

**Company Number: 5318829**

**THE COMPANIES ACTS 1985 AND 1989**

**A PRIVATE COMPANY LIMITED BY SHARES**

**VQ COMMUNICATIONS LTD**

At an Extraordinary General Meeting of VQ COMMUNICATIONS LTD held at  
.....<sup>75 Feb</sup>..... on ....., 2007 the following  
Special Resolution was passed:

**SPECIAL RESOLUTION**

THAT the regulations presented to this Meeting, and for the purpose of identification marked with an "A", be approved and adopted as the Articles of Association of the Company, in substitution for, and to the exclusion of, all the existing Articles thereof.

I certify the above to be a true and accurate copy of the Resolutions which were passed at the above meeting.



Director/Secretary

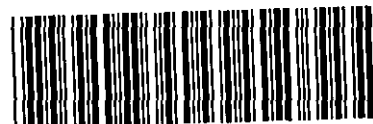
Giles Adams

Presented by:

Bourse Company Services  
Pembroke House  
7 Brunswick Square  
Bristol  
BS2 8PE  
DX 122075 BRISTOL 11

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COMPANIES HOUSE

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

-of-

VQ COMMUNICATIONS LIMITED

(Adopted by a Special Resolution dated 2006)

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:-

"A Ordinary Shares"	the A Ordinary Shares of £1 each in the capital of the Company;
"Act"	the Companies Act 1985;
"Adoption Date"	the date on which these Articles of Association are adopted by the Company;
"Agreed Amounts"	such numbers and classes of shares equal to the number and class of shares held by the relevant shareholder on the Adoption Date;
"Agreed Timescales"	in relation to the holders of the A Ordinary Shares and Giles Adams, 8 months and in relation to the other holders of Ordinary Shares, 12 months, in each case commencing on the Adoption Date.
"Auditors"	the auditors of the Company from time to time;
"Bad Leaver"	any Executive Director (or other director) or employee of the Company who is also a shareholder and;

	<p>(a) who ceases to be employed by the Company within 48 months of the Adoption Date and such cessation is not a result of: (i) his death, (ii) his incapacity to work caused by his illness, or (iii) his retirement from the Company, or (iv) unfair or wrongful dismissal or redundancy, or (v) such cessation is undertaken with the agreement of the relevant Executive Director (or other director) or employee and the Fund (an "Early Leaver"); or</p> <p>(b) ceases to be employed by the Company any time after the Adoption Date and such cessation is due to the employees dismissal for gross misconduct or fraud (a "Gross Misconduct Leaver");</p>
"Board"	the board of Directors of the Company from time to time;
"Business Plan"	the business plan of the Company signed for identification by the Original Shareholders and on behalf of the Fund;
"BVCA"	the <i>British Venture Capital Association</i> ;
"Company Disposal"	the sale or transfer of the whole or substantially the whole of the undertaking or assets of the Company;
"Controlling Interest"	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;
"Deferred Shares"	the deferred ordinary shares of £1 each in the capital of the Company;
"Directors' Emoluments"	directors' emoluments including all salaries, cars, fees, percentages, taxable allowances, pension contributions and benefits in kind receivable by Executive Directors of the Company and any subsidiaries of the Company plus (in the event that any such director holds any shares in the share capital of the Company) any dividends declared and paid to that director;
"Directors"	all of the directors of the Company from time to time;

"Entire Issued Share Capital"	the entire issued share capital of the Company (from time to time);
"Equity Shares"	the Ordinary Shares and the A Ordinary Shares;
"Exit"	a Company Disposal or a Sale or a Listing;
"Expert"	a firm of chartered accountants agreed between the holders of the Ordinary Shares and the A 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 A Ordinary Shares;
"Executive Director"	shall have the meaning set out in the Investment Agreement;
"Fund"	SOUTH WEST VENTURES FUND NO.1, L.P., a limited partnership duly registered under the Limited Partnership Act 1907 with number LP008298 whose principal place of business is at Argentum, 510 Bristol Business Park, Coldharbour Lane, Bristol BS16 1EJ and its successors and assigns and any assignee of the rights and benefits of the Fund under the Investment Agreement;
"Fund Director"	any Director of the Company appointed by the Fund pursuant to Article 4;
"Further Investment"	shall have the definition attributed to it in the Investment Agreement;
"Good Leaver"	any Executive Director or employee of the Company who is also a shareholder and who ceases to be employed by the Company other than as a Bad Leaver;
"Investment Agreement"	an agreement dated the same date as the Adoption Date made between the Fund the Original Shareholders, the Executive Directors and the Company;
"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;

