

# DARTINGTON CRYSTAL (TORRINGTON) LIMITED

Company Number 05760193

(the "Company")

## WRITTEN RESOLUTIONS

CIRCULATION DATE: 18 June 2008

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the directors of the Company propose that.

- resolutions 1 to 5 below are passed as ordinary resolutions, and
- resolution 6 below is passed as a special resolution

### Ordinary Resolutions

- 1 THAT the authorised share capital of the Company be and is hereby increased from £117,758 to £276,470 by the creation of 85,712 ordinary shares of £1 each and 73,000 B ordinary shares of £1 each, such shares having the rights set out in the new Articles of Association to be adopted by the Company pursuant to resolution 6 below
- 2 THAT all 40,040 issued A ordinary shares of £1 each of the Company be and are hereby redesignated as ordinary shares of £1 each of the Company and Finance South West Growth Fund, as the sole shareholder of the issued A ordinary shares hereby consents to the variation of such class rights
- 3 THAT all 32,906 ordinary shares of £1 each of the Company issued to and held by Mr John Hammond be and are hereby redesignated as B ordinary shares of £1 each, such shares having the rights set out in the new Articles of Association to be adopted by the Company pursuant to resolution 6 below and Mr John Hammond, as shareholder of said shares, hereby consents to the variation of such class rights.
- 4 THAT the Directors be and are hereby generally and unconditionally authorised for the purposes of Section 80 of the Companies Act 1985 ("the Act") to exercise all the powers of the Company to allot relevant securities (within the meaning of that section) up to an aggregate nominal amount of £163,000 provided that this authority is for a period expiring 5 years from the date of this resolution but the Company may before such expiry make an offer or agreement which would or might require the relevant securities to be allotted after such expiry and the Directors may allot relevant securities in pursuance of such offer or agreement notwithstanding that the authority conferred by this resolution has expired. This authority is in substitution for all subsisting authorities, to the extent unused



- 5 THAT By virtue of Section 95(1) of the Act, Section 89(1) of the Act shall not apply to the allotment of shares pursuant to the authority conferred by resolution 4 above

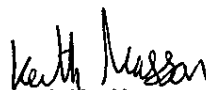
### Special Resolution

- 6 The regulations contained in the document attached to this written resolution of the Company initialled for the purpose of identification be and are hereby adopted as the Articles of Association of the Company in substitution for and to the exclusion of the existing Articles of Association of the Company

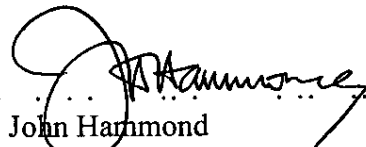
### AGREEMENT

Please read the notes at the end of this document before signifying your agreement to any of the resolutions

The undersigned, a person entitled to vote on the above resolutions on the date of circulation of these resolutions, hereby irrevocably agrees to those resolutions as indicated above

Signed  ...  
Finance South West Growth Fund

Date 19 June 2008

Signed  ...  
John Hammond

Date 19 June 2008

Signed .. .. .  
John Morris

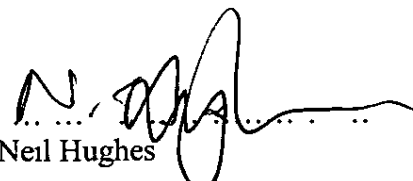
Date .. . . .

Signed. . . . .  
Alfred Iannetta

Date . . . . .

Signed  ...  
Richard Halliday

Date 19 June 2008

Signed  ...  
Neil Hughes

Date . 19 June 2008

5. THAT By virtue of Section 95(1) of the Act, Section 89(1) of the Act shall not apply to the allotment of shares pursuant to the authority conferred by resolution 4 above.

### Special Resolution

6. The regulations contained in the document attached to this written resolution of the Company initialled for the purpose of identification be and are hereby adopted as the Articles of Association of the Company in substitution for and to the exclusion of the existing Articles of Association of the Company

### AGREEMENT

Please read the notes at the end of this document before signifying your agreement to any of the resolutions

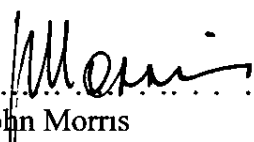
The undersigned, a person entitled to vote on the above resolutions on the date of circulation of these resolutions, hereby irrevocably agrees to those resolutions as indicated above

Signed.....  
Finance South West Growth Fund

Date .....

Signed .....  
John Hammond

Date .. .

Signed..  .....  
John Morris

Date ..  .....

Signed .....  
Alfred Iannetta

Date .. ..

Signed .....  
Richard Halliday

Date .. .

Signed.....  
Neil Hughes

Date ... ..

- 5 THAT By virtue of Section 95(1) of the Act, Section 89(1) of the Act shall not apply to the allotment of shares pursuant to the authority conferred by resolution 4 above

### Special Resolution

- 6 The regulations contained in the document attached to this written resolution of the Company initialled for the purpose of identification be and are hereby adopted as the Articles of Association of the Company in substitution for and to the exclusion of the existing Articles of Association of the Company

### AGREEMENT

Please read the notes at the end of this document before signifying your agreement to any of the resolutions

The undersigned, a person entitled to vote on the above resolutions on the date of circulation of these resolutions, hereby irrevocably agrees to those resolutions as indicated above

Signed  
Finance South West Growth Fund

Date

Signed  
John Hammond

Date

Signed  
John Morris

Date

Signed  
Alfred Iannetta

Date 19 June 2008

Signed  
Richard Halliday

Date

Signed  
Neil Hughes

Date



## NOTES

- 1 You can choose to agree to the all of the Ordinary Resolutions and the Special Resolution or none of them but you cannot agree to only some of the resolutions. If you agree to all of the resolutions, please signify your agreement by signing and dating this document where indicated above and returning it to the Company using one of the following methods

- **By Hand** delivering the signed copy to the Managing Director, Paul Cullen
- **Post** returning the signed copy by post to Johanna Probert at Michelmores, Woodwater House, Pynes Hill, Exeter EX2 5WR.
- **Fax** faxing the signed copy to 01392 360563 marked "For the attention of Johanna Probert "
- **E-mail** by attaching a scanned copy of the signed document to an e-mail and sending it to [jvp@michelmores.com](mailto:jvp@michelmores.com). Please enter "Written resolutions" in the e-mail subject box

If there are no resolutions you agree with, you do not need to do anything. You will not be deemed to agree if you fail to reply.

