

Company Number: 4538848

THE COMPANIES ACTS 1985 TO 1989

COMPANY LIMITED BY SHARES

WRITTEN RESOLUTION  
OF

POCKET LIVING LIMITED

(the "**Company**")

passed 14<sup>th</sup> September 2007

By a written resolution of all the members of the Company entitled to attend and vote at a meeting of the Company passed in accordance with the provisions of Section 381A of the Companies Act 1985, the resolution set out below (which resolution would otherwise be required to be passed as a special resolution) was passed

IT IS RESOLVED that:-

1. each of the 1000 shares of £1 each comprised in the authorised and issued share capital of the Company be sub-divided into 100 shares of £0.01 each and 6,000 of the "B" shares of £0.01 each resulting from such sub-division be redesignated as "C" shares of £0.01 each.
2. the regulations contained in the document annexed hereto and marked "A" be and the same are hereby approved and adopted as the Articles of Association of the Company in substitution for and to the exclusion of all existing Articles of Association thereof.



Company Secretary

Dated 14<sup>th</sup> September 2007

Written Resolution

WEDNESDAY



A52

\*ADCUET33\*

19/09/2007

471

COMPANIES HOUSE

"A"

**THE COMPANIES ACT 1985**  
**COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**

Adopted by Written Resolution passed on 14<sup>th</sup> September 2007

of

Pocket Living Limited

(the "Company")

**PRELIMINARY**

- 1 The regulations contained in Table A in The Companies (Tables A to F) Regulations 1985 (as amended so as to affect companies first registered on the date of the adoption of these Articles) shall, except as hereinafter provided and so far as not excluded by or inconsistent with the provisions of these Articles, apply to the Company to the exclusion of all other regulations or Articles of Association. References herein to regulations are to regulations in the said Table A unless otherwise stated.

References herein to the "Act" are to the Companies Act 1985 as amended or re-enacted from time to time and references to "Shares" are to the "A" Shares, "B" Shares, "C" Shares, and "Deferred" Shares or any of them.

**SHARE CAPITAL**

- 2 The share capital of the Company at the date of the adoption of these Articles is £1,000 divided into 10,000 "A" Shares of £0.01 each, 45,000 "B" Shares of £0.01 each and 45,000 "C" Shares of £0.01 each. The said shares shall carry the respective voting rights and rights to appoint and remove Directors and be subject to the restrictions on transfer hereinafter provided, but in all other respects shall be identical and rank *pari passu* unless otherwise agreed by the members.

**DEFERRED SHARES**

- 3 For the purposes of Articles 3 to 5 (inclusive), the following expressions have the following meanings:

"Deferred Share" means a Deferred Share arising out of the conversion of Shares pursuant to Article 16 and having the rights set out in Articles 3 to 5 (inclusive), and

"Deferred Shareholder" means a Member who holds Deferred Shares.

- 4 The rights attached to and imposed on the Deferred Shares are as follows:

**4.1.1 Income and capital**

The Deferred Shares shall not confer on the holders thereof any entitlement to any participation in the profits or the assets of the Company.

**4 1 2 Voting**

The Deferred Shares shall not confer on the holders thereof any entitlement to receive notice of or to attend or vote at any general meeting of the Company

**5 Conversion of the Shares in accordance with Article 16 shall be deemed to confer an irrevocable authority on the Company, at any time thereafter**

**5 1 1** to appoint any person to execute (on behalf of the Deferred Shareholders) a transfer of such Shares and/or an agreement to transfer the same for no consideration to such person or persons as the Company may determine as custodian of such Shares, and/or

**5 1 2** to purchase the same (in accordance with the provisions of the Act) for not more than an aggregate sum (for all the Deferred Shares) of 1p, without any requirement to obtain the consent or sanction of the holders and, for the purposes of such purchase, to appoint a person to execute (on behalf of the Deferred Shareholders) a contract for the sale to the Company of any Deferred Shares held by any such holders, and/or

**5 1 3** pending such transfer and/or purchase, to retain the certificates for such Deferred Shares

### **ISSUE AND PURCHASE OF SHARES**

**6** The authorised share capital of the Company shall consist of "A" Shares of £0 01 each, "B" Shares of £0 01 each and "C" Shares of £0 01 each in the proportions set out in Article 2 above and may also consist of Deferred Shares

**7** Subject to Section 80 of the Companies Act 1985 and to any other prior written agreement between the members, all unissued shares shall be at the disposal of the Directors and they may allot, grant options over or otherwise dispose of them to such persons, at such times, and on such terms as they think proper and Section 89(1) of the Companies Act 1985 shall not apply After the first issue of shares made by the Directors, no share of any particular class shall be issued otherwise than to members holding shares of the same class except with the consent in writing of all the members

**8** Except with the consent in writing of both of the holder of the "B" Shares immediately following the adoption of these Articles ("**B Investor**") and of the holder of the "C" Shares immediately following the adoption of these Articles ("**C Investor**"), the powers conferred by Regulations 3 and 35 shall be exercised only in such a manner as to maintain the proportions specified in Article 2 Regulations 3 and 35 shall be modified accordingly