"the Manager"

YFM Venture Finance Limited (registered in England and Wales with number 04195617) or any party appointed as the successor to Yorkshire Venture Finance Limited as the representative of the Fund;

"Net Profit"

has the meaning set out in Article 3.13;

"the OFEX Market"

the market operated by OFEX plc;

"Opening Period"

the period from the date of subscription for any A Ordinary Shares up to and including the next accounting reference date of the Company;

"Ordinary Shares"

the Ordinary Shares of £1 in the capital of the Company;

"Original Shareholder(s)"

has the meaning set out in the Investment Agreement;

"Redeemable Preference Shares"

the redeemable preference shares of £1 each in the capital of the Company;

"Sale"

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;

"Subscription Price"

the price paid for each share including the par value and any premium thereon;

"Third Party Purchaser"

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 £253,000 divided into:-

2.1.1 1,932 Ordinary Shares;

2.1.2 68 Deferred Shares

## Schedule

- (1) Article 3.1.1(b) shall be deleted and replaced with the following article:

**3.1.1(b) A Ordinary Share and Ordinary Share Dividend** - Second in paying in respect of every financial year of the Company, to the holders of the A Ordinary Shares and Ordinary Shares equally save that:

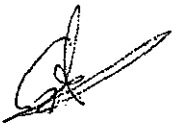
- (i) after 1 January 2009 a dividend of at least 5% of the Net Profit of the Company before tax and before payment of directors emoluments shall be declared and paid to the holders of the A Ordinary Shares, divided by the number of A Ordinary Shares then in issue in respect of every financial year; and
- (ii) after 1 January 2011 a dividend of at least 7.5% of the Net Profit of the Company before tax and before payment of directors emoluments shall be declared and paid to the holders of the A Ordinary Shares, divided by the number of A Ordinary Shares then in issue in respect of every financial year

those payments in (i) and (ii) above being the "A Ordinary Dividend".

- (2) Article 3.4.1 shall be deleted and replaced with the following article:

**3.4.1** Subject to the provisions of the Act the Redeemable Preference Shares shall be redeemed in the following manner:-

<i>Redeemable Preference Shares Redemption Date</i>	<i>No of Redeemable Preference Shares Redeemable</i>	<i>Redemption Value</i>
31 December 2009	62,500	£62,500
31 December 2010	62,500	£62,500
31 December 2011	75,000	£75,000

  
Giles Adams  
7<sup>th</sup> Feb 2007

2.1.3 1,000 A Ordinary Shares; and

2.1.4 250,000 Redeemable Preference Shares.