- 2 Once you have indicated your agreement to the resolutions, you may not revoke your agreement.
3. Where, after 28 days of the circulation of these resolutions, insufficient agreement has been received for the resolutions to pass, such resolutions will lapse. If you agree to the resolutions, please ensure that your agreement reaches us before or during this date.
- 4 In the case of joint holders of shares, only the vote of the senior holder who votes will be counted by the Company. Seniority is determined by the order in which the names of the joint holders appear in the register of members.
- 5 If you are signing this document on behalf of a person under a power of attorney or other authority, please send a copy of the relevant power of attorney or authority when returning this document.

CERTIFIED A TRUE COPY OF THE ORIGINAL

THIS 23<sup>rd</sup> DAY OF June 2008

Michael Robert  
MICHELMORES LLP

WOODWATER HOUSE, PYNES HILL, EXETER EX2 5WR



## ARTICLES OF ASSOCIATION

OF

**DARTINGTON CRYSTAL (TORRINGTON) LIMITED**

Michelmores LLP  
Woodwater House  
Pynes Hill  
Exeter EX2 5WR  
Tel: 01392 688688  
Fax: 01392 360563  
Email: [jvp@michelmores.com](mailto:jvp@michelmores.com)

**THE COMPANIES ACTS 1985 TO 1989  
PRIVATE COMPANY LIMITED BY SHARES  
ARTICLES OF ASSOCIATION**

-of-

**DARTINGTON CRYSTAL (TORRINGTON) LIMITED  
(Adopted by a Special Resolution dated 2008)**

**1 PRELIMINARY**

- 1.1 The Regulations contained in Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 as amended by the Companies (Tables A to F) (Amendment) Regulations 1985 (such Table being hereinafter called "Table A") shall apply to the Company save in so far as they are excluded or varied hereby and such Regulations (save as so excluded or varied) and the Articles hereinafter contained shall be the regulations of the Company

- 1 2 In these Articles the following definitions shall apply:-

**"B Percentage"** percentage equal to the percentage of the total voting rights conferred by all B Ordinary Shares in the equity share capital of the Company then in issue,

**"B Ordinary Shares"** the B Ordinary Shares of £1 each in the capital of the Company,

**"Act"** the Companies Act 1985 (as amended) and the Companies Act 2006;

**"Adoption Date"** the date on which these Articles of Association are adopted by the Company;

**"Auditors"** the auditors or appointed accountants of the Company from time to time;

**"Bad Leaver"** an Early Leaver or a Gross Misconduct Leaver;

**"Board"** the board of Directors of the Company from time to time;

**"Business Day"** a day on which clearing banks are open for business in London (but excluding Saturdays and Sundays);



<b>"Company Disposal"</b>	the sale or transfer of the whole or substantially the whole of the undertaking or assets of the Company;
<b>"Controlling Interest"</b>	an interest (within the meaning of Schedule 13 Part 1 and Section 346 of the Companies Act 1985) in shares conferring in the aggregate more than fifty per cent of the total voting rights conferred by all the shares in the equity share capital of the Company for the time being in issue and conferring the right to vote at all general meetings,
<b>"Directors"</b>	all of the directors of the Company from time to time,
<b>"Early Leaver"</b>	any Executive Director or other present or former holder of Ordinary Shares who ceases to be an employee (or appointed executive officer) of the Company or any Group Company within three years of the date of acquisition of their Shares (or the earliest date of acquisition if their Shares were acquired on two or more dates) and such cessation is not as a result of. <ul style="list-style-type: none"> <li>(a) his death,</li> <li>(b) his incapacity to work caused by his illness; or</li> <li>(c) unfair or wrongful dismissal or redundancy,</li> </ul>
<b>"EBIT"</b>	earnings before interest and taxation,
<b>"Entire Issued Share Capital"</b>	the entire issued share capital of the Company (from time to time);
<b>"Executive Director"</b>	shall have the meaning set out in the Investment Agreement;
<b>"Exit"</b>	a Company Disposal or a Sale or a Listing;
<b>"Expert"</b>	a firm of chartered accountants agreed between a simple majority (by number of Shares held) of the holders of the Ordinary Shares and a simple majority (by number of Shares held) of the B Ordinary Shares or failing such agreement within 10 Business Days, appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales on application by any holder of Ordinary Shares or B Ordinary Shares,
<b>"Fund"</b>	FINANCE SOUTH WEST GROWTH FUND, a limited partnership duly registered under the

Limited Partnership Act 1907 with number LP010086 whose registered office is at City Business Park, Somerset Place, Stoke, Plymouth PL34 4BB its successors and assigns and any assignee of the rights and benefits of the Fund under the Investment Agreement,

**"Good Leaver"**

any Executive Director or other present or former holder of Ordinary Shares who leaves the employment (or formal appointment as officer) of the Company or any Group Company and is not a Bad Leaver;

**"Gross Misconduct Leaver"**

any Director or other present or former holder of Ordinary Shares who is dismissed as an employee (or appointed executive officer) of the Company or any Group Company for gross misconduct (and such dismissal is not wrongful dismissal) at any time after the Adoption Date and for this purpose 'gross misconduct' means

- (a) theft, fraud, deliberate falsification of records, corruption or dishonesty,
- (b) use or disclosure of confidential information; or
- (c) undertaking work in competition with the Company's business,

**"Group Company"**

the Company and/or any of its subsidiaries,

**"Index"**

the general index of retail prices published by the Office of National Statistics immediately prior to any relevant date;

**"Investment Agreement"**

an agreement dated the same date as the Adoption Date made between the Fund, the Manager, the Company, the Original Directors and John Hammond,

**"Investor Director"**

any Director of the Company appointed by Mr Hammond pursuant to Article 4,

**"Listing"**

the admission to the official list maintained by the UK Listing Authority or the daily official list of the London Stock Exchange plc or any other recognised investment exchange (as defined in section 285 of the Financial Services and Markets Act 2000) of any Share or the admission or the dealing therein on the Alternative Investment

