed incorporated into this Memorandum and the relevant holdings of Ordinary Shares, A Ordinary Shares, B Ordinary Shares and C Ordinary Shares, in each case in Holdco, to which Clause 7 of the Holdco Memorandum applies shall, for the purpose of distributing a Return to such Ordinary Shareholders, be deemed to be apportioned between the Ordinary Shareholders so that, for this purpose, such Ordinary Shareholders are deemed to hold such ordinary shares, A ordinary shares, B ordinary shares and C ordinary shares in the proportions in which they hold such shares in Holdco.

(b) Voting

On a show of hands or on a poll every Ordinary Shareholder who (being an individual) is present in person or proxy or (being a corporation) is present by a representative shall have one vote for every Ordinary Share of which he is the holder.

- 7.2 The Company may by Resolution of Directors redeem, purchase or otherwise acquire all or any of the Shares in the Company subject to Regulation 3 of the Articles.

8. VARIATION OF RIGHTS

If at any time the Shares are divided into different classes, the rights attached to any class may only be varied, whether or not the Company is in liquidation, with the consent in writing of or by a resolution passed at a meeting by the holders of not less than 75% of the issued Shares in that class.

9. RIGHTS NOT VARIED BY THE ISSUE OF SHARES PARI PASSU

The rights conferred upon the holders of the Shares of any class shall not, unless otherwise expressly provided by the terms of issue of the Shares of that class, be deemed to be varied by the creation or issue of further Shares ranking *pari passu* therewith.

10. REGISTERED SHARES

- 10.1 The Company shall issue registered Shares only.
- 10.2 The Company is not authorised to issue bearer Shares, convert registered Shares to bearer Shares or exchange registered Shares for bearer Shares.

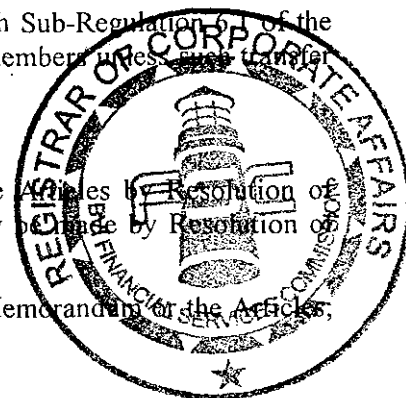
11. TRANSFER OF SHARES

- 11.1 The Company shall, on receipt of an instrument of transfer complying with Sub-Regulation 6.1 of the Articles, not enter the name of the transferee of a Share in the register of members unless the transfer has been undertaken pursuant to Regulations 6.4 to 6.8 of the Articles.

12. AMENDMENT OF THE MEMORANDUM AND THE ARTICLES

- 12.1 Subject to Clause 8, the Company may amend the Memorandum or the Articles by Resolution of Shareholders or by Resolution of Directors, save that no amendment may be made by Resolution of Directors:

- (a) to restrict the rights or powers of the Shareholders to amend the Memorandum or the Articles, or



- (b) to change the percentage of Shareholders required to pass a Resolution of Shareholders to amend the Memorandum or the Articles; or
 - (c) in circumstances where the Memorandum or the Articles cannot be amended by the Shareholders; or
 - (d) to Clauses 7, 8, 9 or this Clause 12.
- 12.2 Any amendment of the Memorandum or the Articles will take effect on the registration by the Registrar of a notice of amendment, or restated Memorandum and Articles, filed by the registered agent.

Signed for HARNEYS CORPORATE SERVICES LIMITED of Craigmuir Chambers, Road Town, Tortola, British Virgin Islands for the purpose of incorporating a BVI Business Company under the laws of the British Virgin Islands on 17 February 2006:

Incorporator

SGD. ANDREW SWAPP

.....
Andrew Swapp
Authorised Signatory
HARNEYS CORPORATE SERVICES LIMITED

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TERRITORY OF THE BRITISH VIRGIN ISLANDS
THE BVI BUSINESS COMPANIES ACT, 2004

ARTICLES OF ASSOCIATION
OF

Hilwood Resorts and Hotels Management Limited
A COMPANY LIMITED BY SHARES

1. REGISTERED SHARES

- 1.1 Every Shareholder is entitled to a certificate signed by a director or officer of the Company, or any other person authorised by Resolution of Directors, or under the Seal specifying the number of Shares held by him and the signature of the director, officer or authorised person and the Seal may be facsimiles.
- 1.2 Any Shareholder receiving a certificate shall indemnify and hold the Company and its directors and officers harmless from any loss or liability which it or they may incur by reason of any wrongful or fraudulent use or representation made by any person by virtue of the possession thereof. If a certificate for Shares is worn out or lost it may be renewed on production of the worn out certificate or on satisfactory proof of its loss together with such indemnity as may be required by Resolution of Directors.
- 1.3 If several Eligible Persons are registered as joint holders of any Shares, any one of such Eligible Persons may give an effectual receipt for any Distribution.

2. SHARES

- 2.1 Shares and other Securities may be issued at such times, to such Eligible Persons, for such consideration and on such terms as the directors may by Resolution of Directors determine.
- 2.2 *Section 46 of the Act (Pre-emptive rights) does not apply to the Company.*
- 2.3 A Share may be issued for consideration in any form, including money, a promissory note, or other written obligation to contribute money or property, real property, personal property (including goodwill and know-how), services rendered or a contract for future services.
- 2.4 The consideration for a Share with par value shall not be less than the par value of the Share. If a Share with par value is issued for consideration less than the par value, the person to whom the Share is issued is liable to pay to the Company an amount equal to the difference between the issue price and the par value.
- 2.5 No Shares may be issued for a consideration other than money, unless a Resolution of Directors has been passed stating:
 - (a) the amount to be credited for the issue of the Shares;
 - (b) the determination of the directors of the reasonable present cash value of the non-money consideration for the issue; and
 - (c) that, in the opinion of the directors, the present cash value of the non-money consideration for the issue is not less than the amount to be credited for the issue of the Shares.
- 2.6 The consideration paid for any Share, whether a par value Share or a no par value Share shall not be treated as a liability or debt of the Company for the purposes of

- (a) the solvency test in Regulations 3 and 18; and
 - (b) sections 197 and 209 of the Act.
- 2.7 The Company shall keep a register (the “**register of members**”) containing:
- (a) the names and addresses of the Eligible Persons who hold Shares;
 - (b) the number of each class and series of Shares held by each Shareholder;
 - (c) the date on which the name of each Shareholder was entered in the register of members; and
 - (d) the date on which any Eligible Person ceased to be a Shareholder.
- 2.8 The register of members may be in any such form as the directors may approve, but if it is in magnetic, electronic or other data storage form, the Company must be able to produce legible evidence of its contents. Until the directors otherwise determine, the magnetic, electronic or other data storage form shall be the original register of members.
- 2.9 A Share is deemed to be issued when the name of the Shareholder is entered in the register of members.
- 3. REDEMPTION OF SHARES AND TREASURY SHARES**
- 3.1 The Company may purchase, redeem or otherwise acquire and hold its own Shares save that the Company may not purchase, redeem or otherwise acquire its own Shares without the written consent of Shareholders whose Shares are to be purchased, redeemed or otherwise acquired (unless the Company is permitted by the Act or any other provision in the Memorandum or Articles to purchase, redeem or otherwise acquire the Shares without their consent).
- 3.2 The Company may only offer to purchase, redeem or otherwise acquire Shares if the Resolution of Directors authorising the purchase, redemption or other acquisition contains a statement that the directors are satisfied, on reasonable grounds, that immediately after the acquisition the value of the Company’s assets will exceed its liabilities and the Company will be able to pay its debts as they fall due.
- 3.3 Sections 60 (*Process for acquisition of own shares*), 61 (*Offer to one or more shareholders*) and 62 (*Shares redeemed otherwise than at the option of company*) of the Act shall not apply to the Company.
- 3.4 Shares that the Company purchases, redeems or otherwise acquires pursuant to this Regulation may be cancelled or held as Treasury Shares except to the extent that such Shares are in excess of 50% of the issued Shares in which case they shall be cancelled but they shall be available for reissue.
- 3.5 All rights and obligations attaching to a Treasury Share are suspended and shall not be exercised by the Company while it holds the Share as a Treasury Share.
- 3.6 Treasury Shares may be transferred by the Company on such terms and conditions (not otherwise inconsistent with the Memorandum and the Articles) as the Company may by Resolution of Directors determine.
- 3.7 Where Shares are held by another body corporate of which the Company holds, directly or indirectly, shares having more than 50% of the votes in the election of directors of the other body corporate, all rights and obligations attaching to the Shares held by the other body corporate are suspended and shall not be exercised by the other body corporate.
- 4. MORTGAGES AND CHARGES OF SHARES**
- 4.1 Shareholders may grant a mortgage or charge over their Shares only to those persons to whom they are permitted to transfer Shares pursuant to Regulation 6.
- 4.2 There shall be entered in the register of members at the written request of the Shareholder:

- (a) a statement that the Shares held by him are mortgaged or charged;
 - (b) the name of the mortgagee or chargee; and
 - (c) the date on which the particulars specified in subparagraphs (a) and (b) are entered in the register of members.
- 4.3 Where particulars of a mortgage or charge are entered in the register of members, such particulars may be cancelled:
- (a) with the written consent of the named mortgagee or chargee or anyone authorised to act on his behalf; or
 - (b) upon evidence satisfactory to the directors of the discharge of the liability secured by the mortgage or charge and the issue of such indemnities as the directors shall consider necessary or desirable.
- 4.4 Whilst particulars of a mortgage or charge over Shares are entered in the register of members pursuant to this Regulation:
- (a) no transfer of any Share the subject of those particulars shall be effected;
 - (b) the Company may not purchase, redeem or otherwise acquire any such Share; and
 - (c) no replacement certificate shall be issued in respect of such Shares,
- without the written consent of the named mortgagee or chargee.

5. FORFEITURE

- 5.1 Shares that are not fully paid on issue are subject to the forfeiture provisions set forth in this Regulation and for this purpose Shares issued for a promissory note, other written obligation to contribute money or property or a contract for future services are deemed to be not fully paid.
- 5.2 A written notice of call specifying the date for payment to be made shall be served on the Shareholder who defaults in making payment in respect of the Shares.
- 5.3 The written notice of call referred to in Sub-Regulation 5.2 shall name a further date not earlier than the expiration of 14 days from the date of service of the notice on or before which the payment required by the notice is to be made and shall contain a statement that in the event of non-payment at or before the time named in the notice the Shares, or any of them, in respect of which payment is not made will be liable to be forfeited.
- 5.4 Where a written notice of call has been issued pursuant to Sub-Regulation 5.3 and the requirements of the notice have not been complied with, the directors may, at any time before tender of payment, forfeit and cancel the Shares to which the notice relates.
- 5.5 The Company is under no obligation to refund any moneys to the Shareholder whose Shares have been cancelled pursuant to Sub-Regulation 5.4 and that Shareholder shall be discharged from any further obligation to the Company.

6. TRANSFER OF SHARES

- 6.1 No Shares shall be transferable other than pursuant to this Regulation 6 and the directors shall not register any transfer unless such transfer has been undertaken in accordance with Regulations 6.4 to 6.8. Shares may be transferred by a written instrument of transfer signed by the transferor and containing the name and address of the transferee, which shall be sent to the Company for registration.
- 6.2 The transfer of a Share is effective when the name of the transferee is entered on the register of members.

6.3 If the directors of the Company are satisfied that an instrument of transfer relating to Shares has been signed but that the instrument has been lost or destroyed, they may resolve by Resolution of Directors:

- (a) to accept such evidence of the transfer of Shares as they consider appropriate; and
- (b) that the transferee's name should be entered in the register of members notwithstanding the absence of the instrument of transfer.

6.4 Any Shares may at any time be transferred:-

- (i) by an Employee (not being a holder of the Shares concerned as a trustee) to a Family Member of that Employee; or
- (ii) by an Employee to trustees of a Family Trust of that Employee; or
- (iii) by an Investor to:-

a member of the same group as that Investor;

where the Investor is, or holds shares as trustee or nominee for, or otherwise on behalf of, a partnership, unit trust or other fund (however constituted):-

- (a) the holders of units in, or partners in or members of or investors in such partnership, unit trust or fund;
 - (b) a partnership, unit trust or fund which has the same general partner, manager or adviser as such partnership, unit trust or fund, or whose general partner, manager or adviser is a member of the same group as the general partner, manager or adviser of such partnership, unit trust or fund;
 - (c) a trustee or nominee for (and to be held solely on behalf of) any such partnership, unit trust or fund as is referred to in paragraph (b) above;
- (iv) by an Investor to a "co-investment scheme", being a scheme under which certain officers, employees or partners of an Investor or of its adviser or manager are entitled (as individuals or through a body corporate or any other vehicle) to acquire shares;
- (v) by a co-investment scheme which holds Shares through a body corporate or another vehicle to:-
- (a) another body corporate or another vehicle which holds or is to hold Shares for the co-investment scheme; or
 - (b) an officer, employee or partner entitled to the Shares under the co-investment scheme.
- (vi) by any Member, with the prior written consent of the directors of the Company, to the trustee(s) or nominee of an employee benefit trust;
- (vii) by the trustee(s) or nominees of an employee benefit trust, with the prior written consent of the directors of the Company, to any beneficiary of such employee benefit trust;
- (viii) by a Member pursuant to the Option Agreement; or

- (ix) by a Member with the prior written consent of all other Members.

6.6 Transfers by trustees of Family Trusts

Where Shares have been transferred under Regulation 6.4(ii) or under this Regulation to trustees of a Family Trust of an Employee, or been issued to trustees of a Family Trust of an Employee, the trustees and their successors may transfer all or any of the Relevant Shares as follows:-

- (i) on any change of trustees, the Relevant Shares may be transferred to the trustees for the time being of the Family Trust concerned;
- (ii) pursuant to the terms of such Family Trust or in consequence of the exercise of any power or discretion vested in the trustees or any other person, all or any of the Relevant Shares may be transferred to the trustees for the time being of any other Family Trust of the same Employee or deceased or former Employee or to the relevant Employee or to any Family Member of the relevant Employee or deceased or former Employee who has become entitled to the Shares proposed to be transferred.

6.7 Personal representatives

Without prejudice to any Option Agreement, if the personal representatives of a deceased Member are permitted to become registered as the holders of any of the deceased Member's Shares and elect to do so, such Shares may at any time be transferred by those personal representatives to any person to whom the deceased Member could have transferred such Shares under this Regulation if he had remained the holder of them. No other transfer of such Shares by, or at the nomination of, personal representatives shall be permitted under this Regulation.

6.8 Consented to transfers

Any Shares may at any time be transferred:

- (i) by an Investor (or any person who is the transferee of Shares held previously by an Investor and which have been transferred pursuant to this Regulation 6) to any person provided, if at such time either Manager Director is a director of the Company, such transfer is consented to in writing by a Manager Director or, if at such time neither Manager Director is a director of the Company, such transfer is consented to in writing by the directors of the Company at such time; or
- (ii) by an Employee (or any person who is the transferee of Shares held previously by an Employee and which have been transferred pursuant to this Regulation 6) to any person provided such transfer is consented to in writing by the Investor.