### 3 SHARE RIGHTS

3.1 Shares in the Company shall confer upon their holders the following class rights:-

3.1.1 As to Income the profits of the Company available for distribution shall be applied as follows:-

- a) **Redeemable Preference Share Dividend** - First in paying to the holders of Redeemable Preference Shares a fixed cumulative preferential cash dividend (the "Preference Share Dividend") of 7.5% per annum (net of any associated tax credit) of the total Subscription Price of the Redeemable Preference Shares. The Preference Share Dividend shall accrue from day to day with effect from 1 January 2007 and shall be paid out of the profits of the Company available for distribution (without any resolution of the directors or of the Company in general meeting and notwithstanding anything contained in Regulations 102 to 108 (inclusive) of Table A) quarterly in arrears on the usual quarter days the first such dividend being paid on 31 March 2007 in respect of the period commencing from 1 January 2007 and ending on 31 March 2007. The Preference Share Dividend shall be distributed amongst the holders of the Redeemable Preference Shares pro rata according to the amounts paid up thereon. Without prejudice to the rights of the holders of the Redeemable Preference Shares hereunder any amount not so paid shall be carried forward and become payable (without any resolution of the directors of the Company in general meeting and notwithstanding anything contained in Regulations 102 to 108 (inclusive) of Table A) on the next date on which the Preference Share Dividend is payable and (to the extent not so paid) on each succeeding date on which the Preference Share Dividend is payable in priority to the Preference Share Dividend payable on that date.
- b) **A Ordinary Share and Ordinary Share Dividend** - Second in paying in respect of every financial year of the Company, to the holders of the A Ordinary Shares and Ordinary Shares equally save that after 1 January 2009 a dividend of at least 5% of the Net Profit of the Company before tax and before payment of directors emoluments shall be declared and paid to the holders of the A Ordinary Shares, divided by the number of A Ordinary Shares then in issue in respect of every financial year (the "A Ordinary Dividend").
- c) **Deferred Share** - no entitlement to any dividend or distribution, whether pursuant to these Articles or otherwise.

3.1.2 In the event of default by the Company in the due payment of the A Ordinary Share Dividend (or any part thereof) the Company shall pay to the holders of the class of Shares who are entitled to such

dividend interest on the amount in respect of which default is made from the date of such default until the actual date of payment of the A 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 31 March 30 June 30 September and 31 December in each year.

3.1.3 For the purpose of this Article 3 Net Profit means the Company's profit calculated on the historical cost basis as shown in the audited profit and loss account of the Company or (in the event of there being subsidiaries of the Company) the audited consolidated profit and loss account of the Company and its subsidiaries for the relevant financial year:

- a) before charging any exceptional or extraordinary items;
- b) before amortisation of goodwill and other intangibles;
- c) before making any provision for any dividends or any transfer to reserves;
- d) before charging taxation; and
- e) after payment of all interest excluding interest on any overdue dividends.

3.1.4 The Company shall procure that the profits of any subsidiary for the time being available for distribution shall be paid to it by way of dividend if and to the extent that but for such payment the Company would not itself otherwise have sufficient profits available to pay in full the A Ordinary Share Dividend.

3.1.5 Other than the A Ordinary Share Dividend, no dividends shall be declared or paid without the consent of the holders of seventy five per cent (75%) of the issued A Ordinary Shares unless and until the Redeemable Preference Shares have been redeemed in full.

3.2 As to capital:

3.2.1 On a liquidation or other return of capital, the surplus assets available after payment of the Company's liabilities shall be distributed as follows:-

- a) first in payment to the holders of the Redeemable Preference Shares a sum equal to all unpaid arrears and accruals of the Redeemable Preference Share Dividend and Interest;
- b) second in payment to the holders of the Redeemable Preference Shares the amount subscribed for such shares;



- c) third in paying to the holders of the A Ordinary Shares a sum equal to all unpaid arrears and accruals of the A Ordinary Share Dividend and Interest;
- d) fourth in paying to the holders of the A Ordinary Shares the amounts subscribed for such shares;
- e) fifth in paying to the holders of the Ordinary Shares the amounts subscribed for such shares;
- f) sixth in paying to the holders of the Deferred Shares, after all share capital (including premium) on the Ordinary Shares in issue has been paid, £1 for every £100,000,000.000 of capital returned; and
- g) seventh in distributing the balance amongst the holders of the Equity Shares and the Non Voting Ordinary Shares and as if the same constituted one class in proportion to the amounts paid up or credited as paid up thereon respectively.

3.2.2 On an Exit 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 A Ordinary Shares a sum equal to all unpaid arrears and accruals of the A Ordinary Share Dividend and Interest;
- b) second in paying to the holders of the A Ordinary Shares the amounts subscribed for such shares;
- c) third in paying the holders of the Ordinary Shares the amounts subscribed for such shares; and
- d) fourth in distributing the balance amongst the holders of the Equity Shares and Non-Voting Ordinary Shares and as if the same constituted one class in proportion to the amounts paid up or credited as paid up thereon respectively.