	Market or admission to trading on the OFEX Market,
<b>"the OFEX Market"</b>	the market operated by OFEX plc,
<b>"the Manager"</b>	YFM Venture Finance Limited (registered in England and Wales with number 4195617) or any party appointed as the successor to YFM Venture Finance Limited as the representative of the Fund,
<b>"Ordinary Shares"</b>	the Ordinary shares of £1 each in the capital of the Company,
<b>"Original Directors"</b>	has the meaning set out in the Investment Agreement;
<b>"Sale"</b>	the sale of (or the grant of a right to acquire or to dispose of) any Shares (in one transaction or as a series of transactions) which will result in the purchaser of such Shares (or grantee of such right) and persons connected (in terms of section 839 of the Income and Corporation Taxes Act 1988) with him together having an interest in the aggregate of fifty per cent (50%) or more of the total voting rights conferred by all the issued Shares,
<b>"Shares"</b>	Ordinary Shares and/or B Ordinary Shares as the context requires;
<b>"Subscription Price"</b>	the price paid for each Share respectively including the par value and any premium thereon,
<b>"subsidiary" and "holding company"</b>	the meanings ascribed to these in section 736 of the Act,
<b>"Third Party Purchaser"</b>	a third party other than an existing shareholder of the Company interested in purchasing the Entire Issued Share Capital.

## 2 SHARE CAPITAL

2.1 The authorised share capital of the Company at the Adoption Date is £276,470 divided into:-

2.1.1 170,564 Ordinary Shares; and

2.1.2 105,906 B Ordinary Shares.

## 3 SHARE RIGHTS

The B Ordinary Shares and Ordinary Shares shall rank *pari passu* except to the extent specified in these Articles. The B Ordinary Shares and the Ordinary Shares respectively shall

confer upon their holders the following class rights -

### 3.1 **Income**

The profits of the Company available for distribution shall be applied as follows -

- 3.1.1 **B Ordinary Share Dividend** - First in paying, in respect of every financial year of the Company, to the holders of the B Ordinary Shares in priority to the right of the holders of any other class of Share in the capital of the Company a cumulative dividend per share ("**the B Ordinary Share Dividend**") of a cash sum (net of any associated tax credit) equal to 5% of the Subscription Price for all the B Ordinary Shares divided by the number of B Ordinary Shares then in issue

The B Ordinary Share Dividend shall accrue on a day to day basis from the Adoption Date and be paid out of the profits of the Company available for distribution (without any resolution of the Board or of the Company in general meeting and notwithstanding anything contained in Regulations 102 to 108 (inclusive) of Table A) with the first payment to be made on 30<sup>th</sup> September 2008 and with each subsequent payment being made annually not more than fourteen days after the accounts for the relevant year are approved and in any event not later than 60 days after the end of the relevant year

If at such time the Company is not permitted by law to pay any dividend due on the B Ordinary Shares pursuant to this Article 3.1.1 then such unpaid dividend shall be a debt due by the Company to the holder(s) of B Ordinary Shares and shall when the Company is permitted by law be payable forthwith (without any resolution of the Board or of the Company in general meeting and notwithstanding anything contained in Regulations 102 to 108 (inclusive) of Table A) in priority to any other dividend

In the event that the Company does not pay the B Ordinary Share Dividend (or any part thereof) on the due date then, irrespective of the reason for such non-payment the Company shall pay to the holders of the B Ordinary Shares who are entitled to such dividend interest on the amount in respect of which default is made from the date such payment was due until the actual date of payment of the B Ordinary Share Dividend (or part thereof) as well after as before judgment at the rate of 4% per annum above the base rate of Barclays Bank plc ("**Interest**") Such Interest shall be deemed to accrue from day to day computed in respect of the actual number of days elapsed on the basis of a year consisting of 365 days and shall be paid quarterly on 30 September, 31 December, 31 March and 30 June in each year.

The B Ordinary Share Dividend shall be distributed amongst the holders of the B Ordinary Shares pro rata according to the amounts paid up thereon

- 3.1.2 **Ordinary Share Dividend** – Second in paying to the holders of the Ordinary Shares such sum per Ordinary Share as the Board may recommend and be approved by the shareholders of the Company in general meeting, subject to a maximum (net of any associated tax credit) equal to 5% of the Subscription Price for all the Ordinary Shares (including any premium) divided by the

number of Ordinary Shares then in issue

- 3.1 3 **B Ordinary Share and Ordinary Share Dividend** - Third, subject to the consent of the holders of the B Ordinary Shares (such consent not to be unreasonably withheld) a dividend to the holders of all of the Shares ("**the Final Dividend**") of such aggregate sum as the Board may recommend and is approved by the shareholders of the Company in general meeting, such amount being payable as to the B Percentage thereof to the holders of the B Ordinary Shares as a class, and the balance thereof to the holders of the Ordinary Shares as a class

The B Percentage of the Final Dividend shall be distributed amongst the holders of the B Ordinary Shares pro rata according to the amounts paid up thereon, and the balance of the Final Dividend shall be distributed amongst the holders of the Ordinary Shares pro rata according to the amounts paid up thereon

### 3 2 **As to capital**

- 3.2 1 On a liquidation or other return of capital (whether following a Company Disposal or otherwise), the surplus assets available after payment of the Company's liabilities shall be distributed as follows -

- a) first in paying to the holders of the B Ordinary Shares a sum equal to all unpaid arrears and accruals of the B Ordinary Share Dividend and Interest;
- b) second in paying to the holders of B Ordinary Shares the Subscription Price for such shares;
- c) third in paying to the holders of the Ordinary Shares the Subscription Price for such Shares, and
- d) fourth in distributing the balance amongst the holders of the Shares as to the B Percentage thereof to the holders of the B Ordinary Shares and the balance to the holders of the Ordinary Shares (distributed amongst the holders of the Shares of each class respectively pro rata to the amounts paid up thereon)

- 3.2.2 On a Sale or Listing the proceeds (net of any expenses payable by the Company in connection therewith) shall be applied as follows.-