7. MEETINGS AND CONSENTS OF SHAREHOLDERS

- 7.1 Any director of the Company may convene meetings of the Shareholders at such times and in such manner and places within or outside the British Virgin Islands as the director considers necessary or desirable.
- 7.2 Upon the written request of Shareholders entitled to exercise 30% or more of the voting rights in respect of the matter for which the meeting is requested the directors shall convene a meeting of Shareholders.

- 7.3 The director convening a meeting shall give not less than 10 business days' clear notice of a meeting of Shareholders to:
- (a) those Shareholders whose names on the date the notice is given appear as Shareholders in the register of members of the Company and are entitled to vote at the meeting; and
 - (b) the other directors.
- 7.4 The director convening a meeting of Shareholders may fix as the record date for determining those Shareholders that are entitled to vote at the meeting the date notice is given of the meeting, or such other date as may be specified in the notice, being a date not earlier than the date of the notice.
- 7.5 A meeting of Shareholders held in contravention of the requirement to give notice is valid if Shareholders holding at least 90% of the total voting rights on all the matters to be considered at the meeting have waived notice of the meeting and, for this purpose, the presence of a Shareholder at the meeting shall constitute waiver in relation to all the Shares which that Shareholder holds.
- 7.6 The inadvertent failure of a director who convenes a meeting to give notice of a meeting to a Shareholder or another director, or the fact that a Shareholder or another director has not received notice, does not invalidate the meeting.
- 7.7 A Shareholder may be represented at a meeting of Shareholders by a proxy (or being a corporation, by a representative) who may speak and vote on behalf of the Shareholder.
- 7.8 The instrument appointing a proxy shall be produced at the place designated for the meeting before the time for holding the meeting at which the person named in such instrument proposes to vote. The notice of the meeting may specify an alternative or additional place or time at which the proxy shall be presented.
- 7.9 The instrument appointing a proxy shall be in substantially the following form or such other form as the chairman of the meeting shall accept as properly evidencing the wishes of the Shareholder appointing the proxy.

[COMPANY NAME]
I/We being a Shareholder of the above Company HEREBY APPOINT
..... of or failing him
of to be my/our proxy to vote for me/us at the meeting
of Shareholders to be held on the day of, 20..... and at any
adjournment thereof.
(Any restrictions on voting to be inserted here.)
Signed this day of, 20.....
.....
Shareholder

- 7.10 The following applies where Shares are jointly owned:
- (a) if two or more persons hold Shares jointly each of them may be present in person or by proxy at a meeting of Shareholders and may speak as a Shareholder;
 - (b) if only one of the joint owners is present in person or by proxy he may vote on behalf of all joint owners; and
 - (c) if two or more of the joint owners are present in person or by proxy they must vote as one.

- 7.11 A Shareholder shall be deemed to be present at a meeting of Shareholders if he participates by telephone or other electronic means and all Shareholders participating in the meeting are able to hear each other.
- 7.12 A meeting of Shareholders is duly constituted for all purposes if at the commencement of the meeting the Investor and all the Managers are present in person or by proxy or if the Investor and the Managers present in person or by proxy hold Shares entitled to an equal number of votes on each resolution to be considered at the meeting. If a quorum is not present at the commencement of such meeting, such meeting shall be reconvened. At least 5 business days clear notice of the adjourned meeting shall be given (unless the all the Shareholders agree otherwise). At the reconvened meeting a quorum shall exist with respect solely to those matters on the agenda for the meeting that had to be adjourned.
- 7.13 Save where an inquorate meeting has been reconvened in accordance with Regulation 7.12 and either no Manager or no Investor is present, no Resolution of Shareholders shall be effective unless at least one Investor and one Manager shall have voted in favour of, or consented in writing to, such resolution.
- 7.14 At every meeting of Shareholders, the Chairman of the Board shall preside as chairman of the meeting. If there is no Chairman of the Board or if the Chairman of the Board is not present at the meeting, the Shareholders present shall choose one of their number to be the chairman. If the Shareholders are unable to choose a chairman for any reason, then the person representing the greatest number of voting Shares present in person or by proxy at the meeting shall preside as chairman failing which the oldest individual Shareholder or representative of a Shareholder present shall take the chair. The chairman shall not have a casting vote.
- 7.15 The chairman may, with the consent of the meeting, adjourn any meeting from time to time, and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 7.16 At any meeting of the Shareholders the chairman is responsible for deciding in such manner as he considers appropriate whether any resolution proposed has been carried or not and the result of his decision shall be announced to the meeting and recorded in the minutes of the meeting. If the chairman has any doubt as to the outcome of the vote on a proposed resolution, he shall cause a poll to be taken of all votes cast upon such resolution. If the chairman fails to take a poll then any Shareholder present in person or by proxy who disputes the announcement by the chairman of the result of any vote may immediately following such announcement demand that a poll be taken and the chairman shall cause a poll to be taken. If a poll is taken at any meeting, the result shall be announced to the meeting and recorded in the minutes of the meeting.
- 7.17 Subject to the specific provisions contained in this Regulation for the appointment of representatives of Eligible Persons other than individuals the right of any individual to speak for or represent a Shareholder shall be determined by the law of the jurisdiction where, and by the documents by which, the Eligible Person is constituted or derives its existence. In case of doubt, the directors may in good faith seek legal advice from any qualified person and unless and until a court of competent jurisdiction shall otherwise rule, the directors may rely and act upon such advice without incurring any liability to any Shareholder or the Company.
- 7.18 Any Eligible Person other than an individual which is a Shareholder may by resolution of its directors or other governing body authorise such individual as it thinks fit to act as its representative at any meeting of Shareholders or of any class of Shareholders, and the individual so authorised shall be entitled to exercise the same rights on behalf of the Shareholder which he represents as that Shareholder could exercise if it were an individual.
- 7.19 The chairman of any meeting at which a vote is cast by proxy or on behalf of any Eligible Person other than an individual may call for a notarially certified copy of such proxy or

authority which shall be produced within 7 days of being so requested or the votes cast by such proxy or on behalf of such Eligible Person shall be disregarded.

- 7.20 Directors of the Company may attend and speak at any meeting of Shareholders and at any separate meeting of the holders of any class or series of Shares.
- 7.21 An action that may be taken by the Shareholders at a meeting may also be taken by a resolution consented to in writing by or on behalf of each Shareholder who would have been entitled to vote on it if it had been proposed at a meeting of the Shareholders at which he was present, without the need for any notice. The consent may be in the form of counterparts, each counterpart being signed by one or more Shareholders. If the consent is in one or more counterparts, and the counterparts bear different dates, then the resolution shall take effect on the date upon which the last of the relevant Shareholders have consented to the resolution by signed counterparts.

8. DIRECTORS

- 8.1 The first directors of the Company shall be appointed by the first registered agent within 6 months of the date of incorporation of the Company; and thereafter, the directors shall be elected by Resolution of Shareholders or by Resolution of Directors or appointed pursuant to Sub-Regulation 8.4.
- 8.2 No person shall be appointed as a director, or nominated as a reserve director, of the Company unless he has consented in writing to be a director or to be nominated as a reserve director.
- 8.3 Subject to Sub-Regulation 8.1, the minimum number of directors shall be one and the maximum number shall be four.
- 8.4 The Investor shall have the power and right, exercised by instrument in writing, to nominate and appoint up to two directors of the Company from time to time and to remove and replace any such directors. A majority of the directors of Adviceco shall by Resolution of Directors have the right to remove a Manager Director who has been dismissed as an employee of Adviceco for gross misconduct or whose Service Agreement has been terminated in accordance with its terms and with the prior consent of the remaining Manager Director (such consent not to be unreasonably withheld or delayed) may appoint another in his stead or to fill any vacancy which arises from time to time for whatsoever reason, in each case, by Resolution of Directors which shall have immediate effect. Each director holds office for the term, if any, fixed by the persons appointing him, or until his earlier death, resignation or removal. If no term is fixed on the appointment of a director, the director serves indefinitely until his earlier death, resignation or removal.
- 8.5 A director may resign his office by giving written notice of his resignation to the Company and the resignation has effect from the date the notice is received by the Company or from such later date as may be specified in the notice. A director shall resign forthwith as a director if he is, or becomes, disqualified from acting as a director under the Act.
- 8.6 Notwithstanding any other provisions of the Memorandum or of these Articles, on any resolution to remove a Manager Director who is not an Excluded Person, such Manager Director and any Related Party to him shall be entitled to ten votes for each Share which they hold at the meeting of the Shareholders at which the resolution is proposed and, if any such Manager Director is removed, he (if he holds any Shares) or any Related Party to him (who holds any Shares) may reappoint him as a Manager Director with immediate effect by service of written notice on the Company.
- 8.7 Where the directors appoint a person as director to fill a vacancy, the term shall not exceed the term that remained when the person who has ceased to be a director ceased to hold office.
- 8.8 A vacancy in relation to directors occurs if a director dies or otherwise ceases to hold office prior to the expiration of his term of office.

- 8.9 Where the Company only has one Shareholder who is an individual and that Shareholder is also the sole director of the Company, the sole Shareholder/director may, by instrument in writing, nominate a person who is not disqualified from being a director of the Company as a reserve director of the Company to act in the place of the sole director in the event of his death.
- 8.10 The nomination of a person as a reserve director of the Company ceases to have effect if:
- (a) before the death of the sole Shareholder/director who nominated him,
 - (i) he resigns as reserve director, or
 - (ii) the sole Shareholder/director revokes the nomination in writing; or
 - (b) the sole Shareholder/director who nominated him ceases to be able to be the sole Shareholder/director of the Company for any reason other than his death.
- 8.11 The Company shall keep a register of directors containing:
- (a) the names and addresses of the persons who are directors of the Company or who have been nominated as reserve directors of the Company;
 - (b) the date on which each person whose name is entered in the register was appointed as a director, or nominated as a reserve director, of the Company;
 - (c) the date on which each person named as a director ceased to be a director of the Company;
 - (d) the date on which the nomination of any person nominated as a reserve director ceased to have effect; and
 - (e) such other information as may be prescribed by the Act.
- 8.12 The register of directors may be kept in any such form as the directors may approve, but if it is in magnetic, electronic or other data storage form, the Company must be able to produce legible evidence of its contents. Until a Resolution of Directors determining otherwise is passed, the magnetic, electronic or other data storage shall be the original register of directors.
- 8.13 The directors may, by Resolution of Directors, fix the emoluments of directors with respect to services to be rendered in any capacity to the Company.
- 8.14 A director is not required to hold a Share as a qualification to office.
- 8.15 Subject to the provisions of these Articles and any relevant legislation, the directors may, by a Resolution of Directors, appoint one or more of their number to the office of Managing Director of the Company. The Company may enter into an agreement or arrangement with one or more of their number for the latter's employment by the Company in the office of Managing Director. Any such appointment, agreement or arrangement may be made upon such terms and conditions as the directors shall determine by Resolution of Directors and the Managing Director shall have all such powers and authority of the directors as are granted by or contained in the Resolution of Directors authorising his or her appointment except that no Managing Director shall have the power to effect authorise or carry out the following acts:
- (a) to amend the memorandum or articles;
 - (b) to change the registered office or agent;
 - (c) to designate committees of directors;
 - (d) to delegate powers to a committee of directors;
 - (e) to appoint or remove directors;

- (f) to appoint or remove an agent;
- (g) to fix emoluments of directors;
- (h) to approve a plan of merger, consolidation or arrangement;
- (i) to make a declaration of solvency for the purposes of section 198(1)(a) of the Act or to approve a liquidation plan;
- (j) to make a determination under section 57(1) of the Act that the company will, immediately after a proposed distribution, satisfy the solvency test; or
- (k) to authorise the company to continue as a company incorporated under the laws of a jurisdiction outside the Virgin Islands.

8.16 Subject to the provisions of any agreement or arrangement referred to in Regulation 8.15 above, or in the event that no such agreement or arrangement is entered into, a Managing Director may be removed from such position at any time, by a Resolution of Directors.

9. POWERS OF DIRECTORS

- 9.1 The business and affairs of the Company shall be managed by, or under the direction or supervision of, the directors of the Company. The directors of the Company have all the powers necessary for managing, and for directing and supervising, the business and affairs of the Company. The directors may pay all expenses incurred preliminary to and in connection with the incorporation of the Company and may exercise all such powers of the Company as are not by the Act or by the Memorandum or the Articles required to be exercised by the Shareholders.
- 9.2 Each director shall exercise his powers for a proper purpose and shall not act or agree to the Company acting in a manner that contravenes the Memorandum, the Articles or the Act. Each director, in exercising his powers or performing his duties, shall act honestly and in good faith in what the director believes to be the best interests of the Company.
- 9.3 If the Company is the wholly owned subsidiary of a holding company, a director of the Company may, when exercising powers or performing duties as a director, act in a manner which he believes is in the best interests of the holding company even though it may not be in the best interests of the Company.
- 9.4 Any director which is a body corporate may appoint any individual as its duly authorised representative for the purpose of representing it at meetings of the directors, with respect to the signing of consents or otherwise.
- 9.5 The continuing directors may act notwithstanding any vacancy in their body.
- 9.6 The directors may by Resolution of Directors exercise all the powers of the Company to incur indebtedness, liabilities or obligations and to secure indebtedness, liabilities or obligations whether of the Company or of any third party.
- 9.7 All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for moneys paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as shall from time to time be determined by Resolution of Directors.
- 9.8 For the purposes of Section 175 (*Disposition of assets*) of the Act, the directors may by Resolution of Directors determine that any sale, transfer, lease, exchange or other disposition

is in the usual or regular course of the business carried on by the Company and such determination is, in the absence of fraud, conclusive.