### 3.3 As to Voting:

3.3.1 The holders of the Redeemable Preference Shares shall be entitled to receive notice of and to speak at all general meetings of the Company but shall not be entitled to vote.

3.3.2 The holders of the A Ordinary Shares and the Ordinary Shares shall be entitled to receive notice of attend and speak and vote at all General Meetings of the Company and, on a poll, a holder of A Ordinary Shares and the Ordinary Shares shall be entitled to one vote for each share registered in his name provided that on a poll.

3.3.3 The holders of the A Ordinary Shares as a class shall be entitled to such additional number of votes as shall be equivalent to 75% of all the votes capable of being exercised on a poll in the event of the following circumstances subsisting:-

- a) in the event that either: (i) a petition or order is made or a meeting of the members of the Company is called for the purpose of considering a resolution for the winding up of the Company or any subsidiary or if the appointment of a Receiver Manager or Administrator of the assets of the Company or any subsidiary occurs or is threatened or proposed or (ii) a voluntary arrangement pursuant to Section 1 of the Insolvency Act 1986 is proposed;
- b) in the event that the Company fails to pay the Redeemable Preference Share repayments or Dividend (including any Interest payable thereon) if it is legally able to do so and has sufficient cash or fails to pay any sum due under the Investment Agreement and fails to remedy such defect within three months of being required to do so by the Fund;
- c) in the event that the Company fails to pay the A Ordinary Share Dividend (including any Interest payable thereon) if it is legally able to do so and has sufficient cash or fails to pay any sum due under the Investment Agreement and fails to remedy such defect within three months of being required to do so by the Fund;

3.3.4 The Deferred Shares shall not entitle the holders of those shares to receive notice of or to attend or vote at any general meeting of the Company by virtue of their holding of any such Deferred Shares.

3.3.5 For the purpose of Section 125 of the Act, the following matters shall be treated as a variation of the rights attached to the A Ordinary Shares and, accordingly, shall require either the consent in writing of the holders three quarters in nominal value of the issued A Ordinary Shares or the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the A 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;

- e) the removal of a Fund 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 company where the business of such subsidiary accounts for more than 25% of the combined business of the Company and the subsidiary and any other subsidiary of the Company:
- g) in the event that a voluntary arrangement pursuant to section 1 of the Insolvency Act 1986 is proposed.

3.4 As to redemption:

3.4.1 Subject to the provisions of the Act the Redeemable Preference Shares shall be redeemed in the following manner:-

<i>Redeemable Preference Shares Redemption Date</i>	<i>No of Redeemable Preference Shares Redeemable</i>	<i>Redemption Value</i>
31 December 2009	62,500	£62,500
31 December 2010	62,500	£62,500

3.4.2 Subject to the provisions of the Act all of the Redeemable Preference Shares (unless the holders of 75% of the Redeemable Preference Shares give notice in writing to the Company to the contrary) shall be redeemed immediately upon any of the following dates:-

- a) the date on which an Exit occurs; or
- b) the date on which the Fund ceases to be the holder of A Ordinary Shares.

3.4.3 Completion of the redemption of Redeemable Preference Shares shall take place on the relevant redemption date whereupon the Company shall deliver to each holder of Redeemable Preference Shares so to be redeemed a banker's draft or otherwise transfer cleared funds to each such holder for the total redemption price for such Redeemable Preference Shares together with all arrears or deficiency of dividend calculated at the date of redemption and to be payable whether or not such dividends have been declared or earned against delivery of the share certificates therefor.

3.4.4 If any certificates delivered to the Company include any Redeemable Preference Shares not falling to be redeemed on the relevant redemption date a fresh certificate for such Redeemable Preference Shares shall be issued to the holder thereof.

3.4.5 As from the relevant redemption date the Preference Dividend shall cease to accrue on any Preference Share due to be redeemed on that date unless the certificate (or an indemnity as aforesaid) for the Redeemable Preference Shares to be redeemed has been presented to the Company and the Company fails to make payment of the redemption monies on the relevant redemption date in which case the Preference Dividend shall be deemed to have continued to accrue and shall continue to accrue from the relevant redemption date to the date of payment.