### **FORM OF SHARE CERTIFICATE**

**9** Every share certificate shall be executed by the Company in such manner as the Directors may decide (which may include use of the seal and/or manual or facsimile signatures by one or more Directors) and shall specify the number and class of shares to which it relates and the amount paid up thereon No certificate shall be issued representing shares of more than one class

## **TRANSFER OF SHARES**

- 10** Subject to the provisions of Articles 11 through 15 (Permitted Transfers) no Share (or any interest therein) may be transferred or disposed of and the Directors shall not register the transfer of any Share, unless such transfer or disposal is made in accordance with the prior written agreement, or the prior written consent of the members, otherwise than to the Company under regulation 35 of Table A (as modified by Article 8 above) The Directors shall not register any transfer of any Shares except pursuant to this Article Any transfer in breach of these Articles shall be void and no Share shall in any circumstances be transferred to an infant, bankrupt or person of unsound mind

## **PERMITTED TRANSFERS**

- 11** Unless otherwise agreed in writing between all members and provided that it is proved to the reasonable satisfaction of the Directors that any transfer or dealing under this Article bona fide falls within one of the following exceptions, the restrictions on transfer contained in Article 10 shall not apply to any of
- 11 1** a transfer or dealing approved in writing by each of the members,
  - 11 2** a transfer or dealing by a corporate entity to an Associated Company of that corporate entity,
  - 11 3** a transfer or dealing by a corporate entity to a company formed to acquire the whole or a substantial part of its undertaking and assets as part of a bona fide, solvent scheme of amalgamation or reconstruction provided such company becomes an Associated Company of that corporate entity thereafter,
  - 11 4** a transfer or dealing by a member to a nominee of that member or from one nominee to another provided that in each case no change in the beneficial ownership of the Shares has occurred,
  - 11 5** a transfer or dealing by any B Investor to a C Investor, or vice versa,
  - 11.6** a transfer or dealing by any B Investor or C Investor (not being in relation to the shares concerned a holder thereof as a trustee of any Family Trustee) to a Privileged Relation of such individual, or
  - 11 7** a transfer or dealing by any B Investor or C Investor to trustees to be held upon Family Trusts related to such individual and of which he is the settlor provided that no costs incurred in connection with the setting up or administration of the Family Trust are to be paid by the Company
- 12** Where a transfer has occurred pursuant to Article 11 2 or 11 4 and if the transferee company or nominee ceases to be an Associated Company of the transferor, the transferee company or nominee shall be obliged to immediately re-transfer such Shares to the transferor company or an Associated Company of the transferor company
- 13** If and whenever any of the relevant Shares come to be held otherwise than by Family Trusts, it shall be the duty of the trustees holding such shares to notify the Company in writing that such event has occurred and the trustees shall be bound, if and when required in writing by the Company so to do, immediately to re-transfer such shares to the original transferor B Investor or C Investor (as the case may be)

14 If a person to whom shares have been transferred pursuant to Article 11.6 shall cease to be a Privileged Relation such person shall be bound, if and when required in writing by the Company so to do, immediately to re-transfer such shares to the original transferor B Investor or C Investor (as the case may be)

15 For the purposes of Articles 10 to 15 (inclusive), the following expressions have the following meanings

**“Associated Company”** means in relation to any member, any holding company of such member, any subsidiary or subsidiary undertaking of such member or any subsidiary or subsidiary undertaking of any holding company of such member all as defined in the Act,

**“Family Trust”** means as regard to any particular individual member or deceased or former 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 Privileged Relations of that individual, and so that for this purpose a person shall be considered to be beneficially interested in a Share if such Share or the income thereof is or may become liable to be transferred or paid or applied or appointed to or for the benefit of such person or any voting or other rights attaching thereto are or may become liable to be exercisable by or as directed by such person pursuant to the terms of the relevant trusts or in consequence of an exercise of a power or discretion conferred thereby on any person(s), and

**“Privileged Relation”** means in relation to an individual member or deceased or former individual member, the husband or wife or the 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 or any of the above persons and for the purposes of aforesaid a step-child or adopted child or a legitimate child of any person shall be deemed to be his or her lineal descendant

## RATCHET

16 On the Conversion Date, but immediately prior to the occurrence of the Exit (or, if the Exit is a Listing, and there is an Orderly Market Undertaking, the end of the Orderly Market Period), a number of B Shares and C Shares shall convert into Deferred Shares pro rata in respect of the holding of each B Shareholder and C Shareholder, rounded to the nearest whole Share (with a fraction of 0.5 being rounded down) as shall be determined in accordance with the principles set out in Articles 17 to 21 (inclusive)

17 The total number of B Shares and C Shares to be converted shall be such number so that, following such conversion, the percentage of Shares (other than Deferred Shares) represented by the remaining B Shares and C Shares (as the case may be) shall be determined as follows