10. PROCEEDINGS OF DIRECTORS

- 10.1 Any one director of the Company may call a meeting of the directors by sending a written notice to each other director.
- 10.2 The directors of the Company or any committee thereof may meet at such times and in such manner and places within or outside the British Virgin Islands as the directors may determine to be necessary or desirable provided that they meet at least quarterly unless otherwise determined.
- 10.3 A director is deemed to be present at a meeting of directors if he participates by telephone or other electronic means and all directors participating in the meeting are able to hear each other.
- 10.4 A director shall be given not less than 5 business days' clear notice of meetings of directors, but a meeting of directors held without 5 business days' clear notice having been given to all directors shall be valid if all the directors entitled to vote at the meeting who do not attend waive notice of the meeting, and for this purpose the presence of a director at a meeting shall constitute waiver by that director. The notice shall be accompanied by an agenda of the business to be transacted at the meeting together with all papers to be circulated or presented to it. The inadvertent failure to give notice of a meeting to a director, or the fact that a director has not received the notice, does not invalidate the meeting.
- 10.5 A director may by a written instrument appoint an alternate who need not be a director and the alternate shall be entitled to attend meetings in the absence of the director who appointed him and to vote in place of the director until the appointment lapses or is terminated.
- 10.6 A meeting of directors or a meeting of a committee of directors is duly constituted for all purposes if all of the Investor Directors and all of the Manager Directors are present (or represented by alternate) or if there are an equal number of Investor Directors and Manager Directors present (or represented by an alternate) at the commencement of the meeting. If a quorum is not present at the commencement of such meeting, such meeting shall be reconvened. At least 5 business days notice of the adjourned meeting shall be given (unless the directors agree otherwise). At the reconvened meeting a quorum shall exist with respect solely to those matters on the agenda for the meeting that had to be adjourned.
- 10.7 If the Company has only one director the provisions herein contained for meetings of directors do not apply and such sole director has full power to represent and act for the Company in all matters as are not by the Act, the Memorandum or the Articles required to be exercised by the Shareholders. In lieu of minutes of a meeting the sole director shall record in writing and sign a note or memorandum of all matters requiring a Resolution of Directors. Such a note or memorandum constitutes sufficient evidence of such resolution for all purposes.
- 10.8 At meetings of directors at which the Chairman of the Board is present, he shall preside as chairman of the meeting. If there is no Chairman of the Board or if the Chairman of the Board is not present, the directors present shall choose one of their number to be chairman of the meeting. The Chairman shall not have a casting vote.
- 10.9 An action that may be taken by the directors or a committee of directors at a meeting may also be taken by a Resolution of Directors or a resolution of a committee of directors consented to in writing by all directors or by all members of the committee, as the case may be, without the need for any notice. The consent may be in the form of counterparts each counterpart being signed by one or more directors. If the consent is in one or more counterparts, and the counterparts bear different dates, then the resolution shall take effect on the date upon which the last director has consented to the resolution by signed counterparts.

11. COMMITTEES

- 11.1 The directors may, by Resolution of Directors, designate one or more committees, each consisting of one or more directors, and delegate one or more of their powers, including the power to affix the Seal, to the committee.
- 11.2 The directors have no power to delegate to a committee of directors any of the following powers:
- (a) to amend the Memorandum or the Articles;
 - (b) to designate committees of directors;
 - (c) to delegate powers to a committee of directors;
 - (d) to appoint or remove directors;
 - (e) to appoint or remove an agent;
 - (f) to approve a plan of merger, consolidation or arrangement;
 - (g) to make a declaration of solvency or to approve a liquidation plan; or
 - (h) to make a determination that immediately after a proposed Distribution the value of the Company's assets will exceed its liabilities and the Company will be able to pay its debts as they fall due.
- 11.3 Sub-Regulation 11.2(b) and (c) do not prevent a committee of directors, where authorised by the Resolution of Directors appointing such committee or by a subsequent Resolution of Directors, from appointing a sub-committee and delegating powers exercisable by the committee to the sub-committee.
- 11.4 The meetings and proceedings of each committee of directors consisting of 2 or more directors shall be governed *mutatis mutandis* by the provisions of the Articles regulating the proceedings of directors so far as the same are not superseded by any provisions in the Resolution of Directors establishing the committee.
- 11.5 Where the directors delegate their powers to a committee of directors they remain responsible for the exercise of that power by the committee, unless they believed on reasonable grounds at all times before the exercise of the power that the committee would exercise the power in conformity with the duties imposed on directors of the Company under the Act.

12. OFFICERS AND AGENTS

- 12.1 The Company may by Resolution of Directors appoint officers of the Company at such times as may be considered necessary or expedient. Such officers may consist of a Chairman of the Board of Directors, a president and one or more vice-presidents, secretaries and treasurers and such other officers as may from time to time be considered necessary or expedient. Any number of offices may be held by the same person. Unless otherwise determined by Resolution of Directors, Arvinder Walia shall cease to be Chairman of the Company on the first anniversary of the Investment Agreement and shall be replaced on such first anniversary by whichever of the Investor Directors the Investor shall nominate until the second anniversary of the Investment Agreement. Thereafter on each such anniversary the Chairman of the Company shall alternate between firstly whichever of the Manager Directors the Managers shall nominate in advance (provided such Manager Director is at such time a director of the Company) and secondly by whichever of the Investor Directors the Investor shall nominate in advance. Persons so appointed shall be appointed by a Resolution of Directors.
- 12.2 The officers shall perform such duties as are prescribed at the time of their appointment subject to any modification in such duties as may be prescribed thereafter by Resolution of Directors. In the absence of any specific prescription of duties it shall be the responsibility of the Chairman of the Board to preside at meetings of directors and Shareholders, the president

to manage the day to day affairs of the Company, the vice-presidents to act in order of seniority in the absence of the president but otherwise to perform such duties as may be delegated to them by the president, the secretaries to maintain the register of members, minute books and records (other than financial records) of the Company and to ensure compliance with all procedural requirements imposed on the Company by applicable law, and the treasurer to be responsible for the financial affairs of the Company.

- 12.3 The emoluments of all officers shall be fixed by Resolution of Directors.
- 12.4 The officers of the Company shall hold office until their successors are duly appointed, but any officer elected or appointed by the directors may be removed at any time, with or without cause, by Resolution of Directors. Any vacancy occurring in any office of the Company may be filled by Resolution of Directors.
- 12.5 The directors may, by Resolution of Directors, appoint any person, including a person who is a director, to be an agent of the Company.
- 12.6 An agent of the Company shall have such powers and authority of the directors, including the power and authority to affix the Seal, as are set forth in the Articles or in the Resolution of Directors appointing the agent, except that no agent has any power or authority with respect to the following:
- (a) to amend the Memorandum or the Articles;
 - (b) to change the registered office or agent;
 - (c) to designate committees of directors;
 - (d) to delegate powers to a committee of directors;
 - (e) to appoint or remove directors;
 - (f) to appoint or remove an agent;
 - (g) to fix emoluments of directors;
 - (h) to approve a plan of merger, consolidation or arrangement;
 - (i) to make a declaration of solvency or to approve a liquidation plan;
 - (j) to make a determination that immediately after a proposed Distribution the value of the Company's assets will exceed its liabilities and the Company will be able to pay its debts as they fall due; or
 - (k) to authorise the Company to continue as a company incorporated under the laws of a jurisdiction outside the British Virgin Islands.
- 12.7 The Resolution of Directors appointing an agent may authorise the agent to appoint one or more substitutes or delegates to exercise some or all of the powers conferred on the agent by the Company.
- 12.8 The directors may remove an agent appointed by the Company and may revoke or vary a power conferred on him.

13. CONFLICT OF INTERESTS

- 13.1 A director of the Company shall, forthwith after becoming aware of the fact that he is interested in a transaction entered into or to be entered into by the Company, disclose the interest to all other directors of the Company.
- 13.2 For the purposes of Sub-Regulation 13.1, a disclosure to all other directors to the effect that a director is a member, director or officer of another named entity or has a fiduciary relationship with respect to the entity or a named individual and is to be regarded as interested in any transaction which may, after the date of the entry into the transaction or disclosure of

the interest, be entered into with that entity or individual, is a sufficient disclosure of interest in relation to that transaction.

- 13.3 A director of the Company who is interested in a transaction entered into or to be entered into by the Company may:

- (a) vote on a matter relating to the transaction;
- (b) attend a meeting of directors at which a matter relating to the transaction arises and be included among the directors present at the meeting for the purposes of a quorum; and
- (c) sign a document on behalf of the Company, or do any other thing in his capacity as a director, that relates to the transaction,

and, subject to compliance with the Act shall not, by reason of his office be accountable to the Company for any benefit which he derives from such transaction and no such transaction shall be liable to be avoided on the grounds of any such interest or benefit.

14. INDEMNIFICATION

- 14.1 Subject to the limitations hereinafter provided the Company shall indemnify against all expenses, including legal fees, and against all judgments, fines and amounts paid in settlement and reasonably incurred in connection with legal, administrative or investigative proceedings any person who:

- (a) is or was a party or is threatened to be made a party to any threatened, pending or completed proceedings, whether civil, criminal, administrative or investigative, by reason of the fact that the person is or was a director of the Company; or
- (b) is or was, at the request of the Company, serving as a director of, or in any other capacity is or was acting for, another body corporate or a partnership, joint venture, trust or other enterprise.

- 14.2 The indemnity in Sub-Regulation 14.1 only applies if the person acted honestly and in good faith with a view to the best interests of the Company and, in the case of criminal proceedings, the person had no reasonable cause to believe that their conduct was unlawful.

- 14.3 For the purposes of Sub-Regulation 14.2, a director acts in the best interests of the Company if he acts in the best interests of the Shareholders of the Company.

- 14.4 The decision of the directors as to whether the person acted honestly and in good faith and with a view to the best interests of the Company and as to whether the person had no reasonable cause to believe that his conduct was unlawful is, in the absence of fraud, sufficient for the purposes of the Articles, unless a question of law is involved.

- 14.5 The termination of any proceedings by any judgment, order, settlement, conviction or the entering of a *nolle prosequi* does not, by itself, create a presumption that the person did not act honestly and in good faith and with a view to the best interests of the Company or that the person had reasonable cause to believe that his conduct was unlawful.

- 14.6 Expenses, including legal fees, incurred by a director in defending any legal, administrative or investigative proceedings may be paid by the Company in advance of the final disposition of such proceedings upon receipt of an undertaking by or on behalf of the director to repay the amount if it shall ultimately be determined that the director is not entitled to be indemnified by the Company in accordance with Sub-Regulation 14.1.

- 14.7 Expenses, including legal fees, incurred by a former director in defending any legal, administrative or investigative proceedings may be paid by the Company in advance of the final disposition of such proceedings upon receipt of an undertaking by or on behalf of the former director to repay the amount if it shall ultimately be determined that the former director is not entitled to be indemnified by the Company in accordance with Sub-Regulation 14.1 and upon such terms and conditions, if any, as the Company deems appropriate.

- 14.8 The indemnification and advancement of expenses provided by, or granted pursuant to, this section is not exclusive of any other rights to which the person seeking indemnification or advancement of expenses may be entitled under any agreement, Resolution of Shareholders, resolution of disinterested directors or otherwise, both as acting in the person's official capacity and as to acting in another capacity while serving as a director of the Company.
- 14.9 If a person referred to in Sub-Regulation 14.1 has been successful in defence of any proceedings referred to in Sub-Regulation 14.1, the person is entitled to be indemnified against all expenses, including legal fees, and against all judgments, fines and amounts paid in settlement and reasonably incurred by the person in connection with the proceedings.
- 14.10 The Company may purchase and maintain insurance in relation to any person who is or was a director, officer or liquidator of the Company, or who at the request of the Company is or was serving as a director, officer or liquidator of, or in any other capacity is or was acting for, another body corporate or a partnership, joint venture, trust or other enterprise, against any liability asserted against the person and incurred by the person in that capacity, whether or not the Company has or would have had the power to indemnify the person against the liability as provided in the Articles.
- 15. RECORDS**
- 15.1 The Company shall keep the following documents at the office of its registered agent:
- (a) the Memorandum and the Articles;
 - (b) the register of members, or a copy of the register of members;
 - (c) the register of directors, or a copy of the register of directors; and
 - (d) copies of all notices and other documents filed by the Company with the Registrar of Corporate Affairs in the previous 10 years.
- 15.2 Until the directors determine otherwise by Resolution of Directors the Company shall keep the original register of members and original register of directors at the office of its registered agent.
- 15.3 If the Company maintains only a copy of the register of members or a copy of the register of directors at the office of its registered agent, it shall:
- (a) within 15 days of any change in either register, notify the registered agent in writing of the change; and
 - (b) provide the registered agent with a written record of the physical address of the place or places at which the original register of members or the original register of directors is kept.
- 15.4 The Company shall keep the following records at the office of its registered agent or at such other place or places, within or outside the British Virgin Islands, as the directors may determine:
- (a) minutes of meetings and Resolutions of Shareholders and classes of Shareholders; and
 - (b) minutes of meetings and Resolutions of Directors and committees of directors.
- 15.5 Where any original records referred to in this Regulation are maintained other than at the office of the registered agent of the Company, and the place at which the original records is changed, the Company shall provide the registered agent with the physical address of the new location of the records of the Company within 14 days of the change of location.
- 15.6 The records kept by the Company under this Regulation shall be in written form or either wholly or partly as electronic records complying with the requirements of the Electronic Transactions Act, 2001 (No. 5 of 2001) as from time to time amended or re-enacted.

16. REGISTER OF CHARGES

The Company shall maintain at the office of its registered agent a register of charges in which there shall be entered the following particulars regarding each mortgage, charge and other encumbrance created by the Company:

- (a) the date of creation of the charge;
- (b) a short description of the liability secured by the charge;
- (c) a short description of the property charged;
- (d) the name and address of the trustee for the security or, if there is no such trustee, the name and address of the chargee;
- (e) unless the charge is a security to bearer, the name and address of the holder of the charge; and
- (f) details of any prohibition or restriction contained in the instrument creating the charge on the power of the Company to create any future charge ranking in priority to or equally with the charge.

17. SEAL

The Company shall have a Seal an impression of which shall be kept at the office of the registered agent of the Company. The Company may have more than one Seal and references herein to the Seal shall be references to every Seal which shall have been duly adopted by Resolution of Directors. The directors shall provide for the safe custody of the Seal and for an imprint thereof to be kept at the registered office. Except as otherwise expressly provided herein the Seal when affixed to any written instrument shall be witnessed and attested to by the signature of any one director or other person so authorised from time to time by Resolution of Directors. Such authorisation may be before or after the Seal is affixed, may be general or specific and may refer to any number of sealings. The directors may provide for a facsimile of the Seal and of the signature of any director or authorised person which may be reproduced by printing or other means on any instrument and it shall have the same force and validity as if the Seal had been affixed to such instrument and the same had been attested to as hereinbefore described.

18. DISTRIBUTIONS BY WAY OF DIVIDEND

- 18.1 The directors of the Company may, by Resolution of Directors, authorise a Distribution by way of dividend at a time and of an amount they think fit if they are satisfied, on reasonable grounds, that, immediately after the Distribution, the value of the Company's assets will exceed its liabilities and the Company will be able to pay its debts as they fall due.
- 18.2 Dividends may be paid in money, shares, or other property.
- 18.3 Notice of any dividend that may have been declared shall be given to each Shareholder as specified in Sub-Regulation 20.1 and all dividends unclaimed for 3 years after having been declared may be forfeited by Resolution of Directors for the benefit of the Company.
- 18.4 No dividend shall bear interest as against the Company and no dividend shall be paid on Treasury Shares.

19. ACCOUNTS AND AUDIT

- 19.1 The Company shall keep records that are sufficient to show and explain the Company's transactions and that will, at any time, enable the financial position of the Company to be determined with reasonable accuracy.
- 19.2 The Company may by Resolution of Shareholders call for the directors to prepare periodically and make available a profit and loss account and a balance sheet. The profit and loss account and balance sheet shall be drawn up so as to give respectively a true and fair view of the profit

and loss of the Company for a financial period and a true and fair view of the assets and liabilities of the Company as at the end of a financial period.