3.4.6 If the Company should be permitted by law to redeem some only of the Redeemable Preference Shares which are due to be redeemed on a particular redemption date it shall redeem the maximum number of such shares permitted by law on such date and shall redeem the balance of such shares so due to be redeemed as soon thereafter as it is permitted so to do by law.

### 3.5 As to Conversion

- (a) Any holder of A Ordinary Shares shall have the right at any time by giving the Company notice in writing (a "Conversion Notice") to convert at par any or all of his holding of A Ordinary Shares into Ordinary Shares at the rate of one A Ordinary Share for one Ordinary Share. The conversion shall take effect immediately following service of the Conversion Notice and the holder shall as soon as reasonably practicable thereafter deliver to the Company at the office the certificate or certificates in respect of the shares to be converted and the Company shall issue to the person entitled thereto a certificate or certificates for the Ordinary Shares arising on conversion together (if appropriate) with a balancing certificate in respect of any A Ordinary Shares comprised in the certificates surrendered and which remain unconverted.
- (b) The Ordinary Shares arising on a conversion hereunder shall rank *par passu* in all respects with the Ordinary Shares then in issue and shall entitle the holder thereof to all dividends and other distributions declared made or paid on the Ordinary Shares after the effective date of conversion but shall not rank for any dividend or other distribution declared made or paid on the Ordinary Shares in respect of any period ending on or before the effective date of conversion but shall rank for the A Ordinary Share Dividend up to and including the effective date of conversion.
- (c) The A Ordinary Share Dividend on the 'A' Ordinary Shares so converted shall cease to accrue with effect from the day following the effective date of conversion.

3.6 In the event that further shares are issued by the Company after the date of adoption of these Articles of Association (other than pursuant to an option or warrant granted by the Company with the consent of the holders of three quarters in nominal value of the issued A Ordinary Shares) ("**Further Shares**"), the holders of the A Ordinary Shares shall be entitled to subscribe for further A Ordinary Shares at the same price as the Further Shares so that the proportion of the A Ordinary Shares held by them to the entire issued share capital of the Company is the same as the proportion at the date of adoption of these Articles of Association.

- 3.7 As to repurchase, subject to the provisions of the Act, the Company shall be entitled to repurchase the Deferred Shares for a sum of £1 in aggregate payable to each holder of such Deferred Shares (as the case may be).

#### 4 APPOINTMENT OF FUND DIRECTORS

- 4.1.1 Notwithstanding any other provision of these Articles, the Manager on behalf of the holders of a majority of the A Ordinary Shares for the time being in issue shall be entitled to appoint any one person as a Fund Director of the Company and to remove from office any person so appointed and to appoint another person in his place.
- 4.1.2 In addition, and without prejudice to the rights of the holders of the A Ordinary Shares to appoint a Fund Director, the holders of a majority of the A Ordinary Shares for the time being in issue shall be entitled to appoint one or more persons to attend meetings of the Directors of the Company ("the Observer"). The Observer shall be entitled to reasonable notice of all such meetings and shall be entitled to speak but shall not be entitled to vote thereat.
- 4.1.3 In the event that pursuant to Article 3.3.3 the holders of A Ordinary Shares are entitled to enhanced votes at General Meetings of the Company a Fund Director shall be entitled to such number of votes in addition to his own vote as shall constitute a majority on the Board.