(a) Establish the required value of the Shares on the Conversion Date (“X”) such that, when allocated 100 per cent to the A Shares (in aggregate), zero per cent to the B Shares (in aggregate) and zero per cent to the C Shares (in aggregate), is the lowest value that achieves an Internal Rate of Return of 15 per cent for the holder of the A Shares immediately following adoption of these Articles (“A Investor”)

- (b) If the actual Equity Capitalisation ("M") is greater than X then X shall be notionally allocated in the proportion 100 per cent to the A Shares (in aggregate) The excess of M over X shall be notionally allocated as follows
- (i) subject to (ii) below, 75 per cent to the A Shares (in aggregate), 12.5 per cent to the B Shares (in aggregate) and 12.5 per cent to the C Shares (in aggregate), and
  - (ii) to the extent that the notional allocation to the A Shares of 100 per cent of X and 75 per cent of the excess of M over X would result in the A Investor achieving an Internal Rate of Return equal to or greater than 25 per cent, any additional excess of M over X shall be notionally allocated 50 per cent to the A Shares (in aggregate), 25 per cent to the B Shares (in aggregate) and 25 per cent to the C Shares (in aggregate)
- (c) If M is less than or equal to X then M shall be notionally allocated in the proportion 100 per cent to the A Shares (in aggregate) and zero per cent to each of the B Shares (in aggregate) and C Shares (in aggregate)
- (d) The notional allocations in paragraphs (b) or (c) above (as appropriate) shall be applied and the proportions that the A Shares, B Shares and C Shares each bear to the aggregate Shares shall be in such proportions as result in the distributions to each Shareholder being equal to the allocations set out in paragraphs (b) and (c) above and the requisite number of B Shares and C Shares shall be converted into Deferred Shares accordingly, provided that if Holdings 2 is not wholly owned by the A Investor or an Associated Company of the A Investor (as defined in Article 15) immediately prior to the Conversion Date, then the proportion that the B Shares bear to the aggregate Shares shall never be less than 7.5 per cent and the proportion that the C Shares bear to the aggregate Shares shall never be less than 7.5 per cent A model which is illustrative of how the ratchet (as set out in this Article 17) would be applied based on the assumptions shown therein is attached at Schedule 1

**18** In the absence of agreement between the A Shareholder, the B Shareholder and the C Shareholder, the Company shall, immediately prior to the conversion, require a suitably qualified person (**Expert**) at an independent investment bank having experience in these matters to prepare a report setting out the aggregate number of B Shares and C Shares to be converted into Deferred Shares Such report shall be delivered to the Board and each Shareholder as soon as reasonably practicable prior to the meeting of the Company at which the share capital of the Company is reorganised prior to the approval of the Exit If it is not possible to produce a final report at that time, the Expert shall produce a draft report containing estimates prior to the meeting and a final report as soon as practicable thereafter

**19** On the occurrence of the Exit, any Deferred Shares shall either be transferred to a person nominated by the Board or (subject to the Act) purchased by the Company for a sum of £1.00 for all Deferred Shares in issue

**20** Immediately after the occurrence of the Exit, the Company shall issue to the persons so entitled certificates for the Deferred Shares resulting from the Conversion and the Certificates for the Shares falling to be converted shall be deemed invalid for all purposes and the relevant holders shall be bound to deliver the same to the Company for

cancellation For the avoidance of doubt, the Certificates for the Shares not converted shall remain valid

21 For the purposes of Articles 16 to 21 (inclusive), the following expressions have the following meanings

**“Cash Distributions”** means the sum of all distributions of cash by the Company and Holdings 2 to the A Investor, whether as a return of capital, repayment of principal, payment of dividend or interest or distribution of liquidation proceeds (with such distributions being deemed to have been made on the last day of the month during which they were received by the A Investor) and any cash proceeds received by the A Investor in relation to the Exit or the sale of any shares in Holdings 2 provided that if the Exit is a Listing, to the extent that the A Investor does not sell shares in connection with such Listing, the A Investor will nevertheless be deemed to have received, on the Deemed Receipt Date, cash proceeds in an amount equal to

(a) subject to (b) below, the proportion of Equity Capitalisation attributable to the A Investor by reference to the operation of Article 17, or

(b) if the A Investor issued (and has not withdrawn) a valid Objection Notice but nevertheless was required to participate in the Listing pursuant to Clause 6.8.5 of the Shareholders' Agreement, the proportion of Equity Capitalisation attributable to the A Investor by reference to the operation of Article 17 discounted by 10 per cent,

**“Cash Investments”** means all capital and other cash contributions of the A Investor to the Company and/or Holdings 2, the principal amount of all loans made by the A Investor to the Company and/or Holdings 2 and all costs, charges, expenses or liabilities directly or indirectly paid by the A Investor in respect of the Company and/or Holdings 2 (with such contributions being deemed to have been made on the last day of the month during which they were made),