- a) first in paying to the holders of the B Ordinary Shares a sum equal to all unpaid arrears and accruals of the B Ordinary Share Dividend and Interest,
- b) second in paying to the holders of the B Ordinary Shares the Subscription Price for such Shares,
- c) third in paying to the holders of the Ordinary Shares the Subscription Price for such shares;

- d) fourth in distributing the balance amongst the holders of the Shares as to the B Percentage thereof to the holders of the B Ordinary Shares and the balance to the holders of the Ordinary Shares (distributed amongst the holders of the Shares of each class respectively pro rata to the amounts paid up thereon)

### 3.3 As to Voting

- 3.3.1 The holders of the Ordinary Shares and the holders of the B Ordinary Shares shall all be entitled to receive notice of, attend, speak and vote at all general meetings of the Company
- 3.3.2 On every vote at general meetings of the Company a poll shall be taken and the holders of the B Ordinary Shares shall be entitled to cast as a class the B Percentage, and the holders of the Ordinary Shares as a class 100% minus the B Percentage, of all the votes capable of being exercised on a poll (and each holder of B Ordinary Shares or Ordinary Shares shall be entitled to cast such proportion of that percentage as the number of B Ordinary Shares or Ordinary Shares respectively held by him bears to the total number of B Ordinary Shares or Ordinary Shares (as the case may be) in issue respectively).
- 3.3.3 For the purpose of Section 125 of the Act, the following matters shall be treated as a variation of the rights attached to the B Ordinary Shares and, accordingly, shall require either the consent in writing of the holders of three quarters in nominal value of the issued B Ordinary Shares or the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the B Ordinary Shares, namely -
  - a) the creation, allotment or issue of any shares by the Company or the grant of any right to require the allotment or issue of any such shares,
  - b) any amendment to a provision of the Memorandum or Articles of Association of the Company;
  - c) the creation of any charge by the Company or any subsidiary of the Company,
  - d) the redemption or purchase of shares in the capital of the Company or any subsidiary or the reduction of the capital of the Company or the cancellation or reduction of share premium account or capital redemption reserve fund other than as provided in these Articles;
  - e) the removal of an Investor Director from office;
  - f) a proposed Company Disposal or the proposed disposal of the whole or a substantial part of the share capital of any subsidiary of the Company where the business of such subsidiary (and any of its subsidiaries) accounts for more than 25% of the combined business of the Company and all subsidiaries of the Company (and any such subsidiaries); and
  - g) in the event that a voluntary arrangement pursuant to section 1 of the Insolvency Act 1986 is proposed

#### **4 APPOINTMENT OF INVESTOR DIRECTOR AND FUND DIRECTOR**

- 4.1 Notwithstanding any other provision of these Articles, Mr Hammond on behalf of the holders of a majority in number of the B Ordinary Shares for the time being in issue shall be entitled to appoint any one person as an Investor Director of the Company and to remove from office any person so appointed and to appoint another person in his place. The Company shall pay the remuneration of any Investor Director appointed from time to time.
- 4.2 Notwithstanding any other provision of these Articles, so long as the Fund holds shares in the capital of the Company, the Manager on behalf of the Fund shall be entitled to appoint Keith Masson as a non-executive director of the Company and to remove from office Keith Masson so appointed and to appoint another person in his place provided such appointment is approved by the Company (such approval not to be unreasonably withheld or delayed).

#### **5 ALLOTMENT OF SHARES**

- 5.1 Except as provided in clause 2.3.2 (Employee Share Option Scheme) and/or clause 2.3.3 (Investment by any third party) of the Investment Agreement (and the holders of Shares waive all rights of pre-emption they have in respect of issues of Shares pursuant to these clauses), all Shares which the Directors propose to issue, shall (subject to Article 3.3.3) first be offered to the members as to the B Percentage thereof (as nearly as may be) to the holders of the B Ordinary Shares and the balance thereof to the holders of Ordinary Shares (and as between the holders of the B Ordinary Shares and the Ordinary Shares respectively, pro rata to the number of Shares of the relevant class held by each of them respectively), unless the Company in general meeting directs otherwise by special resolution with the written consent of a majority in number of the holders of the B Ordinary Shares. The offer shall be made by notice in writing specifying the number of Ordinary Shares offered, and stating a period (of not less than fourteen days) within which the offer, if not accepted, will be deemed to have been declined. After the expiration of that period, those shares so deemed to be declined, shall be offered to the members who have, within the stated period, accepted all the Ordinary Shares offered to them. Such further offer shall be made in like terms, in the same proportions and the same manner, and limited by a like period as the original offer.
- 5.2 Any Shares not accepted in respect of such offer (or further offer) as is mentioned in Article 5.1 or which cannot be offered except by dividing shares into fractions, shall be under the control of the Directors, who may allot, grant options over or otherwise dispose of them to such persons, on such terms and in such manner as they think fit, provided that they shall not be disposed of on terms which are more favourable than the terms on which they were offered to the members.
- 5.3 Any Shares released from the provisions of Article 5.1 by special resolution shall (subject to Article 3.3.3) be under the control of the Directors, who may (subject to section 80 of the Act and to Article 5.5 below) allot, grant options over or otherwise dispose of them to such persons, on such terms and in such manner as they think fit.
- 5.4 In accordance with section 91(1) of the Act, sections 89(1) and 90(1) to (6) inclusive of the Act (which impose statutory rights of pre-emption) shall not apply to the

## Company

- 5.5 The Directors are generally and unconditionally authorised for the purposes of section 80 of the Act to exercise any power of the Company to allot and grant rights to subscribe for, or convert securities into, shares of the Company up to the amount of the authorised share capital with which the Company is incorporated at any time or times during the period of five years from the Adoption Date and the Directors may, after that period, allot any shares or grant any such rights under this authority in pursuance of an offer or agreement so to do made by the Company within that period. The authority hereby given may at any time (subject to section 80) be renewed, revoked or varied by ordinary resolution of the Company in general meeting.