- 19.3 The Company may by Resolution of Shareholders call for the accounts to be examined by auditors.
- 19.4 The first auditors shall be appointed by Resolution of Directors; subsequent auditors shall be appointed by Resolution of Shareholders or by Resolution of Directors.
- 19.5 The auditors may be Shareholders, but no director or other officer shall be eligible to be an auditor of the Company during their continuance in office.
- 19.6 The remuneration of the auditors of the Company may be fixed by Resolution of Directors.
- 19.7 The auditors shall examine each profit and loss account and balance sheet required to be laid before a meeting of the Shareholders or otherwise given to Shareholders and shall state in a written report whether or not:
 - (a) in their opinion the profit and loss account and balance sheet give a true and fair view respectively of the profit and loss for the period covered by the accounts, and of the assets and liabilities of the Company at the end of that period; and
 - (b) all the information and explanations required by the auditors have been obtained.
- 19.8 The report of the auditors shall be annexed to the accounts and shall be read at the meeting of Shareholders at which the accounts are laid before the Company or shall be otherwise given to the Shareholders.
- 19.9 Every auditor of the Company shall have a right of access at all times to the books of account and vouchers of the Company, and shall be entitled to require from the directors and officers of the Company such information and explanations as he thinks necessary for the performance of the duties of the auditors.
- 19.10 The auditors of the Company shall be entitled to receive notice of, and to attend any meetings of Shareholders at which the Company's profit and loss account and balance sheet are to be presented.

20. NOTICES

- 20.1 Any notice, information or written statement to be given by the Company to Shareholders may be given by personal service or by mail addressed to each Shareholder at the address shown in the register of members.
- 20.2 Any summons, notice, order, document, process, information or written statement to be served on the Company may be served by leaving it, or by sending it by registered mail addressed to the Company, at its registered office, or by leaving it with, or by sending it by registered mail to, the registered agent of the Company.
- 20.3 Service of any summons, notice, order, document, process, information or written statement to be served on the Company may be proved by showing that the summons, notice, order, document, process, information or written statement was delivered to the registered office or the registered agent of the Company or that it was mailed in such time as to admit to its being delivered to the registered office or the registered agent of the Company in the normal course of delivery within the period prescribed for service and was correctly addressed and the postage was prepaid.

21. VOLUNTARY LIQUIDATION

The Company may by Resolution of Shareholders or by Resolution of Directors appoint a voluntary liquidator.

22. CONTINUATION

The Company may by Resolution of Shareholders or by a resolution passed unanimously by all directors of the Company continue as a company incorporated under the laws of a jurisdiction outside the British Virgin Islands in the manner provided under those laws.

Signed for HARNEYS CORPORATE SERVICES LIMITED of Craigmuir Chambers, Road Town, Tortola, British Virgin Islands for the purpose of incorporating a BVI Business Company under the laws of the British Virgin Islands on 17 February 2006:

Incorporator

SGD. ANDREW SWAPP

.....
Andrew Swapp
Authorised Signatory
HARNEYS CORPORATE SERVICES LIMITED

TERRITORY OF THE BRITISH VIRGIN ISLANDS
THE BVI BUSINESS COMPANIES ACT, 2004

**MEMORANDUM OF ASSOCIATION
OF
DV3 PROPERTIES HOTEL LIMITED
A COMPANY LIMITED BY SHARES**

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Memorandum of Association and the attached Articles of Association, if not inconsistent with the subject or context:

"A Shares" means A ordinary shares of £1 each in the capital of the Company;

A Shareholders: the holders of the issued A Shares from time to time;

"Act" means the BVI Business Companies Act, 2004 (No. 16 of 2004) and includes the regulations made under the Act;

"Adviceco" means DV3 Hotel Management Limited;

"Articles" means the attached Articles of Association of the Company;

"business day" means any day other than a Saturday, a Sunday or any other day which is a public holiday in England;

"B Shares" means B ordinary shares of £1 each in the capital of the Company;

"B Shareholders" means the holders of the issued B Shares from time to time;

"Cash Equivalent" means

- (i) if and to the extent the consideration (or distribution) is the issue (or transfer) of securities: (a) if the securities will rank *pari passu* with a class of securities already admitted to the Official List of the United Kingdom Listing Authority or any other recognised investment exchange (as defined by the Financial Services and Markets Act 2000 (as amended)) or to the AIM market of the London Stock Exchange plc, (x) (in the case of a sale by private treaty) the value attributed to such consideration in the related sale agreement setting out the terms of such sale or (y) (in the case of a sale following a public offer or failing any such attribution in the sale agreement) by reference to the value of such consideration securities determined by reference to the average middle market quotation of such securities over the 5 business days prior to the day on which such sale is completed, provided that, if the public offer contained a cash alternative, such securities shall be attributed the value of the cash alternative in relation to such securities; or (b) if the securities are not of such a class, the value of such securities as agreed between the Investor and each Manager who at that time holds Shares or, in the absence of such agreement, as determined by an independent firm of chartered accountants nominated by the President of the Institute of Chartered Accountants of England and Wales on the application of the Investor or a Manager who at that time holds shares. Such firm shall act as an expert and not as an arbitrator and, in the absence of fraud or manifest error, its determination shall be final and binding;

- (ii) if and to the extent the consideration (or distribution) is a non-cash asset other than securities, the value of such non-cash asset as agreed between the Investor and each Manager who at that time holds Shares or, in the absence of such agreement, as determined by an independent firm of chartered accountants nominated by the President of the Institute of Chartered Accountants of England and Wales on the application of the Investor or a Manager who at that time holds shares. Such firm shall act as an expert and not as an arbitrator and, in the absence of fraud or manifest error, its determination shall be final and binding; or
- (iii) if and to the extent a sale includes an element of deferred consideration, its value shall be the present value of the amount of such deferred consideration as agreed between the Investor and each Manager who at that time holds Shares or, in the absence of such agreement, as determined by an independent firm of chartered accountants nominated by the President of the Institute of Chartered Accountants of England and Wales on the application of the Investor or a Manager who at that time holds shares. Such firm shall act as an expert and not as an arbitrator and, in the absence of fraud or manifest error, its determination shall be final and binding;

"company" includes any body corporate;

"connected with" for the purposes of the Investment Agreement, has the meaning ascribed thereto by section 839 of the United Kingdom Income and Corporation Taxes Act 1985 (save that there shall be deemed to be control for that purpose whenever section 416 or section 840 of that Act would so require);

"Consultancy Agreement" means a letter from the Company to the Managers dated on or about 16 January 2006;

"C Shares": C ordinary shares of £1 each in the capital of the Company;

"the C Shareholders" means the holders of the issued C Shares from time to time;

"Distribution" in relation to a distribution by the Company to a Shareholder means the direct or indirect transfer of an asset, other than Shares, to or for the benefit of the Shareholder, or the incurring of a debt to or for the benefit of a Shareholder, in relation to Shares held by a Shareholder, and whether by means of the purchase of an asset, the purchase, redemption or other acquisition of Shares, a transfer of indebtedness or otherwise, and includes a dividend;

"Eligible Person" means individuals, corporations, trusts, the estates of deceased individuals, partnerships and unincorporated associations of persons;

"Employee" means an individual who is employed by, or is a director of, a Group Company or an individual whose services are otherwise made available to a Group Company (and **"employment"** shall be construed accordingly to include such an arrangement);

"employee benefit trust" means a trust established, with the prior written approval of an Investor Director, for the purpose of enabling or facilitating transactions in shares in the Company between, and/or the acquisition of beneficial ownership of such shares by, any of the following persons:-

- (a) the bona fide employees or former employees of the Company or of any subsidiary of the Company; or
- (b) the wives, husbands, widows, widowers, children or stepchildren under the age of eighteen of any such employees or former employees;

"Excluded Person" means

- (a) any Employee whose employment or directorship with a Group Company is subject to a notice of termination in accordance with his service agreement or terms of engagement (as applicable) and as a consequence of such termination will no longer be in the employment, or a director, of a Group Company;
- (b) any person who was, but has ceased to be, an Employee;
- (c) any Related Party of any person within (a) or (b) above;

"Family Members" means in relation to any person, the spouse, parents and every child and remoter descendant of that person (including stepchildren and adopted children);

"Family Trust" means in relation to any person, trusts established by that person in relation to which only such person and/or Family Members of that person are capable of being beneficiaries thereof;

"financial year" and **"financial period"** means an accounting reference period of the Company;

"Flotation" means the effective admission of ordinary shares of the Company to trading on the London Stock Exchange plc's market for listed securities or to trading on any other investment exchange in respect of which a recognition order has been made under the United Kingdom Financial Services and Markets Act 2000 section 290;

"Group Company" means Holdco or Adviceco;

"Holdco" means the Company

"Investment Agreement" means the agreement dated [], 2006 made between, amongst others, the Company (1) those persons described therein as the Managers (2) and those persons described therein as the Investor (3), as amended, supplemented, adhered to or restated from time to time;

"Investor" means DV3 Holdings Hotel Limited, together with any other person holding Shares who has agreed to be bound by the Investment Agreement as an "Investor" (as defined therein);

"Loan Stock" means Loan Stock issued by the Company from time to time;

"Managers" means Arvinder Walia and Gregor Ritchie;

"Member" means a holder of Shares;

"a member of the same group" means as regards any company, a company which is for the time being a holding company or a subsidiary of that company or of any such holding company;

"Memorandum" means this Memorandum of Association of the Company;

"Notice" has the meaning given to it in Regulation 9.1.1;

"Option Agreement" means the option agreement dated [], 2006 made between, amongst others, the Company (1) those persons described therein as the Managers (2) and those persons described therein as the Investor (3) (and any other option agreement entered into by a person pursuant to the Investment Agreement on or before becoming a Member), as amended, supplemented, adhered to or restated from time to time;

"Ordinary Shares" means ordinary shares of £1 each in the capital of the Company;

"Ordinary Shareholders" means the holders of the issued Ordinary Shares from time to time;

"Prescribed Price" means the subscription price specified by the Company in the Notice;

"Realisation" means a Flotation or a Sale or a winding-up of the Company or, for the purpose of Regulation 7.1, a Flotation or a Sale or a winding-up of Adviceco;

"Registrar" means the Registrar of Corporate Affairs appointed under section 229 of the Act;

"Related Party" means in respect of any person:-

- (a) that person's personal representatives;
- (b) any Family Member of that person;
- (c) the trustee(s) of a Family Trust of that person;
- (d) any nominee of any of the above;

"Relevant Shares" means (so far as the same remain held by the trustees of any Family Trusts) the Shares originally transferred or issued to the trustees and any additional Shares issued to such trustees by way of capitalisation or acquired by such trustees on the exercise of any right or option granted or arising by virtue of the holding of the Relevant Shares or any of them;

"Resolution of Directors" means either:

- (a) a resolution approved at a duly convened and constituted meeting of directors of the Company or of a committee of directors of the Company by the affirmative vote of a majority of the directors present at the meeting who voted except that where a director is given more than one vote, he shall be counted by the number of votes he casts for the purpose of establishing a majority; or
- (b) a resolution consented to in writing by all directors or by all members of a committee of directors of the Company, as the case may be;

"Resolution of Shareholders" means either:

- (a) a resolution approved at a duly convened and constituted meeting of the Shareholders of the Company by the affirmative vote of a majority of in excess of 50% of the votes of the Shares entitled to vote thereon which were present at the meeting and were voted; or
- (b) a resolution consented to in writing by a majority of in excess of 50% of the votes of Shares entitled to vote thereon;

"Sale" means:

- (a) the sale of all of the issued Shares to a single purchaser (or to one or more purchasers as part of a single transaction); or
- (b) the sale of less than all of the issued Shares in circumstances where the purchaser or purchasers is or are (or will upon the agreement or agreements for such sale or any offer to purchase becoming unconditional be) entitled to acquire the remainder of the issued Shares pursuant to the provisions of Regulation 10;

"Seal" means any seal which has been duly adopted as the common seal of the Company;

"Securities" means Shares and debt obligations of every kind of the Company, and including without limitation options, warrants and rights to acquire Shares or debt obligations;

"Service Agreement" means the agreements proposed to be entered into between Adviceco and each of the Managers in relation to their employment;

"Shares" means shares of any class issued or to be issued in the Company;

"Shareholder" means an Eligible Person whose name is entered in the register of members of the Company as the holder of one or more Shares or fractional Shares;

"Subscription Price" means in respect of any Share, the amount paid or credited as paid up on that share, including sums paid, or credited as paid, by way of premium.

"Treasury Share" means a Share that was previously issued but was repurchased, redeemed or otherwise acquired by the Company and not cancelled; and

"written" or any term of like import includes information generated, sent, received or stored by electronic, electrical, digital, magnetic, optical, electromagnetic, biometric or photonic means, including electronic data interchange, electronic mail, telegram, telex or telecopy, and **"in writing"** shall be construed accordingly.

1.2 In the Memorandum and the Articles, unless the context otherwise requires a reference to:

- (a) a **"Regulation"** is a reference to a regulation of the Articles;
- (b) a **"Clause"** is a reference to a clause of the Memorandum;
- (c) voting by Shareholders is a reference to the casting of the votes attached to the Shares held by the Shareholder voting;
- (d) the Act, the Memorandum or the Articles is a reference to the Act or those documents as amended or, in the case of the Act any re-enactment thereof; and
- (e) the singular includes the plural and vice versa.

1.3 Any words or expressions defined in the Act unless the context otherwise requires bear the same meaning in the Memorandum and the Articles unless otherwise defined herein.

1.4 Headings are inserted for convenience only and shall be disregarded in interpreting the Memorandum and the Articles.

2. NAME

The name of the Company is DV3 Properties Hotel Limited.

3. STATUS

The Company is a company limited by shares.

4. REGISTERED OFFICE AND REGISTERED AGENT

4.1 The first registered office of the Company is at Craigmuir Chambers, Road Town, Tortola, British Virgin Islands, the office of the first registered agent.

4.2 The first registered agent of the Company is Harneys Corporate Services Limited of Craigmuir Chambers, P.O. Box 71, Road Town, Tortola, British Virgin Islands.

4.3 The Company may by Resolution of Shareholders or by Resolution of Directors change the location of its registered office or change its registered agent.

4.4 Any change of registered office or registered agent will take effect on the registration by the Registrar of a notice of the change filed by the existing registered agent or a legal practitioner in the British Virgin Islands acting on behalf of the Company.

