



# BR2

CHFP025

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

FC025976

Company name

DELANCEY REAL ESTATE PARTNERS LIMITED

Branch number

BR0008206

Branch name

DELANCEY REAL ESTATE PARTNERS LIMITED

### CONSTITUTIONAL DOCUMENTS

\* 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

On 

Day		Month		Year		
0	8	0	6	2	0	7

 an alteration was made to the constitutional document(s) of the company

A copy of the new instrument is attached

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

Signed

Director

Date 26 June 2007

You do not have to give any contact information in the box opposite but if you do, it will help Companies House to contact you if there is a query on the form. The contact information that you give will be visible to searchers of the public record.

SJ Berwin LLP  
10 Queen Street Place  
London  
EC4R 1BE

D18473 46/bags  
DX number DX 255

Tel +44 (0)20 7111 2919  
DX exchange LONDON/CHANCERY LANE

When you have completed and signed the form please send it to the Registrar of Companies at

Companies House, Crown Way, Cardiff, CF14 3UZ

DX 33050 Cardiff

for branches registered in England and Wales

or

Companies House, 37 Castle Terrace, Edinburgh, EH1 2EB

for branches registered in Scotland

DX 235 Edinburgh  
or LP - 4 Edinburgh 2

THURSDAY



A16 28/06/2007 502  
COMPANIES HOUSE

COMPANIES HOUSE

2717449

No 505059

**British Virgin Islands  
BVI Business Companies Act, 2004  
(Cap. 291)**

**AMENDED AND RESTATED**

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

**Delancey Real Estate Partners Limited**

**Incorporated the 12th day of July, 2002**

**(amended and restated as at 8 June, 2007)**

TERRITORY OF THE BRITISH VIRGIN ISLANDS

BVI BUSINESS COMPANIES ACT, 2004  
(CAP 291)

MEMORANDUM OF ASSOCIATION  
OF

DELANCEY REAL ESTATE PARTNERS LIMITED

NAME

- 1 The name of the Company is Delancey Real Estate Partners Limited

REGISTERED OFFICE

- 2 The Registered Office of the Company will be at Craigmuir Chambers, P O Box 71, Road Town, Tortola, British Virgin Islands

REGISTERED AGENT

- 3 The Registered Agent of the Company will be Harneys Corporate Services Limited of Craigmuir Chambers, P O Box 71, Road Town, Tortola, British Virgin Islands

GENERAL OBJECTS AND POWERS

- 4 (1) The object of the Company is to engage in any act or activity that is not prohibited under any law for the time being in force in the British Virgin Islands
- (2) The Company may not
- (a) carry on business with persons resident in the British Virgin Islands,
  - (b) own an interest in real property situate in the British Virgin Islands other than a lease referred to in paragraph (e) of subclause (3),
  - (c) carry on banking or trust business, unless it is licensed to do so under the Banks and Trust Companies Act, 1990,
  - (d) carry on business as an insurance or reinsurance company, insurance agent or insurance broker, unless it is licensed under an enactment authorizing it to carry on that business,
  - (e) carry on the business of company management, unless it is licensed under the Company Management Act, 1990, or
  - (f) carry on the business of providing the registered office or the registered agent for companies incorporated in the British Virgin Islands
- (3) For purposes of paragraph (a) of subclause (2), the Company shall not be treated as carrying on business with persons resident in the British Virgin Islands if
- (a) it makes or maintains deposits with a person carrying on banking business within the British Virgin Islands,
  - (b) it makes or maintains professional contact with solicitors, barristers, accountants, bookkeepers, trust companies, administration companies,

investment advisers or other similar persons carrying on business within the British Virgin Islands,

- (c) it prepares or maintains books and records within the British Virgin Islands,
  - (d) it holds, within the British Virgin Islands, meetings of its directors or Members,
  - (e) it holds a lease of property for use as an office from which to communicate with Members or where books and records of the Company are prepared or maintained,
  - (f) it holds shares, debt obligations or other securities in a company incorporated under the International Business Companies Act, the Companies Act or the BVI Business Companies Act, 2004, or
  - (g) Shares, debt obligations or other securities in the Company are owned by any person resident in the British Virgin Islands or by any company incorporated under the International Business Companies Act, the Companies Act or the BVI Business Companies Act, 2004
- (4) The Company shall have all such powers as are permitted by law for the time being in force in the British Virgin Islands, irrespective of corporate benefit, to perform all acts and engage in all activities necessary or conducive to the conduct, promotion or attainment of the object of the Company

#### CURRENCY

- 5 Shares in the Company shall be issued in the currency of Great Britain

#### AUTHORIZED CAPITAL

- 6 The authorized capital of the Company is GBP £12,050 00

#### CLASSES, NUMBER AND PAR VALUE OF SHARES

- 7 The authorized capital is made up of four classes of Shares of one series each divided as follows
- (a) 6,150 Class A Ordinary Shares of one series and of par value £1 00 each (the "Class A Shares"),
  - (b) 3,186 Class B Ordinary Shares of one series and par value £1 00 each (the "Class B Shares"),
  - (c) 1,714 Class C Ordinary Shares of one series and par value £1 00 each (the "Class C Shares"), and
  - (d) 1,000 Class D Ordinary Shares of one series and par value £1 00 each (the "Class D Shares")

#### DESIGNATIONS, POWERS, PREFERENCES, ETC OF SHARES

- 8
- (a) The Class A Shares and the Class D Shares shall carry no right to vote, except pursuant to Clause 9 of the Memorandum of Association, in which case each Class A Share and each Class D Share will carry the right to one vote respectively,
  - (b) Each of the Class B Shares and the Class C Shares shall carry the right to one vote each, except that
    - (i) no Class C Share shall entitle the holder thereof to vote on any resolution in connection with the election or removal of a Class B Director, and

- (ii) no Class B Share shall entitle the holder thereof to vote on any resolution in connection with the election or removal of a Class C Director,
- (c) Subject to Clause 8(d) and Clause 8(e) below, the Class B Shares (which shall rank *pari passu* with one another) and the Class C Shares (which shall rank *pari passu* with one another) shall have the right to participate *pari passu* with one another in the assets of the Company, including but not limited to dividends and distributions of the Company, except that any entitlement to a dividend of the holders of the B Shares shall be reduced by an amount equal to the aggregate of any Excess Bonus Payments,
- (d) Subject to Clause 8(e) below, the Class D Shares shall have no right to participate in the assets of the Company other than on a distribution or allocation of DV4 Capital Proceeds. The holders of the Class D Shares shall in aggregate be entitled to receive
  - (i) an amount equal to their subscription price, plus
  - (ii) an amount such that, if such amount were deducted from the DV4 Capital Proceeds and the resulting amount was distributed or allocated (whether by way of dividend or otherwise) to Members in accordance with Clause 8(c) above, the holders of the Class C Shares would receive an amount equal to 25 per cent of the DV4 Capital Proceeds, plus
- (e) The Class A Shares shall receive 1 per cent of any dividend made, paid or declared prior to any dividend payment being made to the holders of the Class B Shares and the holders of the Class C Shares

#### VARIATION OF CLASS RIGHTS

- 9 The rights attached to any class or series (unless otherwise provided by the terms of issue of the Shares of that class or series) may, whether or not the Company is being wound up, be varied with the consent in writing of the holders of not less than three-fourths of the issued Shares of that class or series and of the holders of not less than three-fourths of the issued Shares of any other class or series of Shares which may be affected by such variation

#### RIGHTS NOT VARIED BY THE ISSUE OF SHARES *PARI PASSU*

- 10 The rights conferred upon the holders of the Shares of any class issued with preferred or other rights 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

#### REGISTERED SHARES

- 11 Shares may only be issued as registered shares and may not be exchanged for shares issued to bearer

