

THE COMPANIES ACTS 1985 TO 1989

**A PRIVATE COMPANY
LIMITED BY SHARES**



Memorandum and Articles of Association

of

WESTERN INTERCONNECT LIMITED

1. The Company's name is WESTERN INTERCONNECT LIMITED
2. The Company's registered office is to be situated in England and Wales.
3. The Company shall carry on business as a general commercial company.
4. The liability of the Members is limited.
5. The Company's share capital is £100.00 divided into 100 shares of £1.00 each.

WE, the subscribers to this Memorandum of Association, wish to be formed into a company pursuant to this Memorandum; and we agree to take the number of shares shown opposite our respective names.

**NAMES AND ADDRESSES
OF SUBSCRIBERS**

**NUMBER OF SHARES TAKEN BY
EACH SUBSCRIBER**

MCS Nominees Limited
82 St John Street
London EX1M 4JN

1

MCS Secretaries Limited
82 St John Street
London EC1M 4JN

1

DATED the 26th day of January 1995

WITNESS to the above signatures

James C Wall
82 St John Street
London
EC1M 4JN

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

ARTICLES OF ASSOCIATION OF

WESTERN INTERCONNECT LIMITED

(As amended by Resolutions of the Shareholders dated 25 November 2002)

PRELIMINARY

1. (a) 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: that is to say, clauses 41, 53, 64, 73 to 80 inclusive, 87, 94 to 97 inclusive, 101 and 118 of Table A shall not apply to the Company, and in addition to the remaining clauses of Table A, as varied hereby, the following shall be the Articles of Association of the Company.
- (b) In these Articles the expression "the Act" means the Companies Act 1985, but so that any reference in these Articles to any provision of the Act shall be deemed to include a reference to any statutory modification or re-enactment of that provision for the time being in force.

SHARE CAPITAL

- 2 The share capital of the Company at the date of adoption of this article is £100 divided into 100 'A' Ordinary Shares of £1 each and US\$100 divided into 10,000 'B' Ordinary Shares of US\$0.01 each. Save as otherwise provided in these Articles the 'A' Ordinary Shares and 'B' Ordinary Shares constitute separate classes of shares and the following rights and conditions shall be attached thereto:

The following provisions shall apply to the 'A' Ordinary Shares of £1 each:

- (a) Notwithstanding any other provisions of these Articles, save as provided in paragraph (b) below, the holders of the 'A' Ordinary Shares of £1 each shall not be entitled to any participation in the profits or assets of the Company.
- (b) On a return of assets of the Company on a liquidation or a winding up of the Company the maximum that the 'A' Ordinary £1 shareholders shall receive will be £1 per share and any surplus shall be paid or distributed exclusively amongst the holders of 'B' Ordinary Shares of US\$0.01 each.
- (c) None of the 'A' Ordinary Shares of £1 each shall carry any right to receive notice of or attend and vote at any General Meeting of the Company.

ALLOTMENT OF SHARES

3. (a) Subject to paragraph (b) hereof shares which are comprised in the authorised share capital with which the Company is incorporated shall be under the control of the

Directors who may allot, grant options over or otherwise deal in or dispose of the same to such persons on such terms and in such manner as they think fit.