## 6 TRANSFER OF SHARES

- 6.1 Subject to the provisions of this Article 6 and Articles 7 and 8 below the Directors shall register the transfer of any Share which has been transferred in accordance with this Article 6 and Articles 7 and 8 below.
- 6.2 All other regulations of the Company relating to the transfer of shares and the right to registration of transfers shall be read subject to the provisions of this Article.
- 6.3 For the purpose of this Article 6 and Articles 7 and 8 below the expressions "Transfer", "Transferor" and "Transferee" shall include respectively the renunciation of a renounceable letter of allotment, the original allottee and the renouncee under any such letter of allotment.
- 6.4 The Directors shall refuse to register any transfer of Shares made in contravention of the provisions of this Article 6 and Articles 7 and 8. For the purpose of ensuring that a particular transfer of Shares is permitted under the provisions of these Articles the Directors may request the transferor or the person named as transferee in any transfer lodged for registration to furnish the Company with such information and evidence as the Directors may reasonably think necessary or relevant. Failing such information or evidence being furnished to the satisfaction of the Directors within a period of 28 days after such request the Directors shall be entitled to refuse to register the transfer in question.
- 6.5 Save as otherwise provided in these Articles every member who desires to transfer Shares (hereinafter called the "Vendor") shall give to the Company notice in writing of such desire (hereinafter called a "Transfer Notice"). Subject as hereinafter mentioned a Transfer Notice shall constitute the Company the Vendor's agent for the sale of the Shares specified therein (hereinafter called the "Sale Shares") in one or more lots at the discretion of the Directors to all the holders of Shares other than (i) the Vendor and (ii) any member in respect of whom a Relevant Event (as defined in Article 7.1) has occurred and who continues to hold any Shares, at a price per Sale Share determined in accordance with Article 6.6 or, if applicable, Article 7 ("the Sale Price").
- 6.6 The Sale Price shall be the price agreed by the Vendor and the Directors or if the Vendor and the Directors are unable to agree a price within 28 days of the Transfer Notice being given or if the Transfer Notice is a deemed Transfer Notice an Expert shall be appointed and instructed to, within 45 days by writing under his hand certify



what is in his opinion a fair value thereof on a going concern basis as between a willing seller and a willing buyer ignoring any reduction in value which may be ascribed to the Sale Shares by virtue of the fact that they represent a minority interest and on the assumption that the Sale Shares are capable of transfer without restriction ("the Fair Market Value") Save for Shares sold pursuant to a deemed Transfer Notice as set out in Article 7 the Transfer Notice may contain a provision that unless all the Shares comprised therein are sold by the Company pursuant to this Article none shall be sold and any such provision shall be binding on the Company

- 6 7 If an Expert is asked to certify the Fair Market Value as aforesaid his certificate shall be delivered to the Company and as soon as the Company receives the certificate it shall furnish a certified copy thereof to the Vendor and save for Shares sold pursuant to a deemed Transfer Notice (as set out in Article 7 below) the Vendor shall be entitled by notice in writing given to the Company within ten days of the service upon him of the certified copy to cancel the Company's authority to sell the Sale Shares. The cost of obtaining the certificate shall be borne by the Company unless the Vendor shall have given notice of cancellation as aforesaid in which case the Vendor shall bear the cost
- 6 8 Upon the price being fixed as aforesaid and provided the Vendor shall not give a valid notice of cancellation the Company shall forthwith offer the Sale Shares to all holders of Shares (other than the Vendor) as to the B Percentage thereof to the holders of the B Ordinary Shares, and as to the balance thereof to the holders of the Ordinary Shares (and as between the holders of the Ordinary Shares and the B Ordinary Shares respectively, pro rata as nearly as may be in proportion to the existing numbers of Shares of the relevant class held by each of them respectively) giving details of the number and the Sale Price of such Sale Shares. The Company shall invite each such member as aforesaid to state in writing within twenty-one days from the date of the notice whether he is willing to purchase any of the Sale Shares so offered to him and if so the maximum thereof which he is willing to purchase. If at the expiration of the said period of twenty-one days there are any Sale Shares offered which any of the members hereinbefore mentioned have not so stated their willingness to purchase the Company shall offer such Shares to such members as have stated in writing their willingness to purchase all the Shares previously offered to them. Such remaining Shares shall be offered pro rata as nearly as may be in proportion to the existing numbers of Shares then held by such members which offer shall remain open for a further period of twenty-one days
- 6.9 If the Company shall pursuant to the above provisions of this Article find a member or members of the Company (holding Shares) willing to purchase all or any of the Sale Shares the Vendor shall be bound upon receipt of the Sale Price to transfer the Sale Shares (or such of the same for which the Company shall have found a purchaser or purchasers) to such persons. If the Vendor shall make default in so doing the Company shall if so required by the person or persons willing to purchase such Sale Shares receive and give a good discharge for the purchase money on behalf of the Vendor and shall authorise some person to execute transfers of the Sale Shares in favour of the purchasers and shall enter the names of the purchasers in the Register of Members as the holder of such of the Sale Shares as shall have been transferred to them as aforesaid.
- 6 10 If the Directors shall not have found a member or members of the Company (holding

Shares) willing to purchase all of the Sale Shares pursuant to the foregoing provisions of this Article the Vendor shall at any time within six months after the final offer by the Company to such members be at liberty to sell and transfer such of the Sale Shares as have not been so sold to any person at a price being no less than the Sale Price

- 6 11 Irrespective of anything contained in these Articles, John Hammond may at any time transfer up to 52,953 B Ordinary Shares of his 105,906 B Ordinary Shares held by him on the Adoption Date to any person
- 6 12 Subject to Articles 6 11 and 7, no holder of any class of shares in the Company may at any time transfer all or any of the shares held by him to any third party prior to 30 June 2010, unless (i) such member ceases to be an employee of the Company (or appointed officer) of the Company and (ii) holds shares and/or options to subscribe for shares conferring in the aggregate no more than 7.5% of the total voting rights conferred by all shares in the equity share capital of the Company then in issue, in which case any such member may (if he is not the recipient of a Requirement Notice under Article 7) at any time within 6 months of the date on which he ceases to be an employee serve a Transfer Notice

## **7 DEEMED TRANSFERS**

- 7 1 In this Article a “**Relevant Event**” means

7 1 1 a member becoming either a Good Leaver or a Bad Leaver,

7 1 2 in relation to a member being an individual such a member being adjudicated bankrupt,

7 1 3 a member making any voluntary arrangement or composition with his creditors,

7 1 4 in relation to a member being a body corporate

- a) a receiver, manager, administrative receiver or administrator being appointed of such member or over all or any part of its undertaking or assets; or
- b) such member entering into liquidation (other than a voluntary liquidation for the purpose of a bona fide scheme of solvent amalgamation or reconstruction);

provided that the provisions of this Article 7 shall not apply to Mr Hammond.