#### TRANSFER OF SHARES

- 12 Subject to the provisions relating to the transfer of Shares set forth in the Articles of Association annexed hereto (the "Articles of Association"), Shares in the Company may be transferred subject to the prior or subsequent approval of the Company as evidenced by a Resolution of Directors or by a Resolution of Members

#### AMENDMENT OF MEMORANDUM AND ARTICLES OF ASSOCIATION

- 13 The Company may amend its Memorandum of Association and Articles of Association by a Resolution of Members or Resolution of Directors, provided that any amendment to any provision of this Memorandum or the Articles of Association which requires special voting procedures shall only be validly adopted by the very same special voting procedures required by the provision being

amended, and provided further that the foregoing proviso in this Memorandum may not be amended except by a unanimous Resolution of Members

#### DEFINITIONS

- 14 The meanings of words in this Memorandum of Association are as defined in the Articles of Association

We, HWR Services Limited, of Craigmuir Chambers, Road Town, Tortola, British Virgin Islands for the purpose of incorporating an International Business Company under the laws of the British Virgin Islands hereby subscribe our name to this Memorandum of Association the 8<sup>th</sup> day of June 2007 in the presence of

Witness

Subscriber

(Sg of) Simone I Syfox

(Sg of) Coleen B Lewis

Craigmuir Chambers  
Road Town Tortola

Authorised Signatory  
HWR Services Limited

TERRITORY OF THE BRITISH VIRGIN ISLANDS

BVI BUSINESS COMPANIES ACT, 2004  
(CAP 291)

ARTICLES OF ASSOCIATION  
OF

DELANCEY REAL ESTATE PARTNERS LIMITED

PRELIMINARY

- 1 In these Articles, if not inconsistent with the subject or context, the words and expressions standing in the first column of the following table shall bear the meanings set opposite them respectively in the second column thereof

<b>Words</b>	<b>Meaning</b>
Act	The BVI Business Companies Act, 2004 including any modification, extension, re-enactment or renewal thereof and any regulations made thereunder
Affiliate	<p>(a) as regards any particular individual Member, trusts (whether arising under a settlement, declaration of trust or other instrument by whomsoever or wheresoever made or under a testamentary disposition or on an intestacy) under which no immediate beneficial interest in any of the Shares in question is for the time being vested in any person other than that individual and/or persons caught within paragraph (c) of this definition,</p> <p>(b) as regards any Member any entity Controlled by or under common Control with such Member, or</p> <p>(c) in relation to an individual Member, the husband or wife or widower or widow of such Member and all the lineal descendants and ascendants in direct line of such Member and the brothers and sisters of such Member and their lineal descendants and a husband or wife or widower or widow of any of the above persons and for the purposes aforesaid a step-child or adopted child or illegitimate child of any person shall be deemed to be his or her lineal descendant</p>
Affiliated Transferee	The meaning given in Regulation 39
Articles	These Articles of Association as originally framed or as from time to time amended
B Directors	Any directors of the Company elected pursuant to Regulation 86(a)
Business Day	Any day (excluding Saturday and Sunday) on which banks in the British Virgin Islands are generally open for business
Buyer	The meaning given in Regulation 47(a)

C Director	Any director of the Company elected pursuant to Regulation 86(b)
capital	<p>The sum of the aggregate par value of all outstanding Shares with par value of the Company and Shares with par value held by the Company as Treasury Shares plus</p> <p>(a) the aggregate of the amounts designated as capital of all outstanding Shares without par value of the Company and Shares without par value held by the Company and Treasury Shares, and</p> <p>(b) the amounts as are from time to time transferred from surplus to capital by a Resolution of Directors</p>
Charge	Mortgage, charge or otherwise encumber
Class C Observer	A person nominated by the holders of Class C Shares in accordance with Regulation 88
Competitor	Bears the definition contained in any shareholders' agreement from time to time in force between the Members
Control	The ability to control the affairs of another, whether by contract, the ownership of shares or otherwise
Deed of Adherence	A deed of adherence in a form approved by the board of directors pursuant to which a transferee of any Shares in the Company agrees with the Company and with and for the benefit of the Members from time to time to observe and be bound in all respects by the provisions of any shareholders' agreement between the Members of the Company
DV4 Capital Proceeds	As defined in any shareholders' agreement entered into from time to time by the Members governing the operation and management of the Company
Excess Bonus Payments	Any bonus payments which are in addition to (i) basic salary entitlements of Paul Goswell or James Ritblat, and (ii) any bonus payments to Paul Goswell or James Ritblat up to and including 150% of Paul Goswell's or James Ritblat's basic salary (as the case may be) for the year in question
Follower	Bears the meaning given in Regulations 49 and 50
Group Companies	The Company and each and any of its subsidiaries from time to time
Member	A person who holds Shares in the Company
Memorandum	The Memorandum of Association of the Company as originally framed or as from time to time amended



Resolution of Directors

- (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 simple majority of the directors present at the meeting who voted and did not abstain, who shall have one vote each except that in the event of a tie, the chairman of the board shall have a second or casting vote, or
- (b) a resolution consented to in writing by all directors or of all members of the committee, as the case may be,

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

Resolution of Members

- (a) a resolution approved at duly convened and constituted meeting of the Members of the Company by the affirmative vote of
  - (i) a simple majority of the votes of the Shares entitled to vote thereon which were present at the meeting and were voted and not abstained, or
  - (ii) a simple majority of the votes of each class or series of Shares which were present at the meeting and entitled to vote thereon as a class or series and were voted and not abstained and of a simple majority of the votes of the remaining Shares entitled to vote thereon which were present at the meeting and were voted and not abstained, or
- (b) a resolution consented to in writing by
  - (i) a simple majority or, where the Memorandum or Articles provide for a unanimous Resolution of Members, all of the votes of Shares entitled to vote thereon, or
  - (ii) a simple majority of the votes of each class or series of Shares entitled to vote thereon as a class or series and of an absolute majority of the votes of the remaining Shares entitled to vote thereon

75% Resolution of Members

The written approval of Members who among them hold in excess of 75% of the aggregate number of the 'B' Shares and the 'C' Shares of the Company in issue at the relevant date voting as a single class

Shares

Class A Shares, Class B Shares, Class C Shares and/or Class D Shares, as the context requires

surplus	The excess, if any, at the time of the determination of the total assets of the Company over the aggregate of its total liabilities, as shown in its books of account, plus the Company's capital
Transfer	Any assignment, transfer, pledge, hypothecation or other disposal
Treasury Shares	Shares in the Company that were previously issued but were repurchased, redeemed or otherwise acquired by the Company and not cancelled

2 "Written" or any term of like import includes words typewritten, printed, painted, engraved, lithographed, photographed or represented or reproduced by any mode of reproducing words in a visible form, including telex, facsimile, telegram, cable or other form of writing produced by electronic communication

3 Save as aforesaid any words or expressions defined in the Act shall bear the same meaning in these Articles

4 Whenever the singular or plural number, or the masculine, feminine or neuter gender is used in these Articles, it shall equally, where the context admits, include the others

5 A reference in these Articles to voting in relation to Shares shall be construed as a reference to voting by Members holding the Shares except that it is the votes allocated to the Shares that shall be counted and not the number of Members who actually voted and a reference to Shares being present at a meeting shall be given a corresponding construction

6 A reference to money in these Articles is, unless otherwise stated, a reference to the currency in which Shares in the Company shall be issued according to the provisions of the Memorandum

#### REGISTERED SHARES

7 Every Member holding Shares in the Company shall be entitled to a certificate signed by a director or officer of the Company and under the Seal specifying the Share or Shares held by him and the signature of the director or officer and the Seal may be facsimiles

8 Any Member receiving a share 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 share certificate 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 a Resolution of Directors