#### 5 ALLOTMENT OF SHARES

- 5.1 All Equity Shares which the Directors propose to issue, shall (subject to Article 3.3.3) first be offered to the members in proportion (as nearly as they may be) to the number of Ordinary Shares and A Ordinary Shares in the Company already held by them respectively (and in relation to the class of shares held by them), unless the holders of a majority of the Ordinary Shares and the holders of the A Ordinary Shares direct otherwise. The offer shall be made by notice in writing specifying the number and class of Equity 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 Equity 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 written consent shall 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 and Articles 7 and 8 below:-
- 6.3.1 the expressions "Transfer", "Transferor" and "Transferee" shall include respectively the renunciation of a renounceable letter of allotment, the original allottee and the renounee under any such letter of allotment;
- 6.3.2 a "Privileged Relation" in relation to a member means the spouse or widow or widower of the member or the members adult children;
- 6.3.3 the expression "Family Trusts" in relation to any member means a trust which does not permit any of the said property or the income thereof to be applied otherwise than for the benefit of that member and/or a Privileged Relation of that member under which no power or control is capable of being exercised over the votes of any shares which are the subject of the trust by any person other than the trustees or such member or his Privileged Relations;
- 6.3.4 the expression "Settlor" includes a testator or an intestate in relation to a Family Trust arising respectively under a testamentary disposition or any intestacy of a deceased member.

- 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 No member may transfer any shares held by him without the prior written consent of the holders of the A Ordinary Shares.
- 6.6 Notwithstanding any other provision of these Articles (other than Article 8) any member may at any time transfer (or by will bequeath or otherwise dispose of on death) any shares held by him to a Privileged Relation or to trustees to be held upon a Family Trust provided that any transfer of shares to trustees to be held upon a Family Trust may during the lifetime of such member only be made with the consent in writing of the holders of the A Ordinary Shares.
- 6.7 Where the consent of a holder of A Ordinary Shares is requested to a transfer to a Family Trust such consent shall be given only if the holder is satisfied:-
- 6.7.1 with the terms of the trust instrument and in particular with the powers of the trustees;
  - 6.7.2 with the identity of the proposed trustees;
  - 6.7.3 that the proposed transfer will not result in infringement of the provisions of Article 7, and
  - 6.7.4 that no costs incurred in connection with the setting up or administration of the Family Trust in question are to be paid by the Company.
- 6.8 Where any shares are held by trustees upon a Family Trust:-
- a) on any change of trustee such shares may be transferred to the new trustees of that Family Trust;
  - b) such shares may be transferred at any time to the settlor or to another Family Trust of the settlor or to any Privileged Relation of the settlor; and
  - c) if and whenever any such shares cease to be held upon a Family Trust (otherwise than in consequence of a transfer to the settlor or to another Family Trust of the settlor or to any Privileged Relation of the settlor), or the member who originally held the shares at such time held upon a Family Trust becomes either a Good Leaver or a Bad Leaver a Transfer Notice (as hereinafter defined) shall be deemed to

have been given in respect of the relevant shares (as hereinafter defined in Article 6.8) by the holders thereof and such shares may not otherwise be transferred.

- 6.9 For the purposes of this Article the expression 'relevant shares' means and includes the shares originally transferred to the trustees and any additional shares issued or transferred to the trustees by virtue of the holding of the relevant shares or any of them.
- 6.10 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 A Ordinary Shares and Ordinary Shares in the Company other than the Vendor at the Sale Price.
- 6.11 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 that within 45 days shall by writing under his hand certify to be 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.
- 6.12 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.
- 6.13 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 Equity Shares (other than the Vendor) pro rata as nearly as may be in proportion to the existing numbers of Equity Shares held by such members 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 Equity Shares then held by such members which offer shall remain open for a further period of twenty-one days.

- 6.14 If the Company shall pursuant to the above provisions of this Article find a member or members of the Company 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.
- 6.15 If the Directors shall not have found a member or members of the Company 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 its 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.
- 6.16 The foregoing provisions of this Article and Articles 7 and 8 below shall not apply to a transfer if the holders of the A Ordinary Shares and the holders of 75% of the Ordinary Shares so direct in writing and the Directors shall be obliged to register any such transfer.
- 6.17 It is acknowledged that the holders of the Ordinary Shares and the A Ordinary Shares at the date of the adoption of these Articles of Association may within the Agreed Timescales apply to be issued with additional Equity Shares in the Agreed Amounts and that the pre-emption rights contained in these Articles of Association shall not apply to the issue of those shares.
- 6.18 Irrespective of anything contained in these Articles, any shareholder which is or is managed by a member of the BVCA shall be entitled to transfer its shareholding to another venture capital fund which is a BVCA member or to any venture capital fund managed by a BVCA member.