**“Conversion Date”** means

- (i) in relation to a Liquidation, the date of Liquidation,
- (ii) in relation to a Listing, the date of the Listing, and
- (iii) in relation to a Sale, the date on which an agreement for Sale is completed and the purchase price is paid or due to be paid,

**“Deemed Receipt Date”** means in respect of any shares which the A Investor does not sell in connection with a Listing

- (a) if the A Investor has not entered into any Orderly Market Undertaking in respect of such shares (or has done so but has participated in the Listing after having issued an Objection Notice (which has not subsequently been withdrawn)), the date of the Listing, or
- (b) if the A Investor has entered into an Orderly Market Undertaking in respect of such shares and has participated in the Listing without having issued an Objection Notice (or having issued an Objection Notice which has subsequently been withdrawn) the date of expiry of the relevant Orderly Market Period,

**“Equity Capitalisation”** means

- (i) if the Conversion Date occurs by virtue of a Listing the aggregate value attributable to the Shares at the date of such Listing (or shares deriving therefrom following any capital reorganisation effected immediately prior to the Listing) (the "**Relevant Shares**") as determined by the financial adviser of the Company in relation to the Listing by reference to the Listing Price, or
- (ii) if the Conversion Date occurs by virtue of a Sale, the aggregate cash consideration attributable to the whole of the Shares. If some Shares are already held by the relevant purchaser, so that the offer does not extend to all the Shares, the value of the aggregate consideration shall be increased pro rata, or
- (iii) if the Conversion Date occurs by virtue of a Liquidation, the aggregate amount which the holders of the Shares receive in cash in respect of their shareholdings on a Liquidation,

**"Exit"** means the first to occur of

- (i) the making of a winding-up order by the Courts or the passing of a resolution by the members that the Company be wound up (a "**Liquidation**"),
- (ii) the sale of the A Shares to any person other than a transfer under Articles 11.2 to 11.4 (inclusive) (a "**Sale**"), or
- (iii) the admission of any of the Shares to the Official List of the London Stock Exchange, the Alternative Investment Market regulated by the London Stock Exchange or any board of a recognised stock exchange becoming effective (a "**Listing**"), and

**"Holdings 2"** means Pocket Living (Holdings) II Limited,

**"Internal Rate of Return"** means the discount rate per annum calculated using cashflows up to and including the Conversion Date and annualised on a simple basis at which the net present value of Tax Adjusted Cash Distributions and Cash Investments is equal to zero,

**"Listing Price"** means the price per Share at which any Shares are sold, offered to be sold or offered as stated in any document required to be published in connection with a Listing (in the case of an offer for sale being the underwritten price or, in the case of an offer for sale by tender, the striking price under such offer and in the case of a placing the price at which such ordinary shares are sold under the placing),

**"Objection Notice"** has the meaning ascribed thereto in the Shareholders' Agreement,

**"Orderly Market Period"** means the period of time in the Orderly Market Undertaking during which the Investor is prohibited from transferring or otherwise disposing of any Shares pursuant to the Orderly Market Undertaking,

**"Orderly Market Undertaking"** means the orderly market undertaking or "lock-up" agreement entered into by the A Investor as part of a Listing as recommended by the financial adviser to the Listing,

**"Shareholders' Agreement"** means the Shareholders' Agreement between the members and the Company and dated on or about the date of adoption of these Articles,

**"Tax"** means, income tax, corporation tax, capital gains tax and any other similar tax imposed or levied in the United Kingdom (excluding for the avoidance of doubt stamp duty, value added tax and any other taxes of a similar nature), and



**"Tax Adjusted Cash Distributions"** means the sum of (i) Cash Distributions (ii) the net change of any provision or accrual by the Company and Holdings 2 in respect of any Tax during the period relevant to the Cash Distributions and (iii) any payments made (by way of withholding or otherwise) less refunds received by the Company and Holdings 2 in such period in respect of any Tax

- 22 When any Share (other than an A Share or a Deferred Share) is transferred
- (a) to an A Investor, it shall be converted into an A Share,
  - (b) to a B Investor, it shall be converted into a B Share, and
  - (c) to a C Investor, it shall be converted into a C Share

### **PROCEEDINGS AT GENERAL MEETINGS**

- 23 Save as herein otherwise provided, the quorum at any General Meeting shall be any two members present in person or by proxy Regulation 40 shall be modified accordingly
- 24 If at any adjourned meeting such a quorum is not present within five minutes from the time appointed for the adjourned meeting (or such longer interval as the chairman of the meeting may think fit to allow) the meeting shall be dissolved except that if a meeting to consider a resolution or resolutions for the winding up of the Company and the appointment of a Liquidator be adjourned for want of a quorum and if at such adjourned meeting such a quorum is not present within five minutes from the time appointed for the adjourned meeting, any one or more members present in person or by proxy shall constitute a quorum for the purposes of considering and if thought fit passing such resolution or resolutions but no other business may be transacted Regulation 41 shall be modified accordingly
- 25 The chairman at any General Meeting shall not be entitled to a second or casting vote Regulation 50 shall not apply
- 26 In the case of a corporation, a resolution in writing may be signed on its behalf by any of its Director or its Secretary or by its duly appointed attorney or duly authorised representative Regulation 53 shall be extended accordingly Regulation 53 (as extended) shall apply *mutatis mutandis* to resolutions in writing of any class of members of the Company