- 7 2 Any member who becomes aware of the occurrence of a Relevant Event shall immediately notify the Company and all the other members in writing of that Relevant Event. In this Article the expression “**Relevant Date**” means, in relation to a Relevant Event, the date on which the members (as a whole) actually become aware of such Relevant Event.
- 7.3 After the happening of a Relevant Event in respect of a member (the “**Relevant Member**”) the Board shall, if required by the holders of a simple majority in number of the B Ordinary Shares serve written notice (“**Requirement Notice**”) on the

Relevant Member within 3 months of the Relevant Date requiring the Relevant Member to serve a Transfer Notice in respect of all his Shares. A Requirement Notice may not be served more than once on a member in respect of the same Relevant Event

- 7.4 If the Relevant Member fails to serve a Transfer Notice within 14 days of the date of receipt (or deemed receipt) of the Requirement Notice then he shall be deemed to have done so on the fifteenth day following receipt (or deemed receipt). For the purpose of this Article 7 the "Fair Market Value" of the Relevant Member's Sale Shares shall be calculated by agreement within 14 days of the service of a Requirement Notice between the Relevant Member and the other members as representing the fair market value of the Relevant Member's Shares or failing any such agreement (for whatever reason) such sum per Sale Share as shall be determined by an Expert as the Fair Market Value in accordance with the principles set out in Article 6.6
- 7.5 If the Relevant Member is an Original Shareholder, then notwithstanding any price per Sale Share specified in such a Transfer Notice (or the failure to give a Transfer Notice), the Sale Price shall be -
- 7.5.1 in the case of a Gross Misconduct Leaver or an Early Leaver who becomes an Early Leaver within the period of two years from the Adoption Date the lower of the Subscription Price paid for the Sale Shares and their Fair Market Value;
- 7.5.2 in the case of an Early Leaver who becomes an Early Leaver after the period of two years from the Adoption Date but before the third anniversary of the Adoption Date
- a) if the Fair Market Value of the Sale Shares is greater than the Subscription Price for such Sale Shares ("**the Increased Value**") then such Early Leaver shall receive the Subscription Price of such Sale Shares plus 50% of the Increased Value, and
- b) if the Fair Market Value is determined as less than the Subscription Price paid for the Sale Shares then such Early Leaver shall be entitled to receive 100% of the Fair Market Value for such Sale Shares; or
- 7.5.3 in the case of anyone other than a Bad Leaver the Fair Market Value of the Relevant Member's Sale Shares.
- 7.6 If the Relevant Member is anyone other than the Original Shareholders, then notwithstanding any price per Sale Share specified in such a Transfer Notice (or the failure to give a Transfer Notice), the Sale Price shall be.
- 7.6.1 if the Relevant Member is a Gross Misconduct Leaver or an Early Leaver the lower of the Subscription Price paid for the Sale Shares and their Fair Market Value, or
- 7.6.2 if the Relevant Member is not a Bad Leaver, then the Fair Market Value of the Relevant Member's Sale Shares
- 7.7 The Company shall be responsible for referring any valuation to the Expert if required

pursuant to this Article 7 and shall use all reasonable endeavours to procure that the Expert shall reach their determination as soon as possible after such referral

- 7.8 References to a 'member' in the definition of Relevant Event include a joint holder of shares. If a Relevant Member holds shares jointly then the provisions of this Article 7 shall extend to all the jointly held shares and to all the joint holders of the relevant shares
- 7.9 Any Requirement Notice served during the active period of a previous Sale Notice relating to all or any of the same Shares shall prevail and upon such service such Transfer Notice shall immediately cease to have effect

## **8 COME ALONG RIGHTS**

- 8.1 If at any time the holders of sixty per cent (60%) or more of the total voting rights conferred by all the shares in the equity capital of the Company then in issue ("the Selling Shareholders") wish to transfer their entire holdings of Shares to a bona fide Third Party Purchaser unconnected with any member of the Company they shall have the option ("the Come Along Option") to require all the other holders of Shares ("the Called Shareholders") to transfer all their Shares to the Third Party Purchaser or as the Third Party Purchaser shall direct in accordance with this Article 8
- 8.2 Subject as aforesaid the Selling Shareholders may exercise the Come Along Option by giving written notice to that effect ("a Come Along Notice") to all the Called Shareholders. A Come Along Notice shall specify that the Called Shareholders are required to transfer all their Shares ("the Called Shares") pursuant to this Article 8, the price at which the Called Shares are to be transferred calculated in accordance with Article 8.4 and the proposed date of transfer. Service of the Come Along Notice shall suspend the operation of the transfer provisions in Articles 6 and 7 in relation to the proposed transfers
- 8.3 A Come Along Notice shall be irrevocable.
- 8.4 The Called Shareholders shall be obliged to sell the Called Shares for the price payable in cash ("the Share Price") which is equal to the proportion of the aggregate consideration (in cash or otherwise) for all of the Shares offered or paid or payable by the proposed transferee or transferees or his or their nominees to the Selling Shareholders for their Shares which they would receive on an Exit under Article 3.2.2 plus the same proportion of any other consideration (in cash or otherwise) received or receivable by the Selling Shareholders for their Shares (but subject in the case of the Original Shareholders to the provisions of Article 7) which, having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or payable for the Shares. In the event of a disagreement as to the equivalent value of any other consideration the matter shall be referred to an umpire (acting as an expert and not as an arbitrator) nominated by the Selling Shareholders and the Called Shareholders (or in the event of disagreement as to nomination appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales on the application of either of the Selling Shareholders or the Called Shareholders) whose decision shall be final and binding in the absence of manifest error