9 If several persons are registered as joint holders of any Shares, any one of such persons may give an effectual receipt for any dividend payable in respect of such Shares

#### SHARES, AUTHORIZED CAPITAL, CAPITAL AND SURPLUS

10 No unissued Share, Share subject to a lien held by the Company or any other equity or securities in the Company may be issued or disposed of by the directors without the prior unanimous approval of the holders of the Class B Shares and the Class C Shares, except as provided for in Regulation 11 herein Where such prior approval of the holders of the Class B Shares and the Class C Shares has been obtained, the directors may, subject to the terms of such approval, and without limiting or affecting any rights previously conferred on the holders of any existing Shares or class or series of Shares, offer, allot, grant options over or otherwise dispose of Shares to such persons, at such times and upon such terms and conditions as the Company may, by Resolution of Directors, determine

- 11 If the amount contributed by the Shareholders for the Shares issued as at the date hereof is insufficient to operate the business of the Company from time to time, the Members may determine, by a Resolution of Members and with the prior written consent of the holders of the Class C Shares (such consent not to be unreasonably withheld), to source additional funding for the Company through either
- (a) inviting the holders of the Class B Shares and the holders of the Class C Shares to effect a loan to the Company pro rata to the number of Class B Shares or Class C Shares held by each such Member on terms as approved by a Resolution of Members (including the date of repayment and the interest rate), or
  - (b) inviting holders of the Class B Shares and holders of the Class C Shares to subscribe for additional Class B Shares and Class C Shares, respectively, pro rata to the number of Class B Shares or Class C Shares held by each such Member at an amount equal to the par value of such Shares
- 12 No Share in the Company may be issued until the consideration in respect thereof is fully paid, and when issued the Share is for all purposes fully paid and non-assessable save that a Share issued for a promissory note or other written obligation for payment of a debt may be issued subject to forfeiture in the manner prescribed in these Articles
- 13 Shares in the Company shall be issued for money, services rendered, personal property, an estate in real property, a promissory note or other binding obligation to contribute money or property or any combination of the foregoing as shall be determined by a Resolution of Directors
- 14 Shares in the Company may be issued for such amount of consideration as the directors may from time to time by Resolution of Directors determine, except that in the case of Shares with par value, the amount shall not be less than the par value, and in the absence of fraud the decision of the directors as to the value of the consideration received by the Company in respect of the issue is conclusive unless a question of law is involved. The consideration in respect of the Shares constitutes capital to the extent of the par value and the excess constitutes surplus
- 15 A Share issued by the Company upon conversion of, or in exchange for, another share or a debt obligation or other security in the Company, shall be treated for all purposes as having been issued for money equal to the consideration received or deemed to have been received by the Company in respect of the other share, debt obligation or security
- 16 The Company shall not issue fractions of a Share
- 17 Upon the issue by the Company of a Share without par value, if an amount is stated in the Memorandum to be authorized capital represented by such Shares then each Share shall be issued for no less than the appropriate proportion of such amount which shall constitute capital, otherwise the consideration in respect of the Share constitutes capital to the extent designated by the directors and the excess constitutes surplus, except that the directors must designate as capital an amount of the consideration that is at least equal to the amount that the Share is entitled to as a preference, if any, in the assets of the Company upon liquidation of the Company
- 18 The Company may purchase, redeem or otherwise acquire and hold its own Shares but only out of surplus or in exchange for newly issued Shares of equal value
- 19 Subject to provisions to the contrary in
- (a) the Memorandum or these Articles,
  - (b) the designations, powers, preferences, rights, qualifications, limitations and restrictions with which the Shares were issued, or
  - (c) the subscription agreement for the issue of the Shares,

the Company may not purchase, redeem or otherwise acquire its own Shares without the consent of Members whose Shares are to be purchased, redeemed or otherwise acquired

- 20 No purchase, redemption or other acquisition of Shares shall be made unless the directors determine that immediately after the purchase, redemption or other acquisition the Company will be able to satisfy its liabilities as they become due in the ordinary course of its business and the realizable value of the assets of the Company will not be less than the sum of its total liabilities, other than deferred taxes, as shown in the books of account, and its capital and, in the absence of fraud, the decision of the directors as to the realizable value of the assets of the Company is conclusive, unless a question of law is involved
- 21 A determination by the directors under the preceding Regulation is not required where Shares are purchased, redeemed or otherwise acquired
- (a) pursuant to a right of a Member to have his Shares redeemed or to have his Shares exchanged for money or other property of the Company,
  - (b) by virtue of a transfer of capital pursuant to Regulation 63,
  - (c) by virtue of the provisions of Section 179 of the Act, or
  - (d) pursuant to an order of the Court
- 22 Shares that the Company purchases, redeems or otherwise acquires pursuant to the preceding Regulation may be cancelled or held as Treasury Shares except to the extent that such Shares are in excess of 80 percent of the issued Shares of the Company in which case they shall be cancelled but they shall be available for reissue
- 23 Where Shares in the Company are held by another company of which the Company holds, directly or indirectly, Shares having more than 50 percent of the votes in the election of directors of the other company, such Shares of the Company are not entitled to vote or to have dividends paid thereon and shall not be treated as outstanding for any purpose except for purposes of determining the capital of the Company
- 24 The Company may purchase, redeem or otherwise acquire its Shares at a price lower than the fair value if permitted by, and then only in accordance with, the terms of
- (a) the Memorandum or these Articles, or
  - (b) a written agreement for the subscription for the Shares to be purchased, redeemed or otherwise acquired
- 25 The Company may by a Resolution of Directors include in the computation of surplus for any purpose the unrealized appreciation of the assets of the Company, and, in the absence of fraud, the decision of the directors as to the value of the assets is conclusive, unless a question of law is involved

#### MORTGAGES AND CHARGES OF REGISTERED SHARES

- 26 Subject to the provisions of these Articles Members may mortgage or charge their registered Shares in the Company and upon satisfactory evidence thereof the Company shall give effect to the terms of any valid mortgage or charge except insofar as it may conflict with any requirements herein contained for consent to the transfer of Shares
- 27 In the case of the mortgage or charge of Shares there may be entered in the register of Members of the Company at the request of the registered holder of such Shares
- (a) a statement that the Shares are mortgaged or charged,
  - (b) the name of the mortgagee or chargee, and

- (c) the date on which the aforesaid particulars are entered in the register of Members
- 28 Where particulars of a mortgage or charge are registered, such particulars shall be cancelled
- (a) with the consent of the named mortgagee or chargee or anyone authorized 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
- 29 Whilst particulars of a mortgage or charge are registered, no transfer of any Share comprised therein shall be effected without the written consent of the named mortgagee or chargee or anyone authorized to act on his behalf

#### FORFEITURE

- 30 When Shares issued for a promissory note or other written obligation for payment of a debt have been issued subject to forfeiture, the following provisions shall apply
- 31 Written notice specifying a date for payment to be made and the Shares in respect of which payment is to be made shall be served on the Member who defaults in making payment pursuant to a promissory note or other written obligations to pay a debt
- 32 The written notice specifying a date for payment shall
- (a) name a further date not earlier than the expiration of 14 days from the date of service of the notice on or before which payment required by the notice is to be made, and
- (b) 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
- 33 Where a written notice has been issued and the requirements have not been complied with within the prescribed time, the directors may at any time before tender of payment forfeit and cancel the Shares to which the notice relates
- 34 The Company is under no obligation to refund any moneys to the Member whose Shares have been forfeited and cancelled pursuant to these provisions. Upon forfeiture and cancellation of the Shares the Member is discharged from any further obligation to the Company with respect to the Shares forfeited and cancelled