### **VOTES OF MEMBERS**

- 27 On a show of hands every member who is present in person shall have one vote, and on a poll every member who is present in person or by proxy shall have one vote, provided that no shares of a particular class shall confer any right to vote upon a resolution for the removal from office of a Director appointed or deemed to have been appointed by holders of shares of another class Regulation 54 shall not apply
- 28 An instrument appointing a proxy (and, where it is signed on behalf of the appointor by an attorney, the letter or power of attorney or a duly certified copy thereof) must either be delivered at such place or one of such places (if any) as may be specified for that purpose in or by way of note to the notice convening the meeting (or, if no place is so specified, at the registered office) at least one hour before the time appointed for holding the meeting or adjourned meeting or (in the case of a poll taken otherwise than at or on the same day as the meeting or adjourned meeting) for the taking of the poll at which it is to be used or be delivered to the Secretary (or the chairman of the meeting) on the day and at the place of,

but in any event before the time appointed for holding, the meeting or adjourned meeting or poll. The instrument shall, unless the contrary is stated thereon, be valid as well for any adjournment of the meeting as for the meeting to which it relates. An instrument of proxy relating to more than one meeting (including any adjournment thereof) having once been so delivered for the purposes of any meeting shall not require again to be delivered for the purposes of any subsequent meeting to which it relates. Regulation 62 shall not apply.

### **CORPORATION ACTING BY REPRESENTATIVES**

- 29 Any corporation which is a member of the Company may by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any shareholders' meeting. The person so authorised shall be entitled to exercise the same powers on behalf of such corporation as the corporation could exercise if it were an individual member of the Company and such corporation shall for the purposes of these Articles be deemed to be present in person at any such meeting if a person so authorised is present thereat.

### **NUMBER OF DIRECTORS**

- 30 The maximum number of Directors shall be eight and the minimum number of Directors shall be two, unless an A Director has been appointed in which case the minimum number of Directors shall be three.

### **SHARE QUALIFICATION**

- 31 A Director shall not be required to hold any shares of the Company by way of qualification. A Director who is not a member of the Company shall nevertheless be entitled to attend and speak at shareholders' meetings and at any separate meeting of the holder of any class of shares in the Company the holders of which appointed him as Director. Regulation 44 shall be amended accordingly.

### **DIRECTORS' REMUNERATION**

- 32 Any Director who serves on any committee, or who otherwise performs services which in the opinion of the Directors are outside the scope of the ordinary duties of a Director, may be paid such extra remuneration by way of salary, commission or otherwise or may receive such other benefits as the Directors may determine. Regulation 82 shall be extended accordingly.

### **APPOINTMENT AND REMOVAL OF DIRECTORS**

- 33 The A Investor may from time to time appoint and maintain in office two persons to be Directors and these Directors and any alternate shall be called the "A" Directors. The B Investor may from time to time appoint and maintain in office two persons to be Directors and these Directors and any alternates shall be called the "B" Directors. The C Investor may from time to time appoint and maintain in office two persons to be Directors and these Directors and any alternate shall be called the "C" Directors. Regulations 73 to 80 shall not apply. The Directors shall not be subject to retirement by rotation, and any Chairman nominated by any Shareholder under any written agreement shall not have a second or casting vote.

- 34** The office of a Director shall be vacated in any of the events specified in Regulation 81 occur and also if he shall in writing resign or if he shall be removed from office by the holder of the whole or greater proportion of the relevant class of shares which appointed or is deemed to have appointed him but so that if he holds an appointment to an executive office which thereby automatically determines such removal shall be deemed an act of the Company and shall have effect without prejudice to any claim for damages for breach of any contract of service between him and the Company
- 35** Any such appointment or removal by the holder(s) of the relevant class of shares shall be in writing served on the Company and signed by the persons appointing or removing the Director In the case of a corporation such document may be signed on its behalf by any of its Director or its Secretary or by its duly appointed attorney or duly authorised representative
- 36** No director shall be appointed otherwise than as provided in these Articles or by prior written agreement between the B Investor and the C Investor Regulation 90 shall be modified accordingly