- (b) The Directors are generally and unconditionally authorised for the purposes of Section 80 and 80A of the Act, pursuant to an elective resolution of the Company duly passed in accordance with Section 379A of the Act, to allot relevant securities (as defined in Section 80 of the Act) for an indefinite period provided that the aggregate nominal value of such securities allotted pursuant to this authority shall not exceed the amount of the authorised capital with which the Company is incorporated. The authority hereby given may at any time (subject to the said Sections 80 and 80A) be varied or revoked by Ordinary Resolution of the Company in General Meeting.
- (c) All shares which are not comprised in the authorised share capital with which the Company is incorporated and which the Directors propose to issue shall first be offered to the Members in proportion as nearly as may be to the number of the existing shares held by them respectively unless the Company in General Meeting shall by Special Resolution otherwise direct. The offer shall be made by notice specifying the number of shares offered, and limiting a period (not being less than fourteen days) within which the offer, if not accepted, will be deemed to be declined. After the expiration of that period, those shares so deemed to be declined shall be offered in the proportion aforesaid to the persons who have in the said period, accepted all the shares offered to them, such further offer shall be made in like terms in the same manner and limited by a like period as the original offer. Any shares not accepted pursuant to such offer or further offer as aforesaid or not capable of being offered as aforesaid except by the way of fractions and any shares released from the provisions of this Article by any such Special Resolution as aforesaid shall be under the control of the Directors who may allot, grant options over or otherwise dispose of the same to such persons, on such terms and in such manner as they think fit, provided that, in the case of shares not accepted as aforesaid, such shares shall not be disposed of on terms which are more favourable to the subscribers therefore than the terms on which they were offered to the Members. The foregoing provisions of this paragraph (c) shall have effect subject to Section 80 and 80A of the Act.
- (d) In accordance with Section 91 (1) of the 85 Act Sections 89 (1) and 90 (1) to (6) (inclusive) of the Act shall not apply to the Company.

SHARES

- 4. The lien conferred by Clause 8 in Table A shall attach also to fully paid-up 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 he shall be the sole registered holder thereof or shall be one of two or more joint holders, for all moneys presently payable by him or his estate to the Company. Clause 8 in Table A shall be modified accordingly.
- 5. 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 Clause 18 in Table A of the words "and all expenses that may have been incurred by the Company by reason of such non-payment."

TRANSFER OF SHARES

6. The Directors may, in their absolute discretion and without assigning any reason therefor, decline to register the transfer of a share, whether or not it is a fully paid share, and the first sentence of Clause 24 in Table A shall not apply to the Company.

NOTICE OF DISPENSATIONS RELATIVE TO GENERAL MEETINGS

7. (a) The Company may at any time elect by passing an Elective Resolution in accordance with Section 379A of the Act (subject always to revocation by Ordinary Resolution in general meeting).
 - (i) pursuant to Section 252 of the Act, to dispense with the laying of accounts before the Company in general meeting (subject to the right of any member or the Auditor of the Company pursuant to Section 253(2) of the Act to require in any year that they be so laid);
 - (ii) pursuant to Section 366A of the Act, to dispense with the holding of Annual General Meetings (subject to the right of any member under Sub-section 2 thereof to require one to be held in any year);
 - (iii) pursuant to Section 386 of the Act, to dispense with the obligation to appoint auditors annually; and
 - (iv) pursuant to Section 369(4) and 378(3) of the Act, that the percentage of shares referred to in those sections, required to be held by persons agreeing to an Extraordinary General Meeting being held (or a resolution being passed at a special resolution) on short notice be reduced from 95 per centum to not less than 90 per centum, as may be determined by the Company in general meeting.
- (b) In the event of all or any of the foregoing provisions taking effect Clause 38 in Table A shall be modified accordingly.

PROCEEDINGS AT GENERAL MEETINGS

8. (a) Clause 40 in Table A shall be read and construed as if the words "at the time when the Meeting proceeds to business" were added at the end of the first sentence.
 - (b) If a quorum is not present within half an hour from the time appointed for a General Meeting the General Meeting shall stand 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 therefor such adjourned General Meeting shall be dissolved.
9. In accordance with the provisions of Section 381A of the Act, and subject to the requirements and restrictions of Section 381B thereof relating to the rights of auditors and of Section 382A thereof relating to minuting of proceedings, anything that may be done by the Company in general meeting or a meeting of any class of members may be effected by a resolution in writing signed by or on behalf of all the members of the Company who at the date of the resolution would be entitled to attend and vote at such meetings.