#### LIEN

- 35 The Company shall have a first and paramount lien on every Share issued for a promissory note or for any other binding obligation to contribute money or property or any combination thereof to the Company, and the Company shall also have a first and paramount lien on every Share standing registered in the name of a Member, whether singly or jointly with any other person or persons, for all the debts and liabilities of such Member or his estate to the Company, whether the same shall have been incurred before or after notice to the Company of any interest of any person other than such Member, and whether the time for the payment or discharge of the same shall have actually arrived or not, and notwithstanding that the same are joint debts or liabilities of such Member or his estate and any other person, whether a Member of the Company or not. The Company's lien on a Share shall extend to all dividends payable thereon. The directors may at any time either generally, or in any particular case, waive any lien that has arisen or declare any Share to be wholly or in part exempt from the provisions of this Regulation
- 36 In the absence of express provisions regarding sale in the promissory note or other binding obligation to contribute money or property, the Company may sell, in such manner as the directors

may by Resolution of Directors determine, any Share on which the Company has a lien, but no sale shall be made unless some sum in respect of which the lien exists is presently payable nor until the expiration of twenty-one days after a notice in writing, stating and demanding payment of the sum presently payable and giving notice of the intention to sell in default of such payment, has been served on the holder for the time being of the Share

- 37 The net proceeds of the sale by the Company of any Shares on which it has a lien shall be applied in or towards payment of discharge of the promissory note or other binding obligation to contribute money or property or any combination thereof in respect of which the lien exists so far as the same is presently payable and any residue shall (subject to a like lien for debts or liabilities not presently payable as existed upon the Share prior to the sale) be paid to the holder of the Share immediately before such sale. For giving effect to any such sale the directors may authorize some person to transfer the Share sold to the purchaser thereof. The purchaser shall be registered as the holder of the Share and he shall not be bound to see to the application of the purchase money, nor shall his title to the Share be affected by any irregularity or invalidity in the proceedings in reference to the sale

#### TRANSFER OF SHARES

- 38 No holder of Class B Shares or Class C Shares or Class D Shares may
- (a) Transfer any Class B Shares or Class C Shares or Class D Shares (as the case may be) or any interest therein, or
  - (b) Charge any Class B Shares or Class C Shares or Class D Shares (as the case may be) or any interest therein except in accordance with Regulation 39 or Regulations 45 to 53 (inclusive)
- 39 A Member holding Class B Shares or Class C Shares or Class D Shares shall, subject to Regulation 40, be permitted to transfer all or part of his or its Class B Shares or Class C Shares or Class D Shares (as the case may be) to any Affiliate of such Member (an "Affiliated Transferee"), provided that
- (a) such transfer would not result in any material adverse regulatory or tax consequences to the Company. Any purported transfer which would result in such consequences shall be void ab initio, and
  - (b) any transfer of greater than 49% of the highest number of Shares held by a Member (the "Proposing Party") to all Affiliates where there is a change of Control, shall require the prior written consent of all other holders of 'B' Shares and 'C' Shares (the "Considering Parties"), such consent not to be unreasonably withheld, and the Considering Parties are to have particular regard for the tax and estate planning of the Proposing Party
- 40 Notwithstanding anything to the contrary in these Articles, no Member shall effect any Transfer or Charge of any Shares or any interest therein nor shall the directors issue any Shares or other equity or securities in the Company, to any person who is not a Member without first obtaining from the transferee or subscriber a Deed of Adherence. No Transfer or issue of any Shares or other equity or securities in the Company shall be registered unless such Deed of Adherence has been executed and delivered to the Company
- 41 Notwithstanding anything else in the Memorandum or the Articles, a Member holding Class A Shares may not Transfer or Charge its Class A Shares without the prior written approval of the Class B Shares and the Class C Shares, evidenced by a 75% Resolution of Members
- 42 Subject to any limitations in the Memorandum and the limitations set out in Regulations 43 to 53 of these Articles, Shares in the Company may be transferred by a written instrument of transfer signed by the transferor and containing the name and address of the transferee, but in the

absence of such written instrument of transfer the directors may accept such evidence of a transfer of Shares as they consider appropriate

- 43 The Company shall not be required to treat a transferee of a registered Share in the Company as a Member until the transferee's name has been entered in the register of Members
- 44 Subject to any limitations in the Memorandum and the limitations in Regulations 42 to 53, the Company must on the application of the transferor or transferee of a registered Share in the Company enter in the register of Members the name of the transferee of the Share save that the registration of transfers may be suspended and the register of Members closed at such times and for such periods as the Company may from time to time by Resolution of Directors determine provided always that such registration shall not be suspended and the register of Members closed for more than 60 days in any period of 12 months

#### PRE-EMPTION, DRAG AND TAG RIGHTS

- 45 Subject to Regulation 39, if at any time a holder of Class B Shares or Class C Shares or Class D Shares (for the purposes of this Regulation 45 (the "Seller") intends to sell all of its holding of Class B Shares or Class C Shares or Class D Shares (as the case may be) (or any interest in such Shares) (the Class B Shares or Class C Shares or Class D Shares to be sold by the Seller being referred to as "Selling Shares"), the Seller shall give the Company not less than 20 Business Days' advance written notice before selling the Selling Shares That notice (the "Selling Notice") will include details of the Selling Shares and the proposed price at which the Selling Shares will be offered for sale and the other terms and conditions of the proposed sale of the Selling Shares If the Seller is a holder of more than 50% of the outstanding Class B Shares he may also indicate in his notice to the Company that he wishes to offer all other Class B Shares, Class C Shares and Class D Shares for sale on identical terms to the Selling Shares in the Selling Notice
- 46 Immediately upon receipt of a Selling Notice, the Company shall give notice in writing (an "Offer Notice") to each Member holding Class B Shares or Class C Shares or Class D Shares other than the Seller (the "Other Shareholders") giving the details contained in the Selling Notice and offering each of them an opportunity to purchase the Selling Shares on terms identical to those contained in the Selling Notice
- 47 No later than 15 Business Days after receipt of the Offer Notice each of the Other Shareholders who has been given an Offer Notice shall give notice to the Company either
- (a) that it wishes to purchase the Selling Shares on the terms contained in the Selling Notice (and any such Other Shareholders shall be described as a "Buyer"), or
  - (b) that it does not wish to purchase the Selling Shares and, at the option of such Other Shareholder, that the Seller must offer all of that Other Shareholder's Shares for sale on identical terms to the Selling Shares
- 48 If an Other Shareholder fails to give notice pursuant to Regulation 47(a) within the 15 Business Day period, he shall be deemed to have given a notice in accordance with Regulation 47(b) that he does not wish to purchase the Selling Shares and, with respect to holders of Class C Shares, that the Seller must offer all of such Other Shareholder's Shares for sale on identical terms to the Selling Shares
- 49 If any Other Shareholder has given notice pursuant to Regulation 47(a), the Seller shall cause the sale of the Selling Shares to the Buyer on the terms and conditions set out in the Offer Notice on that date which is one month after the date the Buyer sends the notice described in Regulation 47(a) (the "Completion Date") If there is more than one Buyer, each Buyer shall each be entitled to purchase that proportion of the Selling Shares which the Class B Shares or Class C Shares or

Class D Shares (as the case may be) owned by that Buyer bears to the aggregate number of Class B Shares and Class C Shares or Class D Shares owned by all Buyers

50 On the Completion Date, the Seller shall sell the Selling Shares to the Buyer and the Buyer shall provide the consideration set out in the Offer Notice. The Seller shall do all other things reasonably requested by the Buyer to cause the unencumbered title to the Selling Shares to be transferred

51 If none of the Other Shareholders give notice in accordance with Regulation 47(a) and the Selling Shares constitute 50% or more of the Class B Shares, and the Seller has indicated in the Selling Notice that it wishes to offer all other Class B Shares, Class C Shares and Class D Shares for sale on identical terms to the Selling Shares (in accordance Regulation 45) then all of the Other Shareholders shall be deemed to be "Followers" for the purposes of Regulation 53