5. CAPACITY AND POWERS

5.1 Subject to the Act and any other British Virgin Islands legislation, the Company has, irrespective of corporate benefit:

- (a) full capacity to carry on or undertake any business or activity, do any act or enter into any transaction; and
 - (b) for the purposes of paragraph (a), full rights, powers and privileges.
- 5.2 For the purposes of section 9(4) of the Act, there are no limitations on the business that the Company may carry on.
- 6. **NUMBER AND CLASSES OF SHARES**
- 6.1 Shares in the Company shall be issued in any currency.
- 6.2 The Company is authorised to issue a maximum of 10,000 Shares. The Company has four classes of shares as follows:
 - (a) 200 Ordinary Shares of par value £1 each;
 - (b) 200 A Shares of par value £1 each;
 - (c) 200 B Shares of par value £1 each; and
 - (d) 200 C Shares of par value £1 each.
- 6.3 The Company may issue fractional Shares and a fractional Share shall have the corresponding fractional rights, obligations and liabilities of a whole share of the same class or series of shares.
- 6.4 Shares may be issued in one or more series of Shares as the directors may by Resolution of Directors determine from time to time.
- 7. **RIGHTS OF SHARES**
- 7.1 For the purposes of this Clause 7:-

(a) Return of value

Cash Flows: means all payments made by the Investor to a Group Company or to the Managers and all payments to the Investor (gross of any effect of tax) from the Managers or a Group Company, in each case in relation to or in connection with the transactions provided for or contemplated by the Investment Agreement, and which shall show, without limitation:

as a negative:

- (i) the price paid by the Investor for the subscription for Shares or for the subscription for shares in any other Group Company by the Investor;
- (ii) the price paid for the subscription for Loan Stock by the Investor and the amount of any loans made to a Group Company by the Investor (including the subscription for loan stock by the Investor in a Group Company);
- (iii) all payments made to the Managers pursuant to the Consultancy Agreement and, in relation to any bonus amounts paid pursuant to their Service Agreements, 50 per cent. of such bonus amounts;
- (iv) the amounts paid by DV3 Holdings Hotel Limited to the Managers pursuant to a loan agreement between them dated the date of the Investment Agreement (the "**Manager Loan Agreement**");
- (v) to the extent paid by the Investor or any person connected with the Investor (other than a Group Company), all advisers' fees and expenses incurred in connection with (a) the negotiation of the Investment Agreement and the documents referred to in such agreement and (b) the transactions contemplated by such agreements; and

the following receipts as a positive:

- (i) any Return to the Investor;
- (ii) any amounts paid by the Managers to DV3 Holdings Hotel Limited pursuant to the Manager Loan Agreement;
- (iii) any amounts paid to the Investor pursuant to the Loan Stock held by the Investor and any amounts paid to the Investor in respect of any loans made to a Group Company by the Investor (including any loan stock subscribed for by the Investor in a Group Company);
- (iv) any cash amounts paid or the amount of the Cash Equivalent received by the Investor in respect of the transfer or sale of any of its shares in Adviceco or its Shares or Loan Stock or any other loan made to a Group Company (including any loan stock subscribed for by the Investor in any Group Company) prior to and/or on a Realisation;

IRR: means the annual internal rate of return on the date of each Return (expressed as a percentage to two decimal places which shall be rounded to the nearest whole number, with any third decimal place equal to five leading to a rounding up and not down of the second decimal place) which when applied as a discount to the Cash Flows gives the net present value of the Cash Flows as zero on the basis that:

- (i) each of the Cash Flows is regarded as arising on the day on which the Cash Flow in question occurs; and
- (ii) the rate of return is treated as compounding annually on the anniversary of the date on which the Cash Flow in question occurs on the basis of a 365 day year; and

"Return" means any return of income or equity or surplus assets (including any Cash Equivalent amount) by Holdco or Adviceco to their respective shareholders (including (a) any dividend or distribution to members in any financial year, (b) any amounts payable by it on the purchase by it of any shares and (c) any amounts returned on a winding-up, or otherwise).

7.2 The Ordinary Shares, the A Shares, the B Shares and the C Shares shall have, and be subject to, the rights and restrictions set out in this Regulation 7. Each Return shall be made:

- (i) firstly, to each Ordinary Shareholder (in proportion to the numbers of Ordinary Shares held by them respectively) until the aggregate amount of the Returns paid to each Ordinary Shareholder from time to time shall be equal to the aggregate Subscription Price paid by such Ordinary Shareholder in respect of the Ordinary Shares, A Shares, B Shares and C Shares and the ordinary shares in Adviceco held by such Ordinary Shareholder (the **"Capital Return"**);
- (ii) secondly, after the Capital Return has been paid in full and if there remains an amount of the Return which has not been paid under Clause 7.2(i), if the Cash Flows (including the currently proposed Return) at such time represent an IRR of 12.5 per cent. or less for the Investor, to the Ordinary Shareholders (in proportion to the numbers of Ordinary Shares held by them respectively) (the **"Ordinary Shareholder Return"**);
- (iii) thirdly, after the Ordinary Shareholder Return has been paid in full and if there remains an amount of the Return which has not been paid under Clauses 7.2(i) and 7.2(ii), if the Cash Flows (including the currently proposed Return) at such time represent an IRR of more than

12.5 per cent. but less than 17.5 per cent. for the Investor, to the A Shareholders (in proportion to the numbers of A Shares held by them respectively) (the "A Shareholder Return");

- (iv) fourthly, after the A Shareholder Return has been paid in full and if there remains an amount of the Return which has not been paid under Clauses 7.2(i) to 7.2(iii), if the Cash Flows (including the currently proposed Return) at such time represent an IRR of 17.5 per cent. or more but less than 25 per cent. for the Investor, to the B Shareholders (in proportion to the numbers of B Shares held by them respectively) (the "B Shareholder Return"); and
- (v) fifthly, after the B Shareholder Return has been paid in full and if there remains an amount of the Return which has not been paid under Clauses 7.2(i) to 7.2(iv), to the C Shareholders (in proportion to the numbers of C Shares held by them respectively) (the "C Shareholder Return").

7.3 Notwithstanding the provisions of Clause 7.2, if a Return is to be made to a Manager and such Return is not as a result of a Realisation, such Return shall only be made to a Manager to the extent (when aggregated with all previous Returns paid to such Manager from time to time) such Return exceeds £50,000.

7.4 On a show of hands or on a poll every Ordinary Shareholder who (being an individual) is present in person or proxy or (being a corporation) is present by a representative shall have one vote for every Ordinary Share of which he is the holder. Whilst the A Shareholders, the B Shareholders and the C Shareholders shall be entitled to receive notice of, and attend, all general or other meetings of the Company they shall not be entitled to vote at such meeting in respect of the A Shares, B Shares or C Shares held by them.

8 VARIATION OF RIGHTS

If at any time the Shares are divided into different classes, the rights attached to any class may only be varied, whether or not the Company is in liquidation, with the consent in writing of or by a resolution passed at a meeting by the holders of not less than 75% of the issued Shares in that class.

9 RIGHTS NOT VARIED BY THE ISSUE OF SHARES PARI PASSU

The rights conferred upon the holders of the Shares of any class shall not, unless otherwise expressly provided by the terms of issue of the Shares of that class, be deemed to be varied by the creation or issue of further Shares ranking *pari passu* therewith.

10 REGISTERED SHARES

10.1 The Company shall issue registered Shares only.

10.2 The Company is not authorised to issue bearer Shares, convert registered Shares to bearer Shares or exchange registered Shares for bearer Shares.

11 TRANSFER OF SHARES

11.1 The Company shall, on receipt of an instrument of transfer complying with Sub-Regulation 6.1 of the Articles, not enter the name of the transferee of a Share in the register of members unless such transfer has been undertaken pursuant to Regulation 8 or Regulation 10 of the Articles.

12 AMENDMENT OF THE MEMORANDUM AND THE ARTICLES

12.1 Subject to Clause 8, the Company may amend the Memorandum or the Articles by Resolution of Shareholders or by Resolution of Directors, save that no amendment may be made by Resolution of Directors:

12.1.1 to restrict the rights or powers of the Shareholders to amend the Memorandum or the Articles;

- 12.1.2 to change the percentage of Shareholders required to pass a Resolution of Shareholders to amend the Memorandum or the Articles;
 - 12.1.3 in circumstances where the Memorandum or the Articles cannot be amended by the Shareholders; or
 - 12.1.4 to Clauses 7, 8, 9 or this Clause 12.
- 12.2 Any amendment of the Memorandum or the Articles will take effect on the registration by the Registrar of a notice of amendment, or restated Memorandum and Articles, filed by the registered agent.

Signed for HARNEYS CORPORATE SERVICES LIMITED of Craigmuir Chambers, Road Town, Tortola, British Virgin Islands for the purpose of incorporating a BVI Business Company under the laws of the British Virgin Islands on 10 January 2006:

Incorporator

SGD. ANDREW SWAPP

.....
Andrew Swapp
Authorised Signatory
HARNEYS CORPORATE SERVICES LIMITED

TERRITORY OF THE BRITISH VIRGIN ISLANDS
THE BVI BUSINESS COMPANIES ACT, 2004

ARTICLES OF ASSOCIATION
OF
DV3 PROPERTIES HOTEL LIMITED
A COMPANY LIMITED BY SHARES

1. REGISTERED SHARES

- 1.1 Every Shareholder is entitled to a certificate signed by a director or officer of the Company, or any other person authorised by Resolution of Directors, or under the Seal specifying the number of Shares held by him and the signature of the director, officer or authorised person and the Seal may be facsimiles.
- 1.2 Any Shareholder receiving a certificate shall indemnify and hold the Company and its directors and officers harmless from any loss or liability which it or they may incur by reason of any wrongful or fraudulent use or representation made by any person by virtue of the possession thereof. If a certificate for Shares is worn out or lost it may be renewed on production of the worn out certificate or on satisfactory proof of its loss together with such indemnity as may be required by Resolution of Directors.
- 1.3 If several Eligible Persons are registered as joint holders of any Shares, any one of such Eligible Persons may give an effectual receipt for any Distribution.

2. SHARES

- 2.1 Subject to Regulation 9.1, Shares and other Securities may be issued at such times, to such Eligible Persons, for such consideration and on such terms as the directors may by Resolution of Directors determine.
- 2.2 Section 46 of the Act (*Pre-emptive rights*) does not apply to the Company.
- 2.3 A Share may be issued for consideration in any form, including money, a promissory note, or other written obligation to contribute money or property, real property, personal property (including goodwill and know-how), services rendered or a contract for future services.
- 2.4 The consideration for a Share with par value shall not be less than the par value of the Share. If a Share with par value is issued for consideration less than the par value, the person to whom the Share is issued is liable to pay to the Company an amount equal to the difference between the issue price and the par value.
- 2.5 No Shares may be issued for a consideration other than money, unless a Resolution of Directors has been passed stating:
 - (a) the amount to be credited for the issue of the Shares;
 - (b) the determination of the directors of the reasonable present cash value of the non-money consideration for the issue; and
 - (c) that, in the opinion of the directors, the present cash value of the non-money consideration for the issue is not less than the amount to be credited for the issue of the Shares.
- 2.6 The consideration paid for any Share, whether a par value Share or a no par value Share shall not be treated as a liability or debt of the Company for the purposes of

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- (a) the solvency test in Regulations 3 and 22; and
 - (b) sections 197 and 209 of the Act.
- 2.7 The Company shall keep a register (the “**register of members**”) containing:
- (a) the names and addresses of the Eligible Persons who hold Shares;
 - (b) the number of each class and series of Shares held by each Shareholder;
 - (c) the date on which the name of each Shareholder was entered in the register of members; and
 - (d) the date on which any Eligible Person ceased to be a Shareholder.
- 2.8 The register of members may be in any such form as the directors may approve, but if it is in magnetic, electronic or other data storage form, the Company must be able to produce legible evidence of its contents. Until the directors otherwise determine, the magnetic, electronic or other data storage form shall be the original register of members.
- 2.9 A Share is deemed to be issued when the name of the Shareholder is entered in the register of members.
- 3. REDEMPTION OF SHARES AND TREASURY SHARES**
- 3.1 The Company may purchase, redeem or otherwise acquire and hold its own Shares save that the Company may not purchase, redeem or otherwise acquire its own Shares without the written consent of Shareholders whose Shares are to be purchased, redeemed or otherwise acquired (unless the Company is permitted by the Act or any other provision in the Memorandum or Articles to purchase, redeem or otherwise acquire the Shares without their consent).
- 3.2 The Company may only offer to purchase, redeem or otherwise acquire Shares if the Resolution of Directors authorising the purchase, redemption or other acquisition contains a statement that the directors are satisfied, on reasonable grounds, that immediately after the acquisition the value of the Company’s assets will exceed its liabilities and the Company will be able to pay its debts as they fall due.
- 3.3 Sections 60 (*Process for acquisition of own shares*), 61 (*Offer to one or more shareholders*) and 62 (*Shares redeemed otherwise than at the option of company*) of the Act shall not apply to the Company.
- 3.4 Shares that the Company purchases, redeems or otherwise acquires pursuant to this Regulation may be cancelled or held as Treasury Shares except to the extent that such Shares are in excess of 50% of the issued Shares in which case they shall be cancelled but they shall be available for reissue.
- 3.5 All rights and obligations attaching to a Treasury Share are suspended and shall not be exercised by the Company while it holds the Share as a Treasury Share.
- 3.6 Treasury Shares may be transferred by the Company on such terms and conditions (not otherwise inconsistent with the Memorandum and the Articles) as the Company may by Resolution of Directors determine.
- 3.7 Where Shares are held by another body corporate of which the Company holds, directly or indirectly, shares having more than 50% of the votes in the election of directors of the other body corporate, all rights and obligations attaching to the Shares held by the other body corporate are suspended and shall not be exercised by the other body corporate.
- 4. MORTGAGES AND CHARGES OF SHARES**
- 4.1 Shareholders may grant a mortgage or charge over their Shares only to those persons to whom they are permitted to transfer Shares pursuant to Regulation 8.
- 4.2 There shall be entered in the register of members at the written request of the Shareholder:

- (a) a statement that the Shares held by him are mortgaged or charged;
- (b) the name of the mortgagee or chargee; and
- (c) the date on which the particulars specified in subparagraphs (a) and (b) are entered in the register of members.

4.3 Where particulars of a mortgage or charge are entered in the register of members, such particulars may be cancelled:

- (a) with the written consent of the named mortgagee or chargee or anyone authorised to act on his behalf; or
- (b) upon evidence satisfactory to the directors of the discharge of the liability secured by the mortgage or charge and the issue of such indemnities as the directors shall consider necessary or desirable.

4.4 Whilst particulars of a mortgage or charge over Shares are entered in the register of members pursuant to this Regulation:

- (a) no transfer of any Share the subject of those particulars shall be effected;
 - (b) the Company may not purchase, redeem or otherwise acquire any such Share; and
 - (c) no replacement certificate shall be issued in respect of such Shares,
- without the written consent of the named mortgagee or chargee.

5. FORFEITURE

5.1 Shares that are not fully paid on issue are subject to the forfeiture provisions set forth in this Regulation and for this purpose Shares issued for a promissory note, other written obligation to contribute money or property or a contract for future services are deemed to be not fully paid.

5.2 A written notice of call specifying the date for payment to be made shall be served on the Shareholder who defaults in making payment in respect of the Shares.

5.3 The written notice of call referred to in Sub-Regulation 5.2 shall name a further date not earlier than the expiration of 14 days from the date of service of the notice on or before which the payment required by the notice is to be made and shall contain a statement that in the event of non-payment at or before the time named in the notice the Shares, or any of them, in respect of which payment is not made will be liable to be forfeited.