8.5 Completion of the sale of the Called Shares shall take place at the Company's registered office on the same date as the date proposed for completion of the sale of the Selling Shareholders' Shares unless -

8 5 1 all of the Called Shareholders and Selling Shareholders agree otherwise, or

8 5 2 that date is less than 21 days after receipt of the Come Along Notice by the Called Shareholders, where it shall be deferred until the 21<sup>st</sup> day after the date of receipt of the Come Along Notice, or

8 5 3 the consideration is to be determined under Article 8.4 where the date shall be deferred until the 21<sup>st</sup> day after the consideration is agreed or determined

8 6 If any Called Shareholder or any other Shareholder makes default in complying with his obligations under this Article 8 ("a Defaulting Shareholder") the Chairman for the time being of the Company, or failing him one of the Directors or some other person duly nominated by a resolution of the Board for that purpose, shall forthwith be deemed to be the duly appointed agent or attorney of the Defaulting Shareholder with full power to execute complete and deliver in the name and on behalf of the Defaulting Shareholder a transfer of the relevant Shares to the third party (or its nominee) and any Director may receive and give a good discharge for the purchase money on behalf of the Defaulting Shareholder and (subject to the transfer being duly stamped) enter the name of the third party (or its nominee) in the register of members as the holder or holders by transfer of the Shares so purchased by it. The Board shall forthwith pay the purchase money into a separate bank account in the Company's name and shall hold such money on trust (but without interest) for the Defaulting Shareholder until he shall deliver up his certificate or certificates for the relevant Shares (or an indemnity in a form reasonably satisfactory to the Board in respect of any lost certificate) to the Company when he shall thereupon be paid the purchase money

## **9 TAG ALONG RIGHTS**

9 1 Other than a shareholder who holds Shares on the date of the adoption of these Articles no person (in this Article a 'Third Party') shall be entitled or permitted to acquire, and no holder shall transfer any Shares ("the Specified Shares") if, as a result, a Third Party would acquire a Controlling Interest unless the Third Party has first made an offer to all the holders of all the Ordinary Shares and B Ordinary Shares in the Company at the relevant time (of whatever class) (other than the Third Party if he is already such a holder) to purchase from them for cash at not less than the Specified Price (as hereinafter defined) per Share (but subject in the case of the Original Shareholders to Article 8) their entire holdings of Shares in the Company

9 2

9 2.1 No person ("a Proposed Seller") shall be entitled or permitted to transfer Ordinary Shares ("the Specified Shares") totalling more than 5% of the Entire Issued Share Capital to a Third Party, and

9.2.2 No Proposed Seller shall be entitled or permitted to transfer Ordinary Shares (also "the Specified Shares") to a Third Party if as a result of that transfer the

Third Party would hold Shares which confer in the aggregate more than 10% of the total voting rights conferred by all the Shares in the Company for the relevant time being in issue and conferring the right to vote at all general meetings as the case may be

unless the Third Party has first made an offer to all the holders of all the Ordinary and B Ordinary Shares in the Company at the relevant time (of whatever class) (other than the Third Party if he is already such a holder) to purchase from them for cash at the Specified Price per Share a number of their Shares in the Company equal to the proportion that the Specified Shares bear to the total number of Shares held by the Proposed Seller

9 3 An offer made under this Article 9 shall be in writing, open for acceptance for at least 28 days, and shall be deemed to be rejected by any Shareholder who has not accepted it in accordance with its terms within 28 days and the consideration thereunder shall be settled in full on completion of the purchase and within 28 days of the date of the offer

9 4 For the purposes of this Article 9 -

**"Specified Price"** means a price per Share which is equal to the consideration (in cash or otherwise) for each shareholder respectively which each shareholder respectively could expect to receive on an Exit under Article 3.2 2 (with reference to the price proposed to be received by the Proposed Seller) plus the appropriate 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

**"Specified Shares"** means any Shares to be transferred to a Third Party pursuant to Article 9 2

9 5 If the Specified Price or its cash equivalent cannot be agreed within 28 days of the proposed sale or transfer referred to in Article 9 2 between the Third Party and the holders of Shares (excluding persons who have waived their right to receive an offer), the question may be referred by any such holder of Shares to the Expert and, pending his determination, the sale, transfer or other disposition referred to in this Article 9 shall have no effect

9 6 Any such dispute relating to the Specified Price or its cash equivalent shall be decided by the Expert in accordance with such principles and procedures as he shall reasonably deem fit The Expert shall act as experts and not as arbitrators and his decision shall be final and binding save in the event of manifest error

9 7 If the Third Party shall fail to serve a notice or make an offer in accordance with this Article 9 (or, if and to the extent that the offer is accepted, the Third Party shall fail to complete the purchase of any shares pursuant to the offer) he (and any Shareholder with whom he is acting in concert) shall cease to have any rights to vote or to receive dividends in respect of all the shares held by them and the directors may where relevant refuse to register the transfer of the shares acquired by the Third Party which give rise to the obligations under this Article 9 and may require the Third Party to

serve a Transfer Notice in accordance with Article 9 in respect of all or any of the shares held by him

## **10 LIEN**

- 10 1 The lien conferred by Regulation 9 of Table A shall attach also to fully paid shares, and the Company shall also have a first and paramount lien on all shares, whether fully paid or not, standing registered in the name of any person indebted or under liability to the Company (whether that person is the full registered holder of those shares or one of two or more joint holders) for all sums presently payable by him or his estate to the Company

## **10 2 Non-Payment of Calls**

The liability of any member in default in respect of a call shall be increased by the addition at the end of the first sentence of Regulation 18 of Table A of the words "and all expenses that may have been incurred by the Company by reason of such non-payment"

## **11 NOTICES OF GENERAL MEETINGS**

Every notice convening a general meeting shall comply with the provisions of section 372(3) of the Act as to giving information to members in regard to their right to appoint proxies, and notices of, and other communications relating to, any general meeting which any member is entitled to receive shall be sent to the Directors and to the Auditors

## **12 QUORUM**

- 12 1 If a quorum is not present within half an hour from the time appointed for the start of a general meeting the meeting shall be adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Directors may determine, and if at the adjourned general meeting a quorum is not present within half an hour from the time appointed for its start, such adjourned general meeting shall be dissolved. A Quorum for the purposes of a general meeting must include a duly appointed representative of Mr Hammond unless Mr Hammond otherwise agrees in writing

- 12.2 Regulation 41 of Table A shall not apply to the Company

## **13 NUMBER OF DIRECTORS**

- 13 1 Regulation 64 of Table A shall not apply to the Company
- 13 2 Subject to the rights of Mr Hammond under Article 4 the maximum number and the minimum number of Directors may be determined from time to time by Ordinary Resolution in general meeting of the Company. Subject to and in default of any such determination, there shall be no maximum number of Directors and the minimum number shall be two.