52

(a) If none of the Other Shareholders gives notice in accordance with Regulation 47(a) and an Other Shareholder has indicated that the Seller must offer all of such Other Shareholder's Shares for sale on identical terms to the Selling Shares (in accordance with Regulation 47(b)), then such Other Shareholder shall be described as a "Follower" for the purposes of Regulation 53

(b) If none of the Other Shareholders gives notice in accordance with Regulation 47(a) and all holders of Class C Shares as Other Shareholders have indicated that the Seller must offer all of such Other Shareholder's Shares for sale on identical terms to the Selling Shares (in accordance with Regulation 48), then the holders of Class C Shares shall be deemed to be Followers for the purposes of Regulation 53

53 The Seller is required to offer for sale the Selling Shares and those owned by all Followers (on identical terms to the Selling Shares), on no worse terms than specified in the Selling Notice, for a period of 6 months after the date the Seller served the Selling Notice on the Company. If at the end of that 6 month period, the Seller has not sold the Selling Shares and those owned by all Followers, the Seller must comply with the procedure set out in Regulations 45 to 53, prior to offering the Selling Shares for sale again. The Followers shall give no representations to a purchaser of Class B Shares or Class C Shares or Class D Shares (as the case may be) other than as to the unencumbered ownership of such Shares and the liability of any Follower to such purchaser shall in any event not exceed the amount of proceeds received by such Follower in connection with the sale of such Class B Shares or Class C Shares or Class D Shares (as the case may be)

53A If any of the Members holding Class B Shares or Class C Shares or Class D Shares (a "Defaulting Shareholder") fails to execute the documents required to transfer any Shares as required by Regulations 45 to 53, such Defaulting Shareholder hereby appoints the Company as its agent for the sale of his Class B Shares or Class C Shares or Class D Shares (as the case may be) and the Company may authorise some person to execute and deliver on behalf of each Defaulting Shareholder the necessary transfer and the Company may receive the purchase money in trust for each of the Defaulting Shareholders and cause the transferee to be registered as the holder of such Class B Shares or Class C Shares or Class D Shares (as the case may be). The receipt provided by the Company for the purchase money, pursuant to such transfers, shall constitute a good and valid discharge to the transferee (who shall not be bound to see to the application thereof) and after the transferee has been registered in purported exercise of the aforesaid powers, the validity of the proceedings shall not be questioned by any person. The Company shall not pay the purchase money due to a Defaulting Shareholder until he has delivered his share certificates or a suitable indemnity and the necessary transfers to the Company



- 53B Notwithstanding anything to the contrary in Regulations 45 to 53A, with respect to any transfer effected pursuant to these Regulations, the holders of Class C Shares (or any transferee of their Shares), shall not sell the Selling Shares and the Other Shareholders shall not be Followers if
- (a) the proposed purchaser of the Selling Shares is a Competitor, or
  - (b) without prejudice to Regulation 39, the holders of Class B Shares do not consent to the transfer to the proposed purchaser, such consent not to be unreasonably withheld

#### TRANSMISSION OF SHARES

- 54 The executor or administrator of a deceased Member, the guardian of an incompetent Member or the trustee of a bankrupt Member shall be the only person recognized by the Company as having any title to his Share but they shall not be entitled to exercise any rights as a Member of the Company until they have proceeded as set forth in the next following three Regulations
- 55 The production to the Company of any document which is evidence of probate of the will, or letters of administration of the estate, or confirmation as executor, of a deceased Member or of the appointment of a guardian of an incompetent Member or the trustee of a bankrupt Member shall be accepted by the Company even if the deceased, incompetent or bankrupt Member is domiciled outside the British Virgin Islands if the document evidencing the grant of probate or letters of administration, confirmation as executor, appointment as guardian or trustee in bankruptcy is issued by a foreign court which had competent jurisdiction in the matter For the purpose of establishing whether or not a foreign court had competent jurisdiction in such a matter the directors may obtain appropriate legal advice The directors may also require an indemnity to be given by the executor, administrator, guardian or trustee in bankruptcy
- 56 Any person becoming entitled by operation of law or otherwise to a Share or Shares in consequence of the death, incompetence or bankruptcy of any Member may be registered as a Member upon such evidence being produced as may reasonably be required by the directors An application by any such person to be registered as a Member shall for all purposes be deemed to be a transfer of Shares of the deceased, incompetent or bankrupt Member and the directors shall treat it as such
- 57 Any person who has become entitled to a Share or Shares in consequence of the death, incompetence or bankruptcy of any Member may, instead of being registered himself, request in writing that some person to be named by him be registered as the transferee of such Share or Shares and such request shall likewise be treated as if it were a transfer
- 58 What amounts to incompetence on the part of a person is a matter to be determined by the court having regard to all the relevant evidence and the circumstances of the case

#### REDUCTION OR INCREASE IN AUTHORIZED CAPITAL OR CAPITAL

- 59 The Company may by a Resolution of Directors amend the Memorandum to increase or reduce its authorized capital and in connection therewith the Company may in respect of any unissued Shares increase or reduce the number of such Shares, increase or reduce the par value of any such Shares or effect any combination of the foregoing
- 60 The Company may amend the Memorandum to
- (a) divide the Shares, including issued Shares, of a class or series into a larger number of Shares of the same class or series, or
  - (b) combine the Shares, including issued Shares, of a class or series into a smaller number of Shares of the same class or series,

provided, however, that where Shares are divided or combined under (a) or (b) of this Regulation, the aggregate par value of the new Shares must be equal to the aggregate par value of the original Shares

- 61 The capital of the Company may by a Resolution of Directors be increased by transferring an amount of the surplus of the Company to capital
- 62 Subject to the provisions of the two next succeeding Regulations, the capital of the Company may by Resolution of Directors be reduced by transferring an amount of the capital of the Company to surplus
- 63 No reduction of capital shall be effected that reduces the capital of the Company to an amount that immediately after the reduction is less than the aggregate par value of all outstanding Shares with par value and all Shares with par value held by the Company as Treasury Shares and the aggregate of the amounts designated as capital of all outstanding Shares without par value and all Shares without par value held by the Company as Treasury Shares that are entitled to a preference, if any, in the assets of the Company upon liquidation of the Company
- 64 No reduction of capital shall be effected unless the directors determine that immediately after the reduction the Company will be able to satisfy its liabilities as they become due in the ordinary course of its business and that the realizable assets of the Company will not be less than its total liabilities, other than deferred taxes, as shown in the books of the Company and its remaining capital, and, in the absence of fraud, the decision of the directors as to the realizable value of the assets of the Company is conclusive, unless a question of law is involved

#### MEETINGS AND CONSENTS OF MEMBERS

- 65 The directors of the Company may convene meetings of the Members of the Company at such times and in such manner and places within or outside the British Virgin Islands as the directors consider necessary or desirable
- 66 Upon the written request of Members holding 10 per cent or more of the outstanding voting Shares in the Company the directors shall convene a meeting of Members
- 67 The directors shall give not less than 7 days' notice of meetings of Members to those persons whose names on the date the notice is given appear as Members in the register of Members of the Company and are entitled to vote at the meeting
- 68 The directors may fix the date notice is given of a meeting of Members as the record date for determining those Shares that are entitled to vote at the meeting
- 69 A meeting of Members may be called on short notice
- (a) if Members holding not less than 90 percent of the total number of Shares entitled to vote on all matters to be considered at the meeting, or 90 percent of the votes of each class or series of Shares where Members are entitled to vote thereon as a class or series together with not less than a 90 percent majority of the remaining votes, have agreed to short notice of the meeting, or
- (b) if all Members holding Shares entitled to vote on all or any matters to be considered at the meeting have waived notice of the meeting and for this purpose presence at the meeting shall be deemed to constitute waiver
- 70 The inadvertent failure of the directors to give notice of a meeting to a Member, or the fact that a Member has not received notice, does not invalidate the meeting
- 71 A Member may be represented at a meeting of Members by a proxy who may speak and vote on behalf of the Member