APPOINTMENT OF DIRECTORS

10. The maximum number and minimum number respectively of the 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 of number of Directors shall be one. Whensoever the minimum number of Directors shall be one, a sole Director shall have authority to exercise all the powers and discretions by Table A and by these Articles expressed to be vested in the Directors generally, and Clause 89 in Table A shall be modified accordingly.
11. No person shall be appointed a Director at any General Meeting unless either:-
 - (a) he is recommended by the Directors; or
 - (b) not less than fourteen nor more than thirty five clear days before the date appointed for the General Meeting notice executed 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 executed by that person of his willingness to be appointed.
12. Subject to Article 10 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.
13. 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 9 above as the maximum number of Directors and for the time being in force.

BORROWING POWERS

14. 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 or standard security over its 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.

ALTERNATE DIRECTORS

15.
 - (a) An alternate Director shall not be entitled as such to receive any remuneration from the Company, save that he may be paid by the Company such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company from time to time direct, and the first sentence of Clause 66 in Table A shall be modified accordingly.
 - (b) A Director, or any such person as is mentioned in Clause 65 in 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 any committee of the Directors to one vote for every Director whom he represents in addition to his won vote (if any) as a Director, but he shall count as only one for the purpose of determining whether a quorum is present.

DISQUALIFICATION OF DIRECTORS

16. The office of a Director shall be vacated if he becomes incapable by reason of illness or injury of managing and administering his property and affairs, and Clause 81 in Table A shall be modified accordingly.

GRATUITIES AND PENSIONS

17. (a) The Directors may exercise the powers of the Company to support and subscribe to any charitable or public object and to support and subscribe to any institution, society or club which may be for the benefit of the Company or its Directors or employees, or may be connected with any town or place where the Company carries on business; to give or award pensions, annuities, gratuities, and superannuation or other allowances or benefits or charitable aid and generally to provide advantages, facilities and services for any persons who are or have been Directors of, or who are or have been employed by, or who are serving or have served the Company, or any company which is a subsidiary of the Company or the holding company of the Company or a fellow subsidiary company and to the wives, widows, children and other relatives and dependants of such persons; to make payments towards insurance; and to set up, establish, support and maintain superannuation and other funds or schemes (whether contributory or non-contributory) for the benefit of any of such persons and of their wives, widows, children and other relatives and dependants; and to set up, establish, support and maintain profit sharing or share purchase schemes for the benefit of any of the employees of the Company or of any such subsidiary, holding or fellow subsidiary company to lend money to any such employees or to trustees on their behalf to enable any such purchase schemes to be established or maintained.
- (b) The Directors shall be entitled to retain any benefits received by them or any of them by reason of the exercise of any such powers referred to in paragraph (a) above.

PROCEEDINGS OF DIRECTORS

18. A Director may vote, at any meeting of the Directors or of any committee of the Directors, on any resolution, notwithstanding that it in any way concerns or relates to any matter in which he has, directly or indirectly, any kind of interest whatsoever, and if he shall vote on such resolution as aforesaid his vote shall be counted; and in relation to any such resolution as aforesaid he shall (whether or not he shall vote on the same) be taken into account in calculating the quorum present at the meeting.

COMPANY CONTRACTS AND EXECUTION OF DOCUMENTS

19. The Company shall not have a common seal and the provisions of Sections 36 and 36A of the Act in regard to the proper and effective execution of contracts and other documents on behalf of the Company by duly authorised persons shall therefore apply. Clause 6 in Table A is modified insofar as the reference therein to the sealing of certificates shall be disregarded.

INDEMNITY

20. (a) Every Director or officer 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 defending any proceedings, whether civil or criminal, in which judgment 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 only have effect insofar as its provisions are not avoided by Section 310 of the Act.
- (b) The Directors shall have power to purchase and maintain for any Director, officer or Auditor of the Company insurance against any such liability as is referred to in Section 310 (1) of the Act from and after the bringing in to force of Section 137 of the Companies Act 1989.