### **PROCEEDINGS OF DIRECTORS**

- 37** Proceedings of the Directors shall be regulated as set out in the following Articles
- 38** Board meetings shall be held in meetings or by telephone at least once a year
- 39** Notice of a meeting of Directors must be given to any director for the time being absent from the United Kingdom Regulation 88 shall be amended accordingly
- 40** The quorum at a meeting of Directors shall be one "A" Director (if appointed), one "B" Director (if appointed) and one "C" Director (if appointed) present at the time when the relevant business is transacted, provided that if a quorum is not present within half an hour of the time appointed for the holding of any meeting of the Directors or ceases to be present, the Director(s) present shall resolve to adjourn that meeting to a specified place and time three business days after the date originally fixed for the meeting Notice of the adjourned meeting shall be given by the secretary of the Company to all Directors In the event that a meeting is adjourned three times due to a lack of quorum, at the third reconvening of such meeting if a quorum is not present within half an hour of such adjourned meeting then the quorum necessary for the transaction of business of the Directors shall be two Directors An alternate Director shall be counted in the quorum in the same capacity as the absent Director of whom he is the alternate but so that not less than individuals representing two holders of Shares will constitute the quorum Regulation 89 shall not apply
- 41** The B Investor shall nominate the Chairman of the Board from the pool of "B" Directors The Chairman shall not be entitled to a second or casting vote
- 42** Unless otherwise agreed in writing by an "A" Director (if appointed), a "B" Director (if appointed) and a "C" Director (if appointed) or if there are exceptional circumstances, at least five business days' written notice shall be given to each Director of every meeting of the Directors
- 43** Each such notice shall (i) be sent to the address notified from time to time by each Director to the Secretary as his address for the service of such notices (of if no address has been so supplied, to his last known address), (ii) contain an agenda specifying in reasonable

detail the matters to be discussed at the relevant meeting, (iii) be accompanied by any relevant papers for discussion at such meeting, and (iv) if sent to an address outside the United Kingdom, be sent by courier or facsimile transmission

- 44** At any meeting of the Directors or of any committee of the Directors every "A" Director, every "B" Director and every "C" Director present shall have one vote
- 45** All business arising at any meeting of the Directors or of any committee of the Directors shall be determined only by resolution and no such resolution shall be effective unless approved by a majority of the Directors entitled to vote Regulation 88 shall be modified accordingly
- 46** The Directors, and any committee of the Directors, shall be deemed to meet together if, being in separate locations, they are nonetheless linked by conference telephone or other communication equipment which allows those participating to hear and speak to each other, and a quorum in that event shall be as provided in Article 40 provided that such Directors are so linked Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting then is
- 47** The Directors may delegate any of their powers or discretions to committees A committee of the Directors shall include at least one "A" Director (if appointed), one "B" Director (if appointed) and one "C" Director (if appointed) and a quorum for a meeting of any such a committee shall be as for meetings of Directors under Article 40 The Directors may delegate any of their powers or discretions (including without prejudice to the generality of the foregoing all powers and discretions whose exercise involves or may involve the payment of remuneration to or the conferring of any other benefit on all or any of the Directors) to committees consisting of one or more Directors and (if thought fit) one or more other named persons or persons to be co-opted as hereinafter provided Insofar as any such power or discretion is delegated to a committee, any reference in these Articles to the exercise by the Directors of the power or discretion so delegated shall be read and construed as if it were a reference to the exercise thereof by such committee Any committee so formed shall in the exercise of the powers so delegated conform to any regulations which may from time to time be imposed by the Directors Any such regulations may provide for or authorise the co-option to the committee of persons other than Directors and may provide for members who are not Directors to have voting rights as members of the committee but so that the number of members who are not Directors shall be less than one-half of the total number of members of the committee Regulation 72 shall be modified accordingly
- 48** On any matter in which a Director is in any way interested he may nevertheless vote and be taken into account for the purposes of a quorum and (save as otherwise agreed) may retain for his own absolute use and benefit all profits and advantages directly or indirectly accruing to him thereunder or in consequence thereof save that no Director may vote on a matter if that matter relates to the litigation, negotiation or settlement of a claim arising out of any contract or arrangement which involves such Director Regulations 94 to 98 shall be modified accordingly
- 49** In the case of a Director being disenfranchised from voting at any such meeting in accordance with Article 48 above, such Director's attendance shall not be required for a meeting to be quorate in relation to such matter

## **ALTERNATE DIRECTORS**

- 50** Each Director may at any time appoint any person (including another Director) to be their alternate Director and may at any time terminate such appointment. Any such appointment or termination of appointment shall be effected in like manner as provided in Article 35. The same person may be appointed as the alternate Director of more than one Director. Regulations 65 to 68 shall not apply.
- 51** The appointment of an alternate Director shall determine on the happening of any event which if he were a Director would cause him to vacate such office or if the Director of whom he is the alternate ceases to be a Director.
- 52** An alternate Director shall be entitled to receive notices of meetings of the Directors and of any committee of the Directors of which the Director of whom he is the alternate is a member and shall be entitled to attend and vote as a Director and be counted in the quorum at any such meeting at which the Director of whom he is the alternate is not personally present and generally at such meeting to perform all functions of the Director of whom he is the alternate and for the purposes of the proceedings at such meeting the provisions of these Articles shall apply as if he were a Director of the relevant class. If he shall himself be a Director or shall attend any such meeting as an alternate for more than one Director his voting rights shall be cumulative. An alternate Director shall not (save as aforesaid) have power to act as a Director, nor shall he be deemed to be a Director for the purposes of these Articles, and shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the Director of whom he is the alternate. Regulation 69 shall not apply.
- 53** An alternate Director shall be entitled to contract and be interested in and benefit from contracts or arrangements or transactions and to be repaid expenses and to be indemnified to the same extent *mutatis mutandis* as if he were a Director but he shall not be entitled to receive from the Company in respect of his appointment as alternate Director any remuneration except only such part (if any) of the remuneration otherwise payable to the Director of whom he is the alternate as such Director may by notice in writing to the Company from time to time direct.