- 72 The instrument appointing a proxy shall be produced at the place appointed for the meeting before the time for holding the meeting at which the person named in such instrument proposes to vote
- 73 An 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 Member appointing the proxy

Delancey Real Estate Partners Limited

I/We [ ] being a Member of the above Company with Shares HEREBY APPOINT [ ] of [ ] or failing him [ ] of [ ] to be my/our proxy to vote for me/us at the meeting of Members to be held on the [ ] day of [ ] and at any adjournment thereof

(Any restrictions on voting to be inserted here )

Signed this [ ] day of

Member

- 74 The following shall apply in respect of joint ownership of Shares
- (a) if two or more persons hold Shares jointly each of them may be present in person or by proxy at a meeting of Members and may speak as a Member,
  - (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
- 75 A Member shall be deemed to be present at a meeting of Members if he participates by telephone or other electronic means and all Members participating in the meeting are able to hear each other
- 76 A meeting of Members is duly constituted if, at the commencement of the meeting and throughout the duration of the meeting, there are present in person or by proxy not less than two holders of Class B Shares, except that the holders of Class A Shares and/or Class C Shares and/or Class D Shares (as the case may be) carrying not less than 50 percent of the votes of the Class A Shares and/or Class C Shares and/or Class D Shares (as the case may be) shall also be present where the holders of Shares of that class are entitled to vote on Resolutions of Members to be considered at the meeting pursuant to clause 9 of the Memorandum If a quorum be present, notwithstanding the fact that such quorum may be represented by only one person then such person may resolve any matter and a certificate signed by such person accompanied where such person be a proxy by a copy of the proxy form shall constitute a valid Resolution of Members
- 77 If within two hours from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved, in any other case it shall stand adjourned to the next Business Day 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 resolutions to be considered by the meeting, those present shall constitute a quorum but otherwise the meeting shall be dissolved
- 78 At every meeting of Members, the Chairman of the Board of Directors shall preside as chairman of the meeting If there is no Chairman of the Board of Directors or if the Chairman of the Board of Directors is not present at the meeting, the Members present shall choose some one of their

number to be the chairman. If the Members are unable to choose a chairman for any reason, then the person representing the greatest number of voting Shares present in person or by prescribed form of proxy at the meeting shall preside as chairman failing which the oldest individual Member or representative of a Member present shall take the chair.

- 79 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.
- 80 At any meeting of the Members the chairman shall be responsible for deciding in such manner as he shall consider appropriate whether any resolution has been carried or not and the result of his decision shall be announced to the meeting and recorded in the minutes thereof. If the chairman shall have any doubt as to the outcome of any resolution put to the vote, he shall cause a poll to be taken of all votes cast upon such resolution, but if the chairman shall fail to take a poll then any Member 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 thereupon cause a poll to be taken. If a poll is taken at any meeting, the result thereof shall be duly recorded in the minutes of that meeting by the chairman.
- 81 Any person other than an individual shall be regarded as one Member and subject to the specific provisions hereinafter contained for the appointment of representatives of such persons the right of any individual to speak for or represent such Member shall be determined by the law of the jurisdiction where, and by the documents by which, the 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 Member.
- 82 Any person other than an individual which is a Member of the Company may by resolution of its directors or other governing body authorize such person as it thinks fit to act as its representative at any meeting of the Company or of any class of Members of the Company, and the person so authorized shall be entitled to exercise the same powers on behalf of the person which he represents as that person could exercise if it were an individual Member of the Company.
- 83 The chairman of any meeting at which a vote is cast by proxy or on behalf of any 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 person shall be disregarded.
- 84 Directors of the Company may attend and speak at any meeting of Members of the Company and at any separate meeting of the holders of any class or series of Shares in the Company.
- 85 An action that may be taken by the Members at a meeting may also be taken by a Resolution of Members consented to in writing or by telex, telegram, cable, facsimile or other written electronic communication, without the need for any notice, but if any Resolution of Members is adopted otherwise than by the unanimous written consent of all Members, a copy of such resolution shall forthwith be sent to all Members not consenting to such resolution. The consent may be in the form of counterparts, each counterpart being signed by one or more Members.

#### DIRECTORS

- 86 The first directors of the Company shall be appointed by the subscribers to the Memorandum, and thereafter, the directors shall be elected by a Resolution of Members provided that
- (a) the holders for the time being of the B Shares shall be entitled to nominate and elect four B Directors, and from time to time to remove any such B Director(s) and nominate and elect other B Directors (up to a maximum of four) in his place, and

- (b) the holders for the time being of the C Shares shall be entitled to nominate and elect one C Director, and from time to time to remove such C Director and nominate and elect another C Director in his place
- 87 The minimum number of directors shall be one and the maximum number shall be five
- 88 During any period when no C Director has been elected, the Members holding Class C Shares shall be entitled to nominate in writing to the Company one person (the "Class C Observer") to attend all meetings of the board of directors and any committee from time to time constituted by the board (whether in person by telephone or otherwise) in a non-voting, observer capacity with no power to control any board decisions. The Company shall provide the Class C Observer concurrently with the directors, and in the same manner, notice of such meeting and a copy of the all materials provided to the directors
- 89 Each director shall hold office for the term, if any, fixed by Resolution of Members or until his earlier death, resignation or removal
- 90 Any B Director may be removed from office, with or without cause, by a Resolution of Members passed by the holders of the Class B Shares. Any C Director may be removed from office, with or without cause, by a Resolution of Members passed by the holders of the Class C Shares
- 91 A director may resign his office by giving written notice of his resignation to the Company and the resignation shall have effect from the date the notice is received by the Company or from such later date as may be specified in the notice
- 92 The Company may determine by Resolution of Directors to 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 of the Company 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 the any person nominated as a reserve director ceased to have effect, and
  - (e) such other information as may be prescribed by the Act
- 93 If the directors determine to maintain a register of directors, a copy thereof shall be kept at the registered office of the Company and the Company may determine by Resolution of Directors to register a copy of the register with the Registrar of Companies
- 94 With the prior or subsequent approval by a Resolution of Members, the directors may, by a Resolution of Directors, fix the emoluments of directors with respect to services to be rendered in any capacity to the Company
- 95 A director shall not require a share qualification and may be an individual or a company

#### POWERS OF DIRECTORS

- 96 The business and affairs of the Company shall be managed by the directors who may pay all expenses incurred preliminary to and in connection with the formation and registration of the Company and may exercise all such powers of the Company as are not by the Act or by the Memorandum or these Articles required to be exercised by the Members of the Company, subject to any delegation of such powers as may be authorized by these Articles or by a Resolution of Members, but no requirement made by a Resolution of Members shall prevail if it be inconsistent

with these Articles nor shall such requirement invalidate any prior act of the directors which would have been valid if such requirement had not been made. Provided always that the Company shall not without the prior consent of the Members by a 75% Resolution of Members

- (a) engage in any acquisition, disposal or other transaction with an entity in which James Ritblat or Paul Goswell have a beneficial interest, either direct or indirect, or
- (b) dispose of any shares held by the Company in Delancey Real Estate Asset Management Limited or any material part of the business of Delancey Real Estate Asset Management Limited

97 The directors may, by a Resolution of Directors, appoint any person, including a person who is a director, to be an officer or agent of the Company. The Resolution of Directors appointing an agent may authorize 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

98 Every officer or agent of the Company has such powers and authority of the directors, including the power and authority to affix the Seal, as are set forth in these Articles or in the Resolution of Directors appointing the officer or agent, except that no officer or agent has any power or authority to