## **7 DEEMED TRANSFERS**

7.1 In this Article a "Relevant Event" means:

- 7.1.1 a member or the Settlor of Family Trust holding any class of Shares, or the original holder of Shares transferred to a Privileged Relation, 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;
- b) such member entering into liquidation (other than a voluntary liquidation for the purpose of a bona fide scheme of solvent amalgamation or reconstruction);

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 other than Ruth Paton (the "Relevant Member") the Board of Directors of the Company must if required by the holder of the A 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 unless he is a Good Leaver in which case he shall only serve a Transfer Notice in respect of two thirds of his Shares held at the date of adoption of these Articles of Association unless the Relevant Member or (in the case of death) its personal representatives notify the Company that they wish such Transfer Notice to comprise 100% of such 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 7.4 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 Article 6.10. 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:

7.4.1 in the case of an Bad Leaver, the lower of (i) the Fair Market Value of the Relevant Member's Sale Shares at the date of the Requirement Notice and the Fair Market Value of the Relevant Member's Sale Shares at the date of the adoption of these articles of association.

7.4.2 in the case of anyone other than a Bad Leaver (unless otherwise agreed) the Fair Market Value of the Relevant Member's Sale Shares.

The Company shall be responsible for referring any valuation to the Expert if he is required pursuant to this Article and shall use all reasonable endeavours to procure that the Expert shall reach their determination as soon as possible after such referral.

7.5 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.

7.6 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 in excess of seventy-five per cent (75%) of the Equity Shares in issue for the time being (which must include the holders of the A Ordinary Shares), ("the Selling Shareholders") wish to transfer their entire holdings of Equity Shares to a bona fide third party prospective purchaser unconnected with any member of the Company they shall have the option ("the Come Along Option") to require all the other holders of Equity Shares ("the Called Shareholders") to transfer all their Equity 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 Equity 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 transfers proposed pursuant to the Come Along Notice.

8.3 A Come Along Notice shall be irrevocable.

8.4 The Called Shareholders shall be obliged to sell the Called Shares at a price per Equity Share payable in cash ("the Equity Share Price") which is equal to the consideration (in cash or otherwise) per Equity Share offered or paid or payable by the proposed transferee or transferees or his or their nominees to the Selling Shareholders for their Equity Shares plus the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the Selling Shareholders for their Equity 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 Equity 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' Equity Shares unless:-

- (a) all of the Called Shareholders and Selling Shareholders agree otherwise; or
- (b) 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
- (c) 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 Equity 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 Equity 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 Equity 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 Ordinary 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 Equity 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 Equity Share their entire holdings of Equity Shares in the Company.

9.2 Unless the holders of a majority of the Ordinary Shares and the holders of the A Ordinary Shares otherwise agree in writing:

- (i) 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;
- (ii) No Proposed Seller shall be entitled or permitted to transfer 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 Equity 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 Equity Shares in the Company equal to the proportion that the Specified Shares bear to the total number of Equity 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 the higher of:-

- (i) A price per share equal to the highest price paid or payable by the proposed transferee or persons acting in concert with him or connected with him for any Equity Shares within the last twelve months plus an amount equal to their relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of the Specified Shares which, having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or payable for the Specified Shares; and
- (ii) A price per share equal to the aggregate of the issue price thereof and the par value

plus in either case a sum equal to any arrears or accruals of the dividends on such shares calculated down to the date of the transfer is completed.

"Specified Shares" means any Equity Shares to be transferred to a Third Party pursuant to Article 9.2(i) or 9.2(ii) as the case may be.

9.5 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 of the Company.

## **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 the Fund unless the Fund agrees otherwise 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 for the Fund 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 Fund 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 paragraph 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 a Fund 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 14 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 Fund Director (or a representative of the Fund Director) unless otherwise agreed by the Fund 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 auditor 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 or officer 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.