## **14 APPOINTMENT OF DIRECTORS**

14 1 Subject to Article 4 no person shall be appointed a Director at any general meeting unless either -

14 1 1 he is recommended by the Directors including the Investor Director, or

14 1 2 not less than fourteen nor more than thirty-five clear days before the date appointed for the general meeting, notice signed by a member qualified to vote at the general meeting has been given to the Company of the intention to propose that person for appointment, together with notice signed by that person of his willingness to be appointed

14 2 Subject to Article 14 1 above, the Company may by Ordinary Resolution in general meeting appoint any person who is willing to act to be a Director, either to fill a vacancy or as an additional Director Any person appointed, who is not a member of the Company, shall not be appointed as an Investor Director unless he is appointed under the terms of Article 4

14 3 The Directors may appoint a person who is willing to act to be a Director, either to fill a vacancy or as an additional director, provided that the appointment does not cause the number of directors to exceed any number determined in accordance with Article 13 as the maximum number of directors and for the time being in force

14 4 A quorum for a Board meeting must include at least the Investor Director unless otherwise agreed by Mr Hammond in writing

## **15 RETIREMENT OF DIRECTORS**

The directors shall not be required to retire by rotation and Regulations 73 to 80 (inclusive) of Table A shall not apply to the Company

## **16 DIRECTORS' BORROWING POWERS**

The directors may exercise all the powers of the Company to borrow money without limit as to amount and upon such terms and in such manner as they think fit and, subject (in the case of any security convertible into shares) to section 80 of the Act, to grant any mortgage, charge of standard security over the Company's undertaking, property and uncalled capital, or any part thereof, and to issue debentures, debenture stock, and other securities whether outright or as security for any debt, liability or obligation of the Company or of any third party

## **17 ALTERNATE DIRECTORS**

17 1 An alternate director shall not be entitled as such to receive any remuneration from the Company, except that he may be paid by the Company such part (if any) of the remuneration otherwise payable to the Company from time to time direct, and the first sentence of Regulation 66 of Table A shall be modified accordingly.

17.2 A director, or any such other person as is mentioned in Regulation 65 of Table A, may act as an alternate director to represent more than one director, and an alternate director shall be entitled at any meeting of the directors or of any committee of the directors to one vote for every director whom he represents in addition to his own vote (if any) as a director, but he shall count as only one for the purpose of



determining whether a quorum is present

## **18 GRATUITIES AND PENSIONS**

18.1 The directors may exercise the powers of the Company conferred by the Memorandum of Association of the Company and shall be entitled to retain any benefits received by them or any of them by reason of the exercise of any such powers

18.2 Regulation 87 of Table A shall not apply to the Company

## **19 DIRECTORS' INTERESTS IN TRANSACTIONS**

19.1 At any meeting of the directors (or of any committee of the Directors) a Director may vote on any resolution, notwithstanding that it in any way concerns or relates to a matter in which he has, directly or indirectly, any kind of interest. If he does vote on any such resolution, his vote shall be counted. Such a Director shall be counted as part of the quorum present at the meeting (and in relation to such a resolution) whether or not the Director votes on the resolution

19.2 Regulations 94 to 97 (inclusive) of Table A shall not apply to the Company

## **20 COMPANY SEAL**

20.1 If the Company has a seal it shall be used only with the authority of the Directors or of a committee of Directors. The Directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a Director and by the secretary or second Director. The obligation under Regulation 6 of Table A relating to the sealing of share certificates shall apply only if the Company has a seal. Regulation 101 of Table A shall not apply to the Company

20.2 The Company may exercise the powers conferred by section 39 of the Act with regard to having an official seal for use abroad, and those powers shall be vested in the directors

## **21 INDEMNITY**

21.1 Every Director, or other officer or auditors of the Company shall be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the execution of the duties of his office or otherwise in relation thereto, including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgement is given in his favour or in which he is acquitted, or in connection with any application under section 144 or section 727 of the Act in which relief is granted to him by the Court; and no Director or other officer shall be liable for any loss, damage or misfortune which may happen to be incurred by the Company in the execution of the duties of his office or in relation thereto. But this Article shall have effect only in so far as its provisions are not avoided by section 310 of the Act.

21.2 The Directors must purchase and maintain for any director, officer or auditor of the Company, insurance against any such liability as is referred to in section 310(1) of the Act.

21.3 Regulation 118 of Table A shall not apply to the Company

## **22 DATA PROTECTION**

22.1 Each of the shareholders of the Company (from time to time) consent to the processing of their personal data by the Company, its shareholders and directors, and the Fund (which for this purpose shall be deemed to include the Manager) (each a "Recipient") for the purpose of due diligence exercises, compliance with applicable laws, regulations and procedures and the exchange of information amongst themselves. A Recipient may process such personal data either electronically or manually. The personal data which may be processed for such purposes under this article shall include any information (but excepting all "sensitive data" as defined in the Data Protection Act 1998 for which it is recognised separate consent would be obtained) which may have a bearing on the prudence or commercial merits of investing, or disposing of any shares (or other investment or security) in the Company. Subject to any confidentiality undertakings given to them by a Recipient, each of the Company's shareholders and directors (from time to time) consent to the transfer of such personal data to persons acting on behalf of any Recipient and to the offices of any Recipient within the European Economic Area for the purposes stated above, where it is necessary or desirable to do so.