- (a) amend the Memorandum or these Articles,
- (b) change the registered office or registered agent,
- (c) designate committees of directors,
- (d) delegate powers to a committee of directors,
- (e) appoint or remove directors,
- (f) appoint or remove an agent,
- (g) fix emoluments of directors,
- (h) approve a plan of merger, consolidation or arrangement,
- (i) make declaration of solvency or to approve a liquidation plan,
- (j) make a determination as to the solvency of the Company, or
- (k) authorise the Company to continue as a company incorporated under the laws of a jurisdiction outside the British Virgin Islands

99 Any director, which is a body corporate may appoint any person its duly authorized representative for the purpose of representing it at meetings of the Board of Directors or with respect to unanimous written consents

100 The continuing directors may act notwithstanding any vacancy in their body save that if their number is reduced to their knowledge below the number fixed by or pursuant to these Articles as the necessary quorum for a meeting of directors, the continuing directors or director may act only for the purpose of summoning a meeting of Members

101 The directors may by Resolution of Directors exercise all the powers of the Company to borrow money and to mortgage or charge its undertakings and property or any part thereof, whenever money is borrowed or as security for any debt, liability or obligation of the Company or of any third party

102 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

103 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 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 contained in the instrument creating the charge on the power of the Company to create any further charge ranking in priority to or equally with the charge

104 The Company may further determine by a Resolution of Directors to register a copy of the register of mortgages, charges or other encumbrances with the Registrar of Companies

#### PROCEEDINGS OF DIRECTORS

105 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 always that no board meetings may be held in the United Kingdom or the United States of America

106 A director shall be 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

107 A meeting of the board of directors shall be held after any director gives not less than 3 Business Days' notice to all directors and (if one has been appointed) the Class C Observer at their business address and fax numbers as may from time to time be provided, but a meeting of directors held without 3 Business Days' notice having been given to all directors and (if one has been appointed) the Class C Observer shall be valid if all the directors and (if one has been appointed) the Class C Observer 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 on his part. The inadvertent failure to give notice of a meeting to a director and (if one has been appointed) the Class C Observer, or the fact that a director and (if one has been appointed) the Class C Observer has not received the notice, does not invalidate the meeting

108 A director or the Class C Observer (if one has been appointed) may by a written instrument appoint an alternate who need not be a director and an alternate is entitled to attend meetings in the absence of the director or Class C Observer (as the case may be) who appointed him and (in the case of an alternate appointed by a director) to vote in place of the director

109 Subject to Regulation 108, the Class C Observer shall be entitled to receive notice of meetings and appoint an alternate pursuant to Regulations 107 and 108 and to attend meetings of the board of directors in each case as if he were a director

110 A meeting of directors or of any committee of the board is duly constituted for all purposes if at the commencement of the meeting one B Director elected by James Ritblat is present in person or by alternate, and such B Director shall act as the Chairman of the Board and of any committee

- 111 If the Company shall have only one director the provisions herein contained for meetings of the directors shall not apply but such sole director shall have full power to represent and act for the Company in all matters as are not by the Act or the Memorandum or these Articles required to be exercised by the Members of the Company and in lieu of minutes of a meeting shall record in writing and sign a note or memorandum of all matters requiring a Resolution of Directors. Such a note or memorandum shall constitute sufficient evidence of such resolution for all purposes.
- 112 At every meeting of the directors the Chairman of the Board of Directors shall preside as chairman of the meeting. In the event of any tie of votes, the Chairman of the Board shall have a second or casting vote.
- 113 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 committee of directors consented to in writing or by telex, telegram, cable, facsimile or other written electronic communication by all directors or 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.
- 114 Copies of the minutes of each meeting and records relating thereto shall be distributed to each director and the Class C Observer as soon as practicable after such meeting.
- 115 The directors may, by Resolution of Directors, designate one or more committees each consisting of one or more directors including in each case the Chairman.
- 116 Each committee of directors has such powers and authorities of the directors, including the power and authority to affix the Seal where authorised by a Resolution of Directors appointing the committee and to appoint a sub-committee and delegate powers exercisable by the committee to the sub-committee, as are set forth in the Resolution of Directors establishing the committee, except that no committee has any power or authority to
- (a) amend the Memorandum or these Articles,
  - (b) designate committees of directors,
  - (c) delegate powers to a committee of directors,
  - (d) appoint or remove directors,
  - (e) appoint or remove an agent,
  - (f) approve a plan of merger, consolidation or arrangement,
  - (g) make a declaration of solvency or to approve a liquidation plan, or
  - (h) make a determination as to the solvency of the Company.
- 117 Subject to regulation 110, the meetings and proceedings of each committee of directors consisting of 2 or more directors shall be governed mutatis mutandis by the provisions of these Articles regulating the proceedings of directors so far as the same are not superseded by any provisions in the resolution establishing the committee.

#### OFFICERS

- 118 (a) Subject to Regulation 120(b) below, the Company may by Resolution of Directors appoint officers of the Company at such times as shall be considered necessary or expedient. Such officers may consist of a Chairman of the Board of Directors, a Vice-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 deemed desirable. Any number of offices may be held by the same person.



- (b) The Chairman of the Board of Directors shall be elected from time to time by a Resolution of Members

119 The officers shall perform such duties as shall be prescribed at the time of their appointment subject to any modification in such duties as may be prescribed thereafter by Resolution of Directors or Resolution of Members, but in the absence of any specific allocation of duties it shall be the responsibility of the Chairman of the Board of Directors to preside at meetings of directors and Members, the Vice-Chairman to act in the absence of the Chairman, 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

120 The emoluments of all officers shall be fixed by Resolution of Directors

121 The officers of the Company shall hold office until their successors are duly elected and qualified, 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

#### CONFLICT OF INTERESTS

122 (a) 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

(b) For the purposes of Sub-Regulation 122(a), 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

(c) A director of the Company who is interested in a transaction entered into or to be entered into by the Company may

- (i) vote on a matter relating to the transaction,
- (ii) 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
- (iii) 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

#### INDEMNIFICATION

123 Subject to the limitations hereinafter provided the Company may 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, an officer or a liquidator of the Company, or
- (b) is or was, at the request of the Company, serving as a director, officer or liquidator of, or in any other capacity is or was acting for, another company or a partnership, joint venture, trust or other enterprise

- 124 The Company may only indemnify a person 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 his conduct was unlawful
- 125 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 these Articles, unless a question of law is involved
- 126 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
- 127 If a person to be indemnified has been successful in defence of any proceedings referred to above 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
- 128 The Company may purchase and maintain insurance in relation to any person who is or was a director, an officer or a liquidator of the Company, or who at the request of the Company is or was serving as a director, an officer or a liquidator of, or in any other capacity is or was acting for, another company 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 these Articles

#### SEAL

- 129 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 a director or any other person so authorized 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 authorized 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 signed as hereinbefore described

#### DIVIDENDS

- 130 The Company may by a Resolution of Directors declare and pay dividends in money, Shares, or other property, but dividends shall only be declared and paid out of surplus. In the event that dividends are paid in specie the directors shall have responsibility for establishing and recording in

the Resolution of Directors authorizing the dividends, a fair and proper value for the assets to be so distributed