SHARE WARRANTS TO BEARER

- 21 (a) Subject to the provisions hereinafter contained the Company may issue Share Warrants with respect to fully paid up 'B' Ordinary Shares of US\$0.01 each ('the shares') upon a request in writing by the person registered as the holder of such shares, on such terms and conditions as the directors may from time to time determine. The request shall be in such form as the Directors shall from time to time treat as appropriate.
- (b) Before the issue of a Share Warrant, the share certificate (if any) for the shares intended to be included in it shall be delivered up to the Directors.
- (c) Share Warrants shall be issued under the seal or, if the Directors so resolve, in such other manner having the same effect as if issued under the seal of the Company, and shall state that the bearer is entitled to the shares therein specified.
- (d) The bearer for the time being of a Share Warrant shall, subject to these Articles and to the Companies Act 1985, be deemed to be a member of the Company and shall be entitled to the same rights and privileges and be bound by the same obligations as he would have had if his name had been included in the register as the holder of the shares specified in such Share Warrant.
- (e) The shares included in any Share Warrant shall be transferred by delivery of the Share Warrant without any written transfer and without registration, and the provisions in these Articles with respect to the transfer and transmission of and to the lien of the Company on shares shall not apply to shares so included.
- (f) No person shall as bearer of a Share Warrant be entitled to attend or vote or exercise in respect thereof any of the rights of a member at any General Meeting of the Company or sign any requisition for or give notice of

intention to submit a resolution to a General Meeting of the Company, or to sign any written resolution of the Company unless three days at least (or such lesser period as the Directors shall specify) before the day appointed for the Meeting in the first case, and unless before the requisition or notice is left at the Registered Office of the Company, in the second case, or before he signs the written resolution in the third case, he shall have deposited the Share Warrant in respect of which he claims to act, attend or vote as aforesaid (or a letter from a financial institution as the Company may from time to time direct that such Share Warrant has been deposited with them so as to create or be subject to a security interest (such letter may specify that, in the absence of written notice to the contrary, a person nominated in that letter may attend or vote or exercise in respect hereof any of the entitlements as a bearer of such Share Warrant as are referred to in this paragraph (f)) at the Registered Office for the time being of the Company or such other places as the Directors appoint, together with a statement in writing of his name and address, and if so deposited the Share Warrant shall remain so deposited until after the Meeting or any adjournment thereof shall have been held or, in the case of a written resolution, the same shall have been signed. Not more than one name shall be received as that of the holder of a Share Warrant.

- (g) There shall be delivered to the person so depositing a Share Warrant (or the letter from the financial institution as aforesaid) a certificate stating his name and address and describing the shares represented by the Share Warrant so deposited by him or confirmed by the letter as being the Share Warrant to which he is entitled, and such certificate shall entitle him, or his proxy duly appointed, (or any person nominated in the solicitor's letter) to attend and vote at any General Meeting of the Company or to sign any written resolution in the same way as if he (or such person) were the registered holder of the shares specified in the certificate. Upon delivery up of the said certificate to the Company, the Share Warrant in respect whereof it shall have been given shall be returned if deposited with the Company.
- (h) No person as bearer of any Share Warrant shall be entitled to exercise any of the rights of a member (save as hereinbefore expressly provided in respect of General Meetings) without producing such Share Warrant (or a letter from his solicitors as described above) and stating his name and address, and (if and when the Directors so require) permitting an endorsement to be made (or procuring to the reasonable satisfaction of the Directors that such endorsement be made) thereon of the fact, date, purpose and consequence of its production.
- (i) The Directors shall provide as from time to time they shall think fit for the issue to the bearers for the time being of Share Warrants (or to such person and for so long as such bearer may direct from time to time in writing) at the address stated on the Share Warrant at the date of its issue (unless the Company is notified of any change in accordance with the statement contained thereon and in accordance with the Memorandum and Articles of Association of the Company) of coupons payable to bearer providing for the payment of the dividends upon and in respect of the share represented by the Share Warrant. Every such coupon shall be distinguished by the number of

the Share Warrant in respect of which it is issued, and by a number showing the place it holds in the series of coupons issued in respect of that Share Warrant.