## **CAPITALISATION OF PROFITS AND RESERVES**

- 54** The Directors may, with the sanction of a Special Resolution of the Company (and the prior written consent of the A Investor), capitalise any sum standing to the credit of any of the Company's reserve accounts (including Share Premium Account and Capital Redemption Reserve) or any sum standing to the credit of profit and loss account by appropriating such sum to the holders of "A" Shares, "B" Shares and "C" Shares in the proportions in which such sum would have been divisible amongst them had the same been a distribution of profits by way of dividend and
- 54 1** on behalf of the holders of "A" Shares applying that part of such sum distributable amongst them in paying up in full unissued "A" Shares for allotment and distribution credited as fully paid up to and amongst them,
- 54 2** on behalf of the holders of "B" Shares applying that part of such sum distributable amongst them in paying up in full unissued "B" Shares for allotment and distribution credited as fully paid up to and amongst them, and

54 3 on behalf of the holders of "C" Shares applying that part of such sum distributable amongst them in paying up in full unissued "C" Shares for allotment and distribution credited as fully paid up to and amongst them

55 The Directors may do all acts and things considered necessary or expedient to give effect to any such capitalisation, with full power to the Directors to make such provisions as they think fit for the case of shares becoming distributable in fractions (including provisions whereby the benefit of fractional entitlements accrues to the Company rather than to the members concerned) The Directors may authorise any person to enter on behalf of all the members interested into an agreement with the Company providing for any such capitalisation and matters incidental thereto and any agreement made under such authority shall be effective and binding on all concerned Regulation 110 shall not apply

### INDEMNITY

56 Subject to the provisions of and so far as may be permitted by law, every Director, Secretary or other officer of the Company shall be indemnified by the Company out of its own funds against and/or exempted by the Company from all costs, charges, losses, expenses and liabilities incurred by him in the actual or purported execution and/or discharge of his duties and/or the exercise or purported exercise of his powers and/or otherwise in relation to or in connection with his duties, powers or office including (without prejudice to the generality of the foregoing) any liability incurred by him in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by him as an officer or employee of the Company and in which judgment is given in his favour (or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part) or in which he is acquitted or in connection with any application under any statute for relief from liability in respect of any such act or omission in which relief is granted to him by the Court Regulation 118 shall not apply

57 Without prejudice to the provisions of Regulation 87 or Article 56, the Directors shall have the power to purchase and maintain insurance for or for the benefit of any person who is or was at any time a Director or officer of any Relevant Company (as defined in Article 58 below), or who is or was at any time a trustee of any pension fund or employees' share scheme in which employees of any Relevant Company are interested, including (without prejudice to the generality of the foregoing) insurance against any liability incurred by him in respect of any act or omission in the actual or purported execution and/or discharge of his duties and/or in the exercise or purported exercise of his powers and/or otherwise in relation to his duties, powers or offices in relation to any Relevant Company, or any such pension fund or employees' share scheme

58 For the purpose of Article 57 above, "**Relevant Company**" shall mean the Company and its subsidiaries and subsidiary undertakings from time to time

**Pocket**

**Schedule 1**

**Ratchet Example (Corporate Sale)**

**Deal Summary**

Actual cost	1772.635	
Equity	1772.635	100%
Debt	0	0%
Capl equity	1772.635	100%
AM equity	0	0%

**Asset Manager Fees**

Tier	Up to	Investor	Fee
I	15%	100%	0.0%
II	25%	75%	0.0%
III		50%	0.0%

**Asset Manager Returns**

AM Incentive Fee	\$6,959,105	% total profit
Mgmt Fee	\$2,595,000	11.94%
AM Equity return	\$9,554,105	49.93%
AM PR	#NUM!	

**Equity Returns**

RR	42.2%
Net pre tax Pro	£12,174,652
BT Profit	£12,174,652
Tax	£0
AT Profit	£12,174,652
CFM Profit	£12,174,652
CFM Profit	\$24,349,303
	2.00