5.4 Where a written notice of call has been issued pursuant to Sub-Regulation 5.3 and the requirements of the notice have not been complied with, the directors may, at any time before tender of payment, forfeit and cancel the Shares to which the notice relates.

5.5 The Company is under no obligation to refund any moneys to the Shareholder whose Shares have been cancelled pursuant to Sub-Regulation 5.4 and that Shareholder shall be discharged from any further obligation to the Company.

6. TRANSFER OF SHARES

6.1 No Shares shall be transferable other than pursuant to Regulations 8 and 10 and the directors shall not register any transfer unless such transfer has been undertaken pursuant to Regulations 8 or 10.

6.2 Shares may be transferred by a written instrument of transfer signed by the transferor and containing the name and address of the transferee, which shall be sent to the Company for registration.

6.3 The transfer of a Share is effective when the name of the transferee is entered on the register of members.

6.4 If the directors of the Company are satisfied that an instrument of transfer relating to Shares has been signed but that the instrument has been lost or destroyed, they may resolve by Resolution of Directors:

- (a) to accept such evidence of the transfer of Shares as they consider appropriate; and
- (b) that the transferee's name should be entered in the register of members notwithstanding the absence of the instrument of transfer.

7. Further provisions regarding Transfers

7.1 For the purposes of these Articles the term "**transfer**" shall, unless the context otherwise requires, include:-

- (a) a sale or disposal of any legal or equitable interest in a Share, whether or not by the Member registered as the holder of that Share;
- (b) any renunciation or other direction by a Member entitled to an allotment or transfer of Shares that such Shares be allotted, issued or transferred to another person.

8. Permitted transfers

8.1 Permitted transfers

Subject to the provisions of Regulation 6, any Shares may at any time be transferred:-

- (a) by an Employee (not being a holder of the Shares concerned as a trustee) to a Family Member of that Employee;
- (b) by an Employee to trustees of a Family Trust of that Employee;
- (c) by the Investor to any person (provided that, following such transfer, the Investor will remain beneficially entitled to a majority of the Shares of each class in the Company).
- (d) by the Investor to:-

(i) a member of the same group as that Investor;

(ii) where the Investor is, or holds shares as trustee or nominee for, or otherwise on behalf of, a partnership, unit trust or other fund (however constituted):-

- (a) the holders of units in, or partners in or members of or investors in such partnership, unit trust or fund;
- (b) a partnership, unit trust or fund which has the same general partner, manager or adviser as such partnership, unit trust or fund, or whose general partner, manager or adviser is a member of the same group as the general partner, manager or adviser of such partnership, unit trust or fund;
- (c) a trustee or nominee for (and to be held solely on behalf of) any such partnership, unit trust or fund as is referred to in paragraph (b) immediately above;

- (e) by the Investor to a "co-investment scheme", being a scheme under which certain officers, employees or partners of an Investor or of its adviser or manager are entitled (as individuals or through a body corporate or any other vehicle) to acquire shares;
- (f) by a co-investment scheme which holds Shares through a body corporate or another vehicle to:-
 - (i) another body corporate or another vehicle which holds or is to hold Shares for the co-investment scheme; or
 - (ii) an officer, employee or partner entitled to the Shares under the co-investment scheme;
- (g) by any Member, with the prior written consent of an Investor Director, to the trustee(s) or nominee for the time being of an employee benefit trust;
- (h) by the trustee(s) or nominees for the time being of an employee benefit trust, with the prior written consent of an Investor Director and of each Manager who holds Shares and is not an Excluded Person, to any beneficiary of such employee benefit trust;
- (i) by any Member in consequence of acceptance of an offer made to that Member pursuant to Regulation 10.1, or pursuant to a notice given under Regulation 10.3;
- (j) by a Member in pursuance of a sale of Specified Shares (whether alone or in combination with other sales of Shares) as described in Regulation 10;
- (k) by a Member pursuant to the Option Agreement; or
- (l) by a Member with the prior written consent of all of the other Members.

8.2 Transfers by trustees of Family Trusts

Where Shares have been transferred under Regulation 8.1(a) or under Regulation 8.2(a) or 8.2(b) to trustees of a Family Trust of an Employee, or been issued to trustees of a Family Trust of an Employee, the trustees and their successors may transfer all or any of the Relevant Shares as follows:-

- (a) on any change of trustees, the Relevant Shares may be transferred to the trustees for the time being of the Family Trust concerned;
- (b) pursuant to the terms of such Family Trust or in consequence of the exercise of any power or discretion vested in the trustees or any other person, all or any of the Relevant Shares may be transferred to the trustees for the time being of any other Family Trust of the same Employee or deceased or former Employee or to the relevant Employee or former Employee or to any Family Member of the relevant Employee or deceased or former Employee who has become entitled to the Shares proposed to be transferred.

8.3 Transfers by personal representatives

Without prejudice to any Option Agreement if the personal representatives of a deceased Member are permitted to become registered as the holders of any of the deceased Member's Shares and elect to do so, such Shares may at any time be transferred by those personal representatives to any person to whom the deceased Member could have transferred such Shares under this Regulation if he had remained

the holder of them. No other transfer of such Shares by, or at the nomination of, personal representatives shall be permitted under this Regulation.

9. Pre-emption on issue

For the purposes of this Regulation 9, **Shareholder Instruments** means (i) Shares, any right of subscription for or conversion into Shares and an instrument carrying rights to subscribe for or convert into Shares and (ii) Loan Stock or any other instrument evidencing indebtedness issued by the Company (other than in relation to indebtedness in respect of monies borrowed from a bank or similar institution).

The issue of Shareholder Instruments by the Company shall be subject to the following restrictions:-

9.1 Issue Notices

- (a) Before issuing any Shareholder Instruments, the Company shall serve a notice (the "**Notice**") specifying the number and type of Shareholder Instruments in question (the "**Sale Shareholder Instruments**") on each Member which holds Shareholder Instruments of a type which the Company is proposing to issue.
- (b) A Notice:-
 - (i) may comprise Sale Shareholder Instruments of more than one type;
 - (ii) must specify the Prescribed Price per Sale Shareholder Instrument (or, where the Notice comprises Sale Shareholder Instruments of more than one type, the Prescribed Price per Sale Shareholder Instruments for each type); and
 - (iii) may not be given by an Excluded Person.

9.2 Offer of Sale Shareholder Instruments

- (a) The Notice shall limit the time (being between 10 and 15 business days, inclusive) within which the offer must be accepted or, in default, will be deemed to have been declined.
- (b) The offer shall be made on the following basis (and so that each type of Sale Shareholder Instrument, if more than one, shall be offered separately for the purposes of this Regulation):-
 - (i) if there is more than one holder of any type of Sale Shareholder Instrument ("**the relevant type**") to whom an offer is to be made, the Sale Shareholder Instruments shall be offered to such holders in proportion as nearly as may be to their existing holdings of Sale Shareholder Instruments of the relevant type, and the directors' decision as to the number of Sale Shareholder Instruments which shall be "in proportion as nearly as may be to their existing holdings of Sale Shareholder Instruments of the relevant type" shall be conclusive;
 - (ii) any Member to whom Sale Shareholder Instruments are offered may accept all or some only of the Sale Shareholder Instruments offered to him;
 - (iii) each Member to whom the offer is made (if more than one) shall be invited to indicate whether, if he accepts the number of Sale Shareholder Instruments offered to him pursuant to this Regulation 9.2, he wishes to purchase any Sale

Shareholder Instruments offered to other Members in the same offer which they decline to accept (such Sale Shareholder Instruments being referred to as "**excess Shareholder Instruments**") and if so the maximum number which he wishes to purchase;

- (iv) if there are any excess Shareholder Instruments they shall be allocated between the Members who have indicated that they wish to purchase excess Shareholder Instruments. If the number of excess Shareholder Instruments available is insufficient, the excess Shareholder Instruments shall be allocated between the Members seeking to purchase them as follows:-

- .iv.1.1. any Member who has sought to purchase no more than his proportionate entitlement of excess Shareholder Instruments (calculated by reference to the proportion of the total holdings of Shareholder Instruments of the relevant type of Members seeking to purchase excess Shareholder Instruments represented by that Member's holding) shall be allocated all the excess Shareholder Instruments he sought to purchase;

- .iv.1.2. any Member or Members who sought to purchase more than their proportionate entitlement shall have the number of excess Shareholder Instruments applied for scaled down and (if more than one) in proportion to their respective holdings of Shareholder Instruments of the relevant type,

provided always that any excess Sale Shareholder Instruments which were declined by a Member who is an Employee shall be treated as having been offered first to those Members who are Employees (but not Excluded Persons) who have indicated that they wish to purchase excess Shareholder Instruments and only to the extent not applied for by those Members shall they be allocated to the other Members who have indicated that they wish to purchase excess Shareholder Instruments and the provisions of this Regulation 9.2.2.4 shall be construed accordingly;

- (v) subject to the provisions of this Regulation, the Purchasers shall be bound to purchase the Sale Shareholder Instruments allocated to them under the provisions of this Regulation 9.2 at the Prescribed Price.

9.3 Issue of Sale Shareholder Instruments

- (a) The issue of the relevant Sale Shareholder Instruments by the Company shall be completed during normal business hours on the first business day after the expiry of the period during which the offer must be accepted under Regulation 9.2.1.

9.4 Waiver of restrictions

The restrictions imposed by this Regulation may be waived in relation to any proposed issue of Shareholder Instruments with the consent of all Members who, but for such waiver, would or might have been entitled to have such shares offered to them in accordance with Regulation 9.2.

10. Change of control

10.1 The Investor ("**the Specified Member**") may not undertake any transfer of any Shares (the "**Specified Shares**") if this would result (if made and registered) in a person (or persons) acquiring the entire shareholding of the Investor, unless before the transfer is lodged for registration the proposed transferee or his nominee has made an offer ("**the Offer**") open for acceptance for at least 15 business days from the date of the notice (or, if applicable and later, from the date on which the Determined Price is agreed or determined in accordance with Regulation 10.2.2) to purchase all of the issued Shares (including or excluding the Specified Shares) at the Specified Consideration. No offer shall be required under this Regulation 10.1 if the Specified Member exercises its rights under Regulation 10.3.

10.2 For the purposes of this Regulation 10:-

- (a) "**the Specified Consideration**" means a consideration (whether in cash, securities or otherwise or in any combination) per Share which is the same as that offered by the proposed transferee or transferees for each Specified Share or, if a class of Share is not subject to an offered consideration, a consideration per such Share equal to the Determined Price together with an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of the Specified Shares 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 Specified Shares; and
- (b) "**the Determined Price**" shall be the price agreed by the Specified Member and such of the Managers as at such time hold Shares (or, if there are no such Managers at such time, the Company) or, if no such agreement can be reached within 10 business days of the service of the Transfer Notice, the determination of the price shall be referred to an independent firm of chartered accountants agreed by the Specified Member and such of the Managers as at such time hold Shares (or, if there are no such Managers at such time, the Company) within 5 business days of the expiry of the 10 business day period or, if they fail to reach agreement within that period, to an independent firm of chartered accountants appointed by the President of the Institute of Chartered Accountants in England and Wales on the application of either party ("**the Independent Firm**"). The Specified Member and the Company shall endeavour to procure that the Independent Firm shall, as soon as practicable, determine the price and, in the absence of manifest error, such determination shall be final and binding. The Independent Firm shall act as expert and not as arbitrator. In determining the price, the Independent Firm shall make no adjustment to reflect any premium or discount arising in relation to the size of the holding of Shares or in relation to any restrictions on the transferability of such Shares. The fees of the Independent Firm shall be borne as directed by the Independent Firm. The Company shall provide to the Independent Firm all such information within its possession or control as the Independent Firm shall reasonably require for the purpose of making any decision under this Regulation.

10.3 If the effect of a bona fide transfer of Shares on arm's length commercial terms to a purchaser would (if made and registered) result in the Specified Member having transferred its entire shareholding, the Specified Member may give notice in writing to all holders of Shares other than:-

- (a) the Specified Member; and
- (b) (if applicable) the proposed transferee,

("the Minority Shareholders") requiring them within five business days of the date of the notice (or, if applicable and later, of the date on which the Determined Price is agreed or determined in accordance with Regulation 10.2.(b)) to transfer all (but not some of) of their holdings of Shares to the proposed transferee. The transfer shall be at the Specified Consideration and on the same terms and conditions as those agreed between the Specified Member and the proposed transferee. Written notice given under this Regulation 10.3 shall be accompanied by all documents required to be executed by the relevant Minority Shareholder to give effect to the required transfer.

10.4 If any Minority Shareholder:-

- (a) shall fail to transfer shares as required by Regulation 10.3, the directors may authorise any individual to execute on behalf of and as attorney for the Minority Shareholder any necessary instruments of transfer and shall register the proposed transferee as the holder of the Shares. The Company's receipt of the purchase money shall be a good discharge to the proposed transferee, and the Company shall thereafter hold the same on trust for the Minority Shareholder. If the Minority Shareholder is a Manager (or a Related Party to a Manager) and has become bound to transfer Shares hereunder and fails to transfer his shares due to the death of the Manager or in the circumstances provided for in clauses 11.1.1, 11.1.2 or 11.1.5 of the Service Agreement of the Manager, the relevant monies held on trust for the Manager (or a Related Party to a Manager) shall be held in a bank account of the Company which contains no other deposit monies. After the name of the proposed transferee has been entered in the register of members in purported exercise of these powers, the validity of the proceedings shall not be questioned by any person.
- (b) shall fail to execute any other document required to be executed in order to give effect to the provisions of Regulation 10.3, the directors may authorise any individual to execute such document(s) on behalf of and as attorney for the Minority Shareholder.

10.5 If the Specified Member complies with its obligations under Regulation 10.1, or exercises its rights under Regulation 10.3, it may proceed with the transfer of the Specified Shares.

10.6 Subject to the Memorandum, the personal representative of a deceased Shareholder may transfer a Share in accordance with this Regulation 10 even though the personal representative is not a Shareholder at the time of the transfer.

11. MEETINGS AND CONSENTS OF SHAREHOLDERS

11.1 Any director of the Company may convene meetings of the Shareholders at such times and in such manner and places within or outside the British Virgin Islands as the director considers necessary or desirable.

11.2 Upon the written request of Shareholders entitled to exercise 30% or more of the voting rights in respect of the matter for which the meeting is requested the directors shall convene a meeting of Shareholders.

11.3 The director convening a meeting shall give not less than 10 clear business days' notice of a meeting of Shareholders to:

- (a) those Shareholders whose names on the date the notice is given appear as Shareholders in the register of members of the Company and are entitled to vote at the meeting; and
- (b) the other directors.

11.4 The director convening a meeting of Shareholders may fix as the record date for determining those Shareholders that are entitled to vote at the meeting the date notice is given of the

meeting, or such other date as may be specified in the notice, being a date not earlier than the date of the notice.