- (j) Upon any dividend being declared to be payable upon the shares specified in any Share Warrant, the Directors shall give notice to the holder of the Share Warrant at the address stated on the Share Warrant at the date of its issue (unless the Company is notified of any change in accordance with the statement contained thereon and in accordance with the Memorandum and Articles of Association of the Company) stating the date of payment, and the serial number of the coupon to be presented and thereupon any person presenting and delivering up a coupon of that serial number at the place, or one of the places, stated in the coupon, or in the said notice, shall be entitled to receive upon so delivering it up as the Directors shall from time to time direct the dividend payable on the shares specified in the Share Warrant to which the said coupon shall belong, according to the said notice.
- (k) The Company shall be entitled to recognise an absolute right in the bearer for the time being of any coupons of which notice has been given as aforesaid for payment of such amount of dividend on the Share Warrant whereunto the said coupon shall belong as shall have been as aforesaid declared payable upon presentation and delivery of the coupon, and the delivery of such coupon shall be a good discharge to the Company accordingly.
- (l) If any Share Warrant or coupon be worn out or defaced, the Directors may, upon the surrender thereof for cancellation, issue a new one in its stead, and if any Share Warrant or coupon be lost or destroyed, the Directors may, upon the loss or destruction being established to their satisfaction, and upon such indemnity being given to the Company as they shall think adequate, issue a new one in its stead. In case of loss or destruction the bearer to whom such new Share Warrant or coupon is issued shall also bear and pay to the Company all reasonable expenses incidental to the investigation by the Company of evidence of such loss or destruction and to such indemnity.
- (m) If the bearer of any Share Warrant shall surrender it together with all coupons belonging thereto for cancellation and shall lodge therewith at the registered office for the time being of the Company a declaration in writing, signed by him, in such form and authenticated in such manner as the Directors shall from time to time direct, requesting to be registered as a member in respect of the shares specified in such Share Warrant, and stating in such declaration his name and address, he shall be entitled to have his name entered as a registered member of the Company in respect of the shares specified in the Share Warrant so surrendered, but the Company shall not be responsible for any loss incurred by any person by reason by the Company entering in the Register upon the surrender of a Share Warrant the name of any person not the true and lawful owner of the Share Warrant surrendered.

- (n) Regulation 7 of Table A shall be read and construed as if at the end of such Regulation there were added the words "or, in the case of a Share Warrant, in the bearer of the Share Warrant for the time being."
- (o) Regulation 29 of the Table A shall be read and construed as if the word "registered" appeared before the word "member" in the first line of such Regulation.
- (p) Regulation 30 of the Table A shall be read and construed as if the word "registered" appeared before the word "share" in the first line of such Regulation.
- (q) A notice may be given by the Company to the holder of a Share Warrant to the address supplied by him by notice in writing to the Company from time to time for the giving of notice to him. Any notice to the Company supplying a new address for the giving of notices by the Company shall be accompanied by the Share Warrant which shall be cancelled and a new Share Warrant shall be issued having endorsed thereon the address to which future notices by the Company to the holder of the Share Warrant may be given.
- (r) The Directors may from time to time require any holder of a Share Warrant who gives, or has given, an address at which notices may be served on him, to produce his Share Warrant and to satisfy them that he is, or is still, the holder of the Share Warrant in respect of which he gives or gave the address.

CAPITALISATION OF RESERVES

- 22 Every ordinary resolution authorising a capitalisation of distributable reserves of the Company or of a sum standing to the credit of the Company's share premium account or capital redemption reserve by way of an issue of fully paid shares (hereinafter called "bonus shares"), pursuant to the provisions of regulation 128 of Table A shall specify the class or classes of shares to be allotted as bonus shares thereunder and the class or classes of shares conferring the entitlement to receive bonus shares. For the avoidance of doubt, bonus shares of a particular class may be allotted to the holders of shares of the same class or any other class of shares.

NAMES AND ADDRESSES OF SUBSCRIBERS

MCS Nominees Limited
82 John Street
London EC1M 4JN

MCS Secretaries Limited
82 St John Street
London EC1M 4JN

DATED the 26th day of January 1995

WITNESS to the above signatures:

James C Wall
82 St John Street
London
EC1M 4JN