Month	Capl contribution	Net Cash Flow	Tier I Receipts	Tier I Required	Tier I AM Fee	Tier II Surplus Available	Tier II Receipts	Tier II AM Fee	Investor Cash Flow	AM Cash Flow	Estimated Pool Interest Expenses	AM PR	2nd tier check	3rd tier check
Mar-07	-81,000	-81,000	81,000	81,000	0	0	0	0	-81,000	0	0	0	0	-81,000
Apr-07	-812,000	-812,000	812,000	812,000	0	0	0	0	-812,000	0	0	0	0	-812,000
May-07	35,000	35,000	35,000	35,000	0	0	0	0	35,000	0	0	0	0	35,000
Jun-07	122,200	122,200	122,200	122,200	0	0	0	0	122,200	0	0	0	0	122,200
Jul-07	135,000	135,000	135,000	135,000	0	0	0	0	135,000	0	0	0	0	135,000
Aug-07	35,000	35,000	35,000	35,000	0	0	0	0	35,000	0	0	0	0	35,000
Sep-07	976,000	976,000	976,000	976,000	0	0	0	0	976,000	0	0	0	0	976,000
Oct-07	60,000	60,000	60,000	60,000	0	0	0	0	60,000	0	0	0	0	60,000
Nov-07	104,000	104,000	104,000	104,000	0	0	0	0	104,000	0	0	0	0	104,000
Dec-07	1,896,500	1,896,500	1,896,500	1,896,500	0	0	0	0	1,896,500	0	0	0	0	1,896,500
Jan-08	60,000	60,000	60,000	60,000	0	0	0	0	60,000	0	0	0	0	60,000
Feb-08	104,000	104,000	104,000	104,000	0	0	0	0	104,000	0	0	0	0	104,000
Mar-08	2,514,000	2,514,000	2,514,000	2,514,000	0	0	0	0	2,514,000	0	0	0	0	2,514,000
Apr-08	845,000	845,000	845,000	845,000	0	0	0	0	845,000	0	0	0	0	845,000
May-08	993,000	993,000	993,000	993,000	0	0	0	0	993,000	0	0	0	0	993,000
Jun-08	895,800	895,800	895,800	895,800	0	0	0	0	895,800	0	0	0	0	895,800
Jul-08	153,000	153,000	153,000	153,000	0	0	0	0	153,000	0	0	0	0	153,000
Aug-08	60,000	60,000	60,000	60,000	0	0	0	0	60,000	0	0	0	0	60,000
Sep-08	109,000	109,000	109,000	109,000	0	0	0	0	109,000	0	0	0	0	109,000
Oct-08	95,000	95,000	95,000	95,000	0	0	0	0	95,000	0	0	0	0	95,000
Nov-08	995,047	995,047	995,047	995,047	0	0	0	0	995,047	0	0	0	0	995,047
Dec-08	962,749	962,749	962,749	962,749	0	0	0	0	962,749	0	0	0	0	962,749
Jan-09	642,349	642,349	642,349	642,349	0	0	0	0	642,349	0	0	0	0	642,349
Feb-09	124,000	124,000	124,000	124,000	0	0	0	0	124,000	0	0	0	0	124,000
Mar-09	282,000	282,000	282,000	282,000	0	0	0	0	282,000	0	0	0	0	282,000
Apr-09	926,000	926,000	926,000	926,000	0	0	0	0	926,000	0	0	0	0	926,000
May-09	642,223	642,223	642,223	642,223	0	0	0	0	642,223	0	0	0	0	642,223
Jun-09	128,905	128,905	128,905	128,905	0	0	0	0	128,905	0	0	0	0	128,905
Jul-09	1,779,106	1,779,106	1,779,106	1,779,106	0	0	0	0	1,779,106	0	0	0	0	1,779,106
Aug-09	748,133	748,133	748,133	748,133	0	0	0	0	748,133	0	0	0	0	748,133
Sep-09	2,798,855	2,798,855	2,798,855	2,798,855	0	0	0	0	2,798,855	0	0	0	0	2,798,855
Oct-09	95,000	95,000	95,000	95,000	0	0	0	0	95,000	0	0	0	0	95,000
Nov-09	34,379,161	34,379,161	34,379,161	34,379,161	0	0	0	0	34,379,161	0	0	0	0	34,379,161
<b>Total</b>	<b>19,133,767</b>	<b>19,133,767</b>	<b>19,133,767</b>	<b>19,133,767</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>19,133,767</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>19,133,767</b>
<b>Net Total</b>	<b>19,133,767</b>	<b>19,133,767</b>	<b>19,133,767</b>	<b>19,133,767</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>19,133,767</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>19,133,767</b>
<b>RR</b>	<b>67.2%</b>	<b>67.2%</b>	<b>67.2%</b>	<b>67.2%</b>	<b>26.0%</b>	<b>26.0%</b>	<b>26.0%</b>	<b>26.0%</b>	<b>67.2%</b>	<b>67.2%</b>	<b>0.0%</b>	<b>0.0%</b>	<b>26.0%</b>	<b>67.2%</b>
<b>RR</b>	<b>74.8%</b>	<b>74.8%</b>	<b>74.8%</b>	<b>74.8%</b>	<b>26.0%</b>	<b>26.0%</b>	<b>26.0%</b>	<b>26.0%</b>	<b>74.8%</b>	<b>74.8%</b>	<b>0.0%</b>	<b>0.0%</b>	<b>26.0%</b>	<b>74.8%</b>