- 131 The directors may from time to time pay to the Members such interim dividends as appear to the directors to be justified by the profits of the Company
- 132 The directors may, before declaring any dividend, set aside out of the profits of the Company such sum as they think proper as a reserve fund, and may invest the sum so set aside as a reserve fund upon such securities as they may select
- 133 No dividend shall be declared and paid unless the directors determine that immediately after the payment of the dividend the Company will be able to satisfy its liabilities as they become due in the ordinary course of its business and the realizable value of the assets of the Company will not be less than the sum of its total liabilities, other than deferred taxes, as shown in its books of account, and its capital. In the absence of fraud, the decision of the directors as to the realizable value of the assets of the Company is conclusive, unless a question of law is involved
- 134 Notice of any dividend that may have been declared shall be given to each Member in manner hereinafter mentioned and all dividends unclaimed for 3 years after having been declared may be forfeited by Resolution of Directors for the benefit of the Company
- 135 No dividend shall bear interest as against the Company and no dividend shall be paid on Shares held by another company of which the Company holds, directly or indirectly, Shares having more than 50 percent of the vote in electing directors
- 136 A Share issued as a dividend by the Company shall be treated for all purposes as having been issued for money equal to the surplus that is transferred to capital upon the issue of the Share
- 137 In the case of a dividend of authorized but unissued Shares with par value, an amount equal to the aggregate par value of the Shares shall be transferred from surplus to capital at the time of the distribution
- 138 In the case of a dividend of authorised but unissued Shares without par value, the amount designated by the directors shall be transferred from surplus to capital at the time of the distribution, except that the directors must designate as capital an amount that is at least equal to the amount that the Shares are entitled to as a preference, if any, in the assets of the Company upon liquidation of the Company
- 139 A division of the issued and outstanding Shares of a class or series of Shares into a larger number of Shares of the same class or series having a proportionately smaller par value does not constitute a dividend of Shares

#### ACCOUNTS AND AUDIT

- 140 The directors shall prepare quarterly accounts with comparisons to budgets and containing trading and profit and loss accounts, balance sheets, cash flow statements and forecasts and shall deliver them to the Members within 21 days after the end of each quarter and the Board shall consider such accounts at its next following meeting
- 141 The Board shall, not later than 28 days before the end of each financial year, provide a draft budget and cashflow forecast to each of the Members and allow a reasonable period for the Members to consult with the Board or to request further information from the Board in relation to any item. The Board shall use its best endeavours to provide information pursuant to any reasonable request. Following such consultation, the Board shall adopt a detailed budget and cash flow forecast in respect of the Company in respect of the next financial year. The Board of Directors shall procure that proper books of account of the Company are maintained in accordance with international accounting standards (or any other suitable standards which the Members

- designate, by a 75% Resolution of Members) Such books of account shall be open for inspection by the Members at any time and they shall be permitted to take and remove copies thereof
- 142 The audited accounts of the Company and audited consolidated accounts of the Group Companies in respect of each accounting period together with the relevant audit and management letters (if any) and all correspondence between the Company and the auditors of the Company concerning the accounts, shall be completed and approved by the Board and delivered to the Members within four months after the end of the accounting period to which such audited accounts relate
- 143 The first auditors shall be appointed by Resolution of Directors, subsequent auditors shall be appointed by a Resolution of Members. The auditors may be Members of the Company but no director or other officer shall be eligible to be an auditor of the Company during his continuance in office
- 144 Any Member or a firm of accountants nominated by the Members (at such Member's expense) will be entitled to examine the books and accounts of the Company upon reasonable notice, and the Company shall supply the Members with all information relating to the business affairs and financial position of the Company as any Members may from time to time reasonably require
- 145 The remuneration of the auditors of the Company
- (a) in the case of auditors appointed by the directors, may be fixed by Resolution of Directors, and
  - (b) subject to the foregoing, shall be fixed by Resolution of Members or in such manner as the Company may by Resolution of Members determine
- 146 The auditors shall examine each profit and loss account and balance sheet required to be served on every Member of the Company or laid before a meeting of the Members of the Company 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 state of affairs of the Company at the end of that period, and
  - (b) all the information and explanations required by the auditors have been obtained
- 147 The report of the auditors shall be annexed to the accounts and shall be read at the meeting of Members at which the accounts are laid before the Company or shall be served on the Members
- 148 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
- 149 The auditors of the Company shall be entitled to receive notice of, and to attend any meetings of Members of the Company at which the Company's profit and loss account and balance sheet are to be presented
- 150 The audited accounts of the Company and the audited consolidated accounts of the Company and its subsidiaries (if any) in respect of each accounting period together with the relevant audit and management period letters (if any) and all correspondence between the Company and the auditors concerning the accounts, shall be completed and approved by the board of directors by a Resolution of Directors and delivered to the Members within four months after the end of the accounting period to which such audited accounts relate
- 151 Each Member is entitled to examine the books and accounts of the Company after a reasonable period of notice, in person or by a nominated firm of accountants, and the Company shall supply

such Member or firm of accountants with all information relating to the business affairs and financial position of the Company as such Member may from time to time reasonably require

#### RECORDS

- 152 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
- 153 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
- 154 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,
  - (b) minutes of meetings and Resolutions of Directors and committees of directors, and
  - (c) an impression of the Seal
- 155 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
- 156 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

#### NOTICES

- 157 Any notice, information or written statement to be given by the Company to Members may be served in any way by which it can reasonably be expected to reach each Member or by mail addressed to each Member at the address shown in the register of Members
- 158 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
- 159 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

## PENSION AND SUPERANNUATION FUNDS

- 160 The directors may establish and maintain or procure the establishment and maintenance of any non-contributory or contributory pension or superannuation funds for the benefit of, and give or procure the giving of donations, gratuities, pensions, allowances or emoluments to, any persons who are or were at any time in the employment or service of the Company or any company which is a subsidiary of the Company or is allied to or associated with the Company or with any such subsidiary, or who are or were at any time directors or officers of the Company or of any such other company as aforesaid or who hold or held any salaried employment or office in the Company or such other company, or any persons in whose welfare the Company or any such other company as aforesaid is or has been at any time interested, and to the wives, widows, families and dependents of any such person, and may make payments for or towards the insurance of any such persons as aforesaid, and may do any of the matters aforesaid either alone or in conjunction with any such other company as aforesaid Subject always to the proposal being approved by Resolution of Members, a director holding any such employment or office shall be entitled to participate in and retain for his own benefit any such donation, gratuity, pension allowance or emolument

## ARBITRATION

- 161 Whenever any difference arises between the Company on the one hand and any of the Members or their executors, administrators or assigns on the other hand, touching the true intent and construction or the incidence or consequences of these Articles or of the Act, touching anything done or executed, omitted or suffered in pursuance of the Act or touching any breach or alleged breach or otherwise relating to the premises or to these Articles, or to any Act or Ordinance affecting the Company or to any of the affairs of the Company such difference shall, unless the parties agree to refer the same to a single arbitrator, be referred to 2 arbitrators one to be chosen by each of the parties to the difference and the arbitrators shall before entering on the reference appoint an umpire
- 162 If either party to the reference makes default in appointing an arbitrator either originally or by way of substitution (in the event that an appointed arbitrator shall die, be incapable of acting or refuse to act) for 10 days after the other party has given him notice to appoint the same, such other party may appoint an arbitrator to act in the place of the arbitrator of the defaulting party

## VOLUNTARY WINDING UP AND DISSOLUTION

- 163 The Company may voluntarily commence to wind up and dissolve by the appointment of a voluntary liquidator by a Resolution of Members but if the Company has never issued Shares it may voluntarily commence to wind up and dissolve by a Resolution of Directors

## CONTINUATION

- 164 The Company may by Resolution of Members 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

We, HWR Services Limited, of Craigmuir Chambers, Road Town, Tortola, British Virgin Islands for the purpose of incorporating an International Business Company under the laws of the British Virgin Islands hereby subscribe our name to these Articles of Association the 8<sup>th</sup> day of June 2007 in the presence of

Witness

Subscriber

(Sg of) Simone I Syfox

(Sg of) Coleen B Lewis

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Craigmuir Chambers  
Road Town Tortola

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Authorised Signatory  
HWR Services Limited