- 11.5 A meeting of Shareholders held in contravention of the requirement to give notice is valid if Shareholders holding at least 90% of the total voting rights on all the matters to be considered at the meeting have waived notice of the meeting and, for this purpose, the presence of a Shareholder at the meeting shall constitute waiver in relation to all the Shares which that Shareholder holds.
- 11.6 The inadvertent failure of a director who convenes a meeting to give notice of a meeting to a Shareholder or another director, or the fact that a Shareholder or another director has not received notice, does not invalidate the meeting.
- 11.7 A Shareholder may be represented at a meeting of Shareholders by a proxy who may speak and vote on behalf of the Shareholder.
- 11.8 The instrument appointing a proxy shall be produced at the place designated for the meeting before the time for holding the meeting at which the person named in such instrument proposes to vote. The notice of the meeting may specify an alternative or additional place or time at which the proxy shall be presented.
- 11.9 The instrument appointing a proxy shall be in substantially the following form or such other form as the chairman of the meeting shall accept as properly evidencing the wishes of the Shareholder appointing the proxy.

<p style="text-align: center;">[COMPANY NAME]</p> <p>I/We being a Shareholder of the above Company HEREBY APPOINT of or failing him of to be my/our proxy to vote for me/us at the meeting of Shareholders to be held on the day of, 20..... and at any adjournment thereof.</p> <p>(Any restrictions on voting to be inserted here.)</p> <p>Signed this day of, 20.....</p> <p>..... Shareholder</p>

- 11.10 The following applies where Shares are jointly owned:
- (a) if two or more persons hold Shares jointly each of them may be present in person or by proxy at a meeting of Shareholders and may speak as a Shareholder;
 - (b) if only one of the joint owners is present in person or by proxy he may vote on behalf of all joint owners; and
 - (c) if two or more of the joint owners are present in person or by proxy they must vote as one.
- 11.11 A Shareholder shall be deemed to be present at a meeting of Shareholders if he participates by telephone or other electronic means and all Shareholders participating in the meeting are able to hear each other.
- 11.12 A meeting of Shareholders is duly constituted if, at the commencement of the meeting, there are present in person or by proxy not less than 50% of the votes of the Shares entitled to vote on Resolutions of Shareholders to be considered at the meeting. A quorum may comprise a single Shareholder or proxy and then such person may pass a Resolution of Shareholders and a certificate signed by such person accompanied where such person be a proxy by a copy of the proxy instrument shall constitute a valid Resolution of Shareholders.

- 11.13 If within two hours from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Shareholders, shall be dissolved; in any other case it shall stand adjourned to the next business day in the jurisdiction in which the meeting was to have been held at the same time and place or to such other time and place as the directors may determine, and if at the adjourned meeting there are present within one hour from the time appointed for the meeting in person or by proxy not less than one third of the votes of the Shares or each class or series of Shares entitled to vote on the matters to be considered by the meeting, those present shall constitute a quorum but otherwise the meeting shall be dissolved.
- 11.14 At every meeting of Shareholders, the Chairman of the Board shall preside as chairman of the meeting. If there is no Chairman of the Board or if the Chairman of the Board is not present at the meeting, the Shareholders present shall choose one of their number to be the chairman. If the Shareholders are unable to choose a chairman for any reason, then the person representing the greatest number of voting Shares present in person or by proxy at the meeting shall preside as chairman failing which the oldest individual Shareholder or representative of a Shareholder present shall take the chair.
- 11.15 The chairman may, with the consent of the meeting, adjourn any meeting from time to time, and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 11.16 At any meeting of the Shareholders the chairman is responsible for deciding in such manner as he considers appropriate whether any resolution proposed has been carried or not and the result of his decision shall be announced to the meeting and recorded in the minutes of the meeting. If the chairman has any doubt as to the outcome of the vote on a proposed resolution, he shall cause a poll to be taken of all votes cast upon such resolution. If the chairman fails to take a poll then any Shareholder present in person or by proxy who disputes the announcement by the chairman of the result of any vote may immediately following such announcement demand that a poll be taken and the chairman shall cause a poll to be taken. If a poll is taken at any meeting, the result shall be announced to the meeting and recorded in the minutes of the meeting.
- 11.17 Subject to the specific provisions contained in this Regulation for the appointment of representatives of Eligible Persons other than individuals the right of any individual to speak for or represent a Shareholder shall be determined by the law of the jurisdiction where, and by the documents by which, the Eligible Person is constituted or derives its existence. In case of doubt, the directors may in good faith seek legal advice from any qualified person and unless and until a court of competent jurisdiction shall otherwise rule, the directors may rely and act upon such advice without incurring any liability to any Shareholder or the Company.
- 11.18 Any Eligible Person other than an individual which is a Shareholder may by resolution of its directors or other governing body authorise such individual as it thinks fit to act as its representative at any meeting of Shareholders or of any class of Shareholders, and the individual so authorised shall be entitled to exercise the same rights on behalf of the Shareholder which he represents as that Shareholder could exercise if it were an individual.
- 11.19 The chairman of any meeting at which a vote is cast by proxy or on behalf of any Eligible Person other than an individual may call for a notarially certified copy of such proxy or authority which shall be produced within 7 days of being so requested or the votes cast by such proxy or on behalf of such Eligible Person shall be disregarded.
- 11.20 Directors of the Company may attend and speak at any meeting of Shareholders and at any separate meeting of the holders of any class or series of Shares.
- 11.21 An action that may be taken by the Shareholders at a meeting may also be taken by a resolution consented to in writing, without the need for any notice, but if any Resolution of Shareholders is adopted otherwise than by the unanimous written consent of all Shareholders, a copy of such resolution shall forthwith be sent to all Shareholders not consenting to such

resolution. The consent may be in the form of counterparts, each counterpart being signed by one or more Shareholders. If the consent is in one or more counterparts, and the counterparts bear different dates, then the resolution shall take effect on the earliest date upon which Shareholders holding a sufficient number of votes of Shares to constitute a Resolution of Shareholders have consented to the resolution by signed counterparts.

12. DIRECTORS

- 12.1 The first directors of the Company shall be appointed by the first registered agent within 6 months of the date of incorporation of the Company; and thereafter, the directors shall be elected by Resolution of Shareholders or by Resolution of Directors.
- 12.2 No person shall be appointed as a director, or nominated as a reserve director, of the Company unless he has consented in writing to be a director or to be nominated as a reserve director.
- 12.3 Subject to Sub-Regulation 12.1, the minimum number of directors shall be one and there shall be no maximum number.
- 12.4 Each director holds office for the term, if any, fixed by the Resolution of Shareholders or the Resolution of Directors appointing him, or until his earlier death, resignation or removal. If no term is fixed on the appointment of a director, the director serves indefinitely until his earlier death, resignation or removal.
- 12.5 A director may be removed from office,
 - (a) with or without cause, by Resolution of Shareholders passed at a meeting of Shareholders called for the purposes of removing the director or for purposes including the removal of the director or by a written resolution passed by a least 75% of the Shareholders of the Company entitled to vote; or
 - (b) with cause, by Resolution of Directors passed at a meeting of directors called for the purpose of removing the director or for purposes including the removal of the director.
- 12.6 A director may resign his office by giving written notice of his resignation to the Company and the resignation has effect from the date the notice is received by the Company or from such later date as may be specified in the notice. A director shall resign forthwith as a director if he is, or becomes, disqualified from acting as a director under the Act.
- 12.7 The directors may at any time appoint any person to be a director either to fill a vacancy or as an addition to the existing directors. Where the directors appoint a person as director to fill a vacancy, the term shall not exceed the term that remained when the person who has ceased to be a director ceased to hold office.
- 12.8 A vacancy in relation to directors occurs if a director dies or otherwise ceases to hold office prior to the expiration of his term of office.
- 12.9 Where the Company only has one Shareholder who is an individual and that Shareholder is also the sole director of the Company, the sole Shareholder/director may, by instrument in writing, nominate a person who is not disqualified from being a director of the Company as a reserve director of the Company to act in the place of the sole director in the event of his death.
- 12.10 The nomination of a person as a reserve director of the Company ceases to have effect if:
 - (a) before the death of the sole Shareholder/director who nominated him,
 - (i) he resigns as reserve director, or
 - (ii) the sole Shareholder/director revokes the nomination in writing; or
 - (b) the sole Shareholder/director who nominated him ceases to be able to be the sole Shareholder/director of the Company for any reason other than his death.

- 12.11 The Company shall keep a register of directors containing:
- (a) the names and addresses of the persons who are directors of the Company or who have been nominated as reserve directors of the Company;
 - (b) the date on which each person whose name is entered in the register was appointed as a director, or nominated as a reserve director, of the Company;
 - (c) the date on which each person named as a director ceased to be a director of the Company;
 - (d) the date on which the nomination of any person nominated as a reserve director ceased to have effect; and
 - (e) such other information as may be prescribed by the Act.
- 12.12 The register of directors may be kept in any such form as the directors may approve, but if it is in magnetic, electronic or other data storage form, the Company must be able to produce legible evidence of its contents. Until a Resolution of Directors determining otherwise is passed, the magnetic, electronic or other data storage shall be the original register of directors.
- 12.13 The directors shall not be entitled to receive any emoluments with respect to services to be rendered in any capacity to the Company.
- 12.14 A director is not required to hold a Share as a qualification to office.
- 12.15 Subject to the provisions of these Articles and any relevant legislation, the directors may, by a Resolution of Directors, appoint one or more of their number to the office of Managing Director of the Company. The Company may enter into an agreement or arrangement with one or more of their number for the latter's employment by the Company in the office of Managing Director. Any such appointment, agreement or arrangement may be made upon such terms and conditions as the directors shall determine by Resolution of Directors and the Managing Director shall have all such powers and authority of the directors as are granted by or contained in the Resolution of Directors authorising his or her appointment except that no Managing Director shall have the power to effect authorise or carry out the following acts:
- (a) to amend the memorandum or articles;
 - (b) to change the registered office or agent;
 - (c) to designate committees of directors;
 - (d) to delegate powers to a committee of directors;
 - (e) to appoint or remove directors;
 - (f) to appoint or remove an agent;
 - (g) to fix emoluments of directors;
 - (h) to approve a plan of merger, consolidation or arrangement;
 - (i) to make a declaration of solvency for the purposes of section 198(1)(a) of the Act or to approve a liquidation plan;
 - (j) to make a determination under section 57(1) of the Act that the company will, immediately after a proposed distribution, satisfy the solvency test; or

- (k) to authorise the company to continue as a company incorporated under the laws of a jurisdiction outside the Virgin Islands.

12.16 Subject to the provisions of any agreement or arrangement referred to in Regulation 12.15 above, or in the event that no such agreement or arrangement is entered into, a Managing Director may be removed from such position at any time, by a Resolution of Directors.

13. POWERS OF DIRECTORS

13.1 The business and affairs of the Company shall be managed by, or under the direction or supervision of, the directors of the Company. The directors of the Company have all the powers necessary for managing, and for directing and supervising, the business and affairs of the Company. The directors may pay all expenses incurred preliminary to and in connection with the incorporation of the Company and may exercise all such powers of the Company as are not by the Act or by the Memorandum or the Articles required to be exercised by the Shareholders.

13.2 Each director shall exercise his powers for a proper purpose and shall not act or agree to the Company acting in a manner that contravenes the Memorandum, the Articles or the Act. Each director, in exercising his powers or performing his duties, shall act honestly and in good faith in what the director believes to be the best interests of the Company.

13.3 If the Company is the wholly owned subsidiary of a holding company, a director of the Company may, when exercising powers or performing duties as a director, act in a manner which he believes is in the best interests of the holding company even though it may not be in the best interests of the Company.

13.4 Any director which is a body corporate may appoint any individual as its duly authorised representative for the purpose of representing it at meetings of the directors, with respect to the signing of consents or otherwise.

13.5 The continuing directors may act notwithstanding any vacancy in their body.

13.6 The directors may by Resolution of Directors exercise all the powers of the Company to incur indebtedness, liabilities or obligations and to secure indebtedness, liabilities or obligations whether of the Company or of any third party.

13.7 All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for moneys paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as shall from time to time be determined by Resolution of Directors.

13.8 For the purposes of Section 175 (*Disposition of assets*) of the Act, the directors may by Resolution of Directors determine that any sale, transfer, lease, exchange or other disposition is in the usual or regular course of the business carried on by the Company and such determination is, in the absence of fraud, conclusive.

14. PROCEEDINGS OF DIRECTORS

14.1 Any one director of the Company may call a meeting of the directors by sending a written notice to each other director.

14.2 The directors of the Company or any committee thereof may meet at such times and in such manner and places within or outside the British Virgin Islands as the directors may determine.

14.3 A director is deemed to be present at a meeting of directors if he participates by telephone or other electronic means and all directors participating in the meeting are able to hear each other.

- 14.4 A director shall be given not less than 3 days' notice of meetings of directors, but a meeting of directors held without 3 days' notice having been given to all directors shall be valid if all the directors entitled to vote at the meeting who do not attend waive notice of the meeting, and for this purpose the presence of a director at a meeting shall constitute waiver by that director. The inadvertent failure to give notice of a meeting to a director, or the fact that a director has not received the notice, does not invalidate the meeting.
- 14.5 A director may by a written instrument appoint an alternate who need not be a director and the alternate shall be entitled to attend meetings in the absence of the director who appointed him and to vote in place of the director until the appointment lapses or is terminated.
- 14.6 A meeting of directors is duly constituted for all purposes if at the commencement of the meeting there are present in person or by alternate not less than one-half of the total number of directors, unless there are only 2 directors in which case the quorum is 2.
- 14.7 If the Company has only one director the provisions herein contained for meetings of directors do not apply and such sole director has full power to represent and act for the Company in all matters as are not by the Act, the Memorandum or the Articles required to be exercised by the Shareholders. In lieu of minutes of a meeting the sole director shall record in writing and sign a note or memorandum of all matters requiring a Resolution of Directors. Such a note or memorandum constitutes sufficient evidence of such resolution for all purposes.
- 14.8 At meetings of directors at which the Chairman of the Board is present, he shall preside as chairman of the meeting. If there is no Chairman of the Board or if the Chairman of the Board is not present, the directors present shall choose one of their number to be chairman of the meeting.
- 14.9 An action that may be taken by the directors or a committee of directors at a meeting may also be taken by a Resolution of Directors or a resolution of a committee of directors consented to in writing by all directors or by all members of the committee, as the case may be, without the need for any notice. The consent may be in the form of counterparts each counterpart being signed by one or more directors. If the consent is in one or more counterparts, and the counterparts bear different dates, then the resolution shall take effect on the date upon which the last director has consented to the resolution by signed counterparts.

15. COMMITTEES

- 15.1 The directors may, by Resolution of Directors, designate one or more committees, each consisting of one or more directors, and delegate one or more of their powers, including the power to affix the Seal, to the committee.
- 15.2 The directors have no power to delegate to a committee of directors any of the following powers:
- (a) to amend the Memorandum or the Articles;
 - (b) to designate committees of directors;
 - (c) to delegate powers to a committee of directors;
 - (d) to appoint or remove directors;
 - (e) to appoint or remove an agent;
 - (f) to approve a plan of merger, consolidation or arrangement;
 - (g) to make a declaration of solvency or to approve a liquidation plan; or
 - (h) to make a determination that immediately after a proposed Distribution the value of the Company's assets will exceed its liabilities and the Company will be able to pay its debts as they fall due.

- 15.3 Sub-Regulation 15.2(b) and (c) do not prevent a committee of directors, where authorised by the Resolution of Directors appointing such committee or by a subsequent Resolution of Directors, from appointing a sub-committee and delegating powers exercisable by the committee to the sub-committee.
- 15.4 The meetings and proceedings of each committee of directors consisting of 2 or more directors shall be governed *mutatis mutandis* by the provisions of the Articles regulating the proceedings of directors so far as the same are not superseded by any provisions in the Resolution of Directors establishing the committee.
- 15.5 Where the directors delegate their powers to a committee of directors they remain responsible for the exercise of that power by the committee, unless they believed on reasonable grounds at all times before the exercise of the power that the committee would exercise the power in conformity with the duties imposed on directors of the Company under the Act.

16. OFFICERS AND AGENTS

- 16.1 The Company may by Resolution of Directors appoint officers of the Company at such times as may be considered necessary or expedient. Such officers may consist of a Chairman of the Board of Directors, a president and one or more vice-presidents, secretaries and treasurers and such other officers as may from time to time be considered necessary or expedient. Any number of offices may be held by the same person.
- 16.2 The officers shall perform such duties as are prescribed at the time of their appointment subject to any modification in such duties as may be prescribed thereafter by Resolution of Directors. In the absence of any specific prescription of duties it shall be the responsibility of the Chairman of the Board to preside at meetings of directors and Shareholders, the president to manage the day to day affairs of the Company, the vice-presidents to act in order of seniority in the absence of the president but otherwise to perform such duties as may be delegated to them by the president, the secretaries to maintain the register of members, minute books and records (other than financial records) of the Company and to ensure compliance with all procedural requirements imposed on the Company by applicable law, and the treasurer to be responsible for the financial affairs of the Company.
- 16.3 The officers shall not be entitled to receive any emoluments.
- 16.4 The officers of the Company shall hold office until their successors are duly appointed, but any officer elected or appointed by the directors may be removed at any time, with or without cause, by Resolution of Directors. Any vacancy occurring in any office of the Company may be filled by Resolution of Directors.
- 16.5 The directors may, by Resolution of Directors, appoint any person, including a person who is a director, to be an agent of the Company.
- 16.6 An agent of the Company shall have such powers and authority of the directors, including the power and authority to affix the Seal, as are set forth in the Articles or in the Resolution of Directors appointing the agent, except that no agent has any power or authority with respect to the following:
- (a) to amend the Memorandum or the Articles;
 - (b) to change the registered office or agent;
 - (c) to designate committees of directors;
 - (d) to delegate powers to a committee of directors;
 - (e) to appoint or remove directors;
 - (f) to appoint or remove an agent;
 - (g) to fix emoluments of directors;
 - (h) to approve a plan of merger, consolidation or arrangement;

- (i) to make a declaration of solvency or to approve a liquidation plan;
- (j) to make a determination that immediately after a proposed Distribution the value of the Company's assets will exceed its liabilities and the Company will be able to pay its debts as they fall due; or
- (k) to authorise the Company to continue as a company incorporated under the laws of a jurisdiction outside the British Virgin Islands.

16.7 The Resolution of Directors appointing an agent may authorise the agent to appoint one or more substitutes or delegates to exercise some or all of the powers conferred on the agent by the Company.

16.8 The directors may remove an agent appointed by the Company and may revoke or vary a power conferred on him.

17. CONFLICT OF INTERESTS

17.1 A director of the Company shall, forthwith after becoming aware of the fact that he is interested in a transaction entered into or to be entered into by the Company, disclose the interest to all other directors of the Company.

17.2 For the purposes of Sub-Regulation 17.1, a disclosure to all other directors to the effect that a director is a member, director or officer of another named entity or has a fiduciary relationship with respect to the entity or a named individual and is to be regarded as interested in any transaction which may, after the date of the entry into the transaction or disclosure of the interest, be entered into with that entity or individual, is a sufficient disclosure of interest in relation to that transaction.

17.3 A director of the Company who is interested in a transaction entered into or to be entered into by the Company may:

- (a) vote on a matter relating to the transaction;
- (b) attend a meeting of directors at which a matter relating to the transaction arises and be included among the directors present at the meeting for the purposes of a quorum; and
- (c) sign a document on behalf of the Company, or do any other thing in his capacity as a director, that relates to the transaction,

and, subject to compliance with the Act shall not, by reason of his office be accountable to the Company for any benefit which he derives from such transaction and no such transaction shall be liable to be avoided on the grounds of any such interest or benefit.

18. INDEMNIFICATION

18.1 Subject to the limitations hereinafter provided the Company shall indemnify against all expenses, including legal fees, and against all judgments, fines and amounts paid in settlement and reasonably incurred in connection with legal, administrative or investigative proceedings any person who:

- (a) is or was a party or is threatened to be made a party to any threatened, pending or completed proceedings, whether civil, criminal, administrative or investigative, by reason of the fact that the person is or was a director of the Company; or
- (b) is or was, at the request of the Company, serving as a director of, or in any other capacity is or was acting for, another body corporate or a partnership, joint venture, trust or other enterprise.

18.2 The indemnity in Sub-Regulation 18.1 only applies if the person acted honestly and in good faith with a view to the best interests of the Company and, in the case of criminal proceedings, the person had no reasonable cause to believe that their conduct was unlawful.

- 18.3 For the purposes of Sub-Regulation 18.2, a director acts in the best interests of the Company if he acts in the best interests of the Shareholders of the Company.
- 18.4 The termination of any proceedings by any judgment, order, settlement, conviction or the entering of a *nolle prosequi* does not, by itself, create a presumption that the person did not act honestly and in good faith and with a view to the best interests of the Company or that the person had reasonable cause to believe that his conduct was unlawful.
- 18.5 Expenses, including legal fees, incurred by a director in defending any legal, administrative or investigative proceedings may be paid by the Company in advance of the final disposition of such proceedings upon receipt of an undertaking by or on behalf of the director to repay the amount if it shall ultimately be determined that the director is not entitled to be indemnified by the Company in accordance with Sub-Regulation 18.1.
- 18.6 Expenses, including legal fees, incurred by a former director in defending any legal, administrative or investigative proceedings may be paid by the Company in advance of the final disposition of such proceedings upon receipt of an undertaking by or on behalf of the former director to repay the amount if it shall ultimately be determined that the former director is not entitled to be indemnified by the Company in accordance with Sub-Regulation 18.1 and upon such terms and conditions, if any, as the Company deems appropriate.
- 18.7 The indemnification and advancement of expenses provided by, or granted pursuant to, this section is not exclusive of any other rights to which the person seeking indemnification or advancement of expenses may be entitled under any agreement, Resolution of Shareholders, resolution of disinterested directors or otherwise, both as acting in the person's official capacity and as to acting in another capacity while serving as a director of the Company.
- 18.8 If a person referred to in Sub-Regulation 18.1 has been successful in defence of any proceedings referred to in Sub-Regulation 18.1, the person is entitled to be indemnified against all expenses, including legal fees, and against all judgments, fines and amounts paid in settlement and reasonably incurred by the person in connection with the proceedings.
- 18.9 The Company may purchase and maintain insurance in relation to any person who is or was a director, officer or liquidator of the Company, or who at the request of the Company is or was serving as a director, officer or liquidator of, or in any other capacity is or was acting for, another body corporate or a partnership, joint venture, trust or other enterprise, against any liability asserted against the person and incurred by the person in that capacity, whether or not the Company has or would have had the power to indemnify the person against the liability as provided in the Articles.

19. RECORDS

- 19.1 The Company shall keep the following documents at the office of its registered agent:
- (a) the Memorandum and the Articles;
 - (b) the register of members, or a copy of the register of members;
 - (c) the register of directors, or a copy of the register of directors; and
 - (d) copies of all notices and other documents filed by the Company with the Registrar of Corporate Affairs in the previous 10 years.
- 19.2 Until the directors determine otherwise by Resolution of Directors the Company shall keep the original register of members and original register of directors at the office of its registered agent.
- 19.3 If the Company maintains only a copy of the register of members or a copy of the register of directors at the office of its registered agent, it shall:
- (a) within 15 days of any change in either register, notify the registered agent in writing of the change; and

- (b) provide the registered agent with a written record of the physical address of the place or places at which the original register of members or the original register of directors is kept.

19.4 The Company shall keep the following records at the office of its registered agent or at such other place or places, within or outside the British Virgin Islands, as the directors may determine:

- (a) minutes of meetings and Resolutions of Shareholders and classes of Shareholders; and
- (b) minutes of meetings and Resolutions of Directors and committees of directors.

19.5 Where any original records referred to in this Regulation are maintained other than at the office of the registered agent of the Company, and the place at which the original records is changed, the Company shall provide the registered agent with the physical address of the new location of the records of the Company within 14 days of the change of location.

19.6 The records kept by the Company under this Regulation shall be in written form or either wholly or partly as electronic records complying with the requirements of the Electronic Transactions Act, 2001 (No. 5 of 2001) as from time to time amended or re-enacted.

20. REGISTER OF CHARGES

The Company shall maintain at the office of its registered agent a register of charges in which there shall be entered the following particulars regarding each mortgage, charge and other encumbrance created by the Company:

- (a) the date of creation of the charge;
- (b) a short description of the liability secured by the charge;
- (c) a short description of the property charged;
- (d) the name and address of the trustee for the security or, if there is no such trustee, the name and address of the chargee;
- (e) unless the charge is a security to bearer, the name and address of the holder of the charge; and
- (f) details of any prohibition or restriction contained in the instrument creating the charge on the power of the Company to create any future charge ranking in priority to or equally with the charge.

21. SEAL

The Company shall have a Seal an impression of which shall be kept at the office of the registered agent of the Company. The Company may have more than one Seal and references herein to the Seal shall be references to every Seal which shall have been duly adopted by Resolution of Directors. The directors shall provide for the safe custody of the Seal and for an imprint thereof to be kept at the registered office. Except as otherwise expressly provided herein the Seal when affixed to any written instrument shall be witnessed and attested to by the signature of any one director or other person so authorised from time to time by Resolution of Directors. Such authorisation may be before or after the Seal is affixed, may be general or specific and may refer to any number of sealings. The directors may provide for a facsimile of the Seal and of the signature of any director or authorised person which may be reproduced by printing or other means on any instrument and it shall have the same force and validity as if the Seal had been affixed to such instrument and the same had been attested to as hereinbefore described.

22. DISTRIBUTIONS BY WAY OF DIVIDEND

22.1 The directors of the Company may, by Resolution of Directors, authorise a Distribution by way of dividend at a time and of an amount they think fit if they are satisfied, on reasonable

grounds, that, immediately after the Distribution, the value of the Company's assets will exceed its liabilities and the Company will be able to pay its debts as they fall due.

- 22.2 Dividends may be paid in money, shares, or other property.
- 22.3 Notice of any dividend that may have been declared shall be given to each Shareholder as specified in Sub-Regulation 24.1 and all dividends unclaimed for 3 years after having been declared may be forfeited by Resolution of Directors for the benefit of the Company.
- 22.4 No dividend shall bear interest as against the Company and no dividend shall be paid on Treasury Shares.

23. ACCOUNTS AND AUDIT

- 23.1 The Company shall keep records that are sufficient to show and explain the Company's transactions and that will, at any time, enable the financial position of the Company to be determined with reasonable accuracy.
 - 23.2 The Company may by Resolution of Shareholders call for the directors to prepare periodically and make available a profit and loss account and a balance sheet. The profit and loss account and balance sheet shall be drawn up so as to give respectively a true and fair view of the profit and loss of the Company for a financial period and a true and fair view of the assets and liabilities of the Company as at the end of a financial period.
 - 23.3 The Company may by Resolution of Shareholders call for the accounts to be examined by auditors.
 - 23.4 The first auditors shall be appointed by Resolution of Directors; subsequent auditors shall be appointed by Resolution of Shareholders or by Resolution of Directors.
 - 23.5 The auditors may be Shareholders, but no director or other officer shall be eligible to be an auditor of the Company during their continuance in office.
 - 23.6 The remuneration of the auditors of the Company may be fixed by Resolution of Directors.
 - 23.7 The auditors shall examine each profit and loss account and balance sheet required to be laid before a meeting of the Shareholders or otherwise given to Shareholders and shall state in a written report whether or not:
 - (a) in their opinion the profit and loss account and balance sheet give a true and fair view respectively of the profit and loss for the period covered by the accounts, and of the assets and liabilities of the Company at the end of that period; and
 - (b) all the information and explanations required by the auditors have been obtained.
 - 23.8 The report of the auditors shall be annexed to the accounts and shall be read at the meeting of Shareholders at which the accounts are laid before the Company or shall be otherwise given to the Shareholders.
 - 23.9 Every auditor of the Company shall have a right of access at all times to the books of account and vouchers of the Company, and shall be entitled to require from the directors and officers of the Company such information and explanations as he thinks necessary for the performance of the duties of the auditors.
 - 23.10 The auditors of the Company shall be entitled to receive notice of, and to attend any meetings of Shareholders at which the Company's profit and loss account and balance sheet are to be presented.
- ### **24. NOTICES**
- 24.1 Any notice, information or written statement to be given by the Company to Shareholders may be given by personal service or by mail addressed to each Shareholder at the address shown in the register of members.

24.2 Any summons, notice, order, document, process, information or written statement to be served on the Company may be served by leaving it, or by sending it by registered mail addressed to the Company, at its registered office, or by leaving it with, or by sending it by registered mail to, the registered agent of the Company.

24.3 Service of any summons, notice, order, document, process, information or written statement to be served on the Company may be proved by showing that the summons, notice, order, document, process, information or written statement was delivered to the registered office or the registered agent of the Company or that it was mailed in such time as to admit to its being delivered to the registered office or the registered agent of the Company in the normal course of delivery within the period prescribed for service and was correctly addressed and the postage was prepaid.

25. VOLUNTARY LIQUIDATION

The Company may by Resolution of Shareholders or by Resolution of Directors appoint a voluntary liquidator.

26. CONTINUATION

The Company may by Resolution of Shareholders or by a resolution passed unanimously by all directors of the Company continue as a company incorporated under the laws of a jurisdiction outside the British Virgin Islands in the manner provided under those laws.

Signed for HARNEYS CORPORATE SERVICES LIMITED of Craigmuir Chambers, Road Town, Tortola, British Virgin Islands for the purpose of incorporating a BVI Business Company under the laws of the British Virgin Islands on 10 January 2006:

Incorporator

SGD. ANDREW SWAPP

.....
Andrew Swapp

Authorised Signatory

HARNEYS CORPORATE SERVICES LIMITED

