

Company No: 3179118

THE COMPANIES ACT 1985

COMPANY LIMITED BY SHARES



**SPECIAL RESOLUTION**

of

**MOBILE SYSTEMS INTERNATIONAL HOLDINGS LIMITED**

At an Annual General Meeting of the Company duly convened and held at 15th Floor, One Harbour Exchange Square, London E14 9GE on Monday, 16 November 1998, the following Resolution was duly passed as a Special Resolution:

**Special Resolution**

THAT:

- 1 for the purpose of giving effect to the Scheme of Arrangement dated 23 October 1998 (the "Scheme") proposed to be made between the Company and the holders of the Scheme Shares (as defined in the Scheme), a print of which has been produced to the Meeting at which this Resolution is passed and signed for the purpose of identification by the chairman thereof, in its original form, or with or subject to any modification, addition or condition approved or imposed by the Court and notwithstanding anything in the Articles of Association of the Company.
  - (a) the share capital of the Company be reduced by cancelling and extinguishing the Scheme Shares (as so defined); and
  - (b) forthwith and contingently upon the reduction of capital taking effect:
    - (i) the share capital of the Company be increased to its former amount by the creation of such number of ordinary shares of 2.5p each ("New MSIH Shares") as shall be equal to the number of the Scheme Shares cancelled and extinguished as aforesaid; and
    - (ii) the Company shall apply the reserve arising as a result of such reduction of capital in paying up in full at par the New MSIH Shares so created, which shall be allotted and issued credited as fully paid up, to Metapath Software International, Inc. ("MSI Inc.") in accordance with the Scheme;
- 2 conditionally on the Scheme becoming effective, the directors of the Company be and are hereby authorised for the purposes of section 80 of the Companies Act 1985 to effect the allotment to MSI Inc. or its nominee of the New MSIH Shares created pursuant to paragraph 1(b) of this Resolution provided that (i) the maximum number of shares which may be allotted hereunder is 17,000,000; (ii) this authority shall expire on 31 March 1999; and (iii) this authority shall be without prejudice to any other authority under the said section 80 previously granted and in force on the date on which this Resolution is passed;
- 3 with immediate effect from the passing of this Resolution, the Articles of Association of the Company be altered by the adoption and inclusion of the following new Articles 34 and 35:

### **"34. NEW SHARES TO BE SUBJECT TO THE SCHEME OF ARRANGEMENT**

34.1 In this Article 34 and in Article 35, references to the "Scheme" are to the Scheme of Arrangement dated 23 October 1998 under section 425 of the Companies Act 1985, between the Company and the holders of the Scheme Shares (as defined in the Scheme), as it may be modified or amended or subjected to any condition in accordance with its terms, and expressions defined in the Scheme shall have the same meanings herein and in Article 35.

34.2 Notwithstanding any other provision of the Articles of Association of the Company, if the Company issues any Ordinary Shares of 2.5p each after the adoption of this Article but prior to the close of business on the London Business Day before the date of the Final Court Order, such shares shall be subject to the terms of the Scheme and the holder or holders of such shares shall be bound by the Scheme accordingly.

### **35. SHARES NOT SUBJECT TO THE SCHEME OF ARRANGEMENT**

35.1 Subject always to the Scheme becoming effective, any member of the Company (the "Vendor") may at any time after the date on which the Scheme becomes effective give to the Company a notice (the "Vendor Notice") requiring Metapath Software International Inc. (the "Purchaser") to acquire all the Ordinary Shares in the Company held by the Vendor (the "Disposal Shares") for a consideration consisting of the MSIH Exchange Ratio of one MSI Inc. Share (the "Purchaser Share") for every Ordinary Share in the Company held by the Vendor and, within 21 days after the date of the Vendor Notice or such other date as may be agreed between the Purchaser and the Vendor, the Vendor shall be bound to transfer and the Purchaser shall be bound to acquire the Disposal Shares for such consideration.

35.2 The Purchaser may on any date give a notice (the "Purchaser Notice") to the Vendor requiring the Vendor to dispose of the Disposal Shares to the Purchaser for the consideration determined in accordance with and subject to the terms of Article 35.1 above and, within 21 days after the date of the Purchaser Notice or such other date as may be agreed between the Purchaser and the Vendor, the Vendor shall be bound to transfer and the Purchaser shall be bound to acquire the Disposal Shares for such consideration.

35.3 The Purchaser Shares issued to the Vendor pursuant to Article 35.1 or 35.2 above will be fully paid non-assessable and free from Encumbrance and will rank equally in all respects with all Purchaser Shares in issue at the time (other than as regards any dividend or other distribution payable by reference to a record date preceding the date of service of the Vendor Notice or (as the case may be) the Purchaser Notice, the date of allotment and issue of such Purchaser Shares or the close of business on the business day before the date of the Final Court Order, whichever is later) and be subject to the charter documents of the Purchaser.

35.4 The number of Purchaser Shares to be issued to the Vendor under Articles 35.1 and 35.2 above may be adjusted by the directors of the Company in such manner as the Company's auditors may determine on any reorganisation of the share capital of the Company or of the Purchaser effected after the close of business on the Effective Date.

35.5 No fraction of a Purchaser Share shall be issued to a Vendor pursuant to this Article but the entitlement of each Vendor who would otherwise be entitled to a fraction of a Purchaser Share shall be rounded, up or down, to the nearest whole number after first aggregating all fractions of a Purchaser Share to which the Vendor would otherwise have been entitled. For these purposes fractions of exactly one-half of a Purchaser Share shall be rounded up.


35.6 To give effect to any transfer of Ordinary Shares in the Company required by Article 35.1 or 35.2 above, the Company may appoint any person to execute a form of transfer on behalf of the Vendor in favour of the Purchaser and to agree for and on behalf of the Vendor to become

shareholder in the Purchaser. Pending the registration of the Purchaser as the holder of any Ordinary Shares in the Company to be so transferred, the Purchaser shall be empowered to appoint a person to act as attorney on behalf of the Purchaser in accordance with such directions as the Purchaser may give in relation to any dealings with or disposal of such shares (or any interests therein), exercising any rights attached thereto or receiving any distribution or other benefit accruing or payable in respect thereof and, if a person is so appointed to act as attorney, the Vendor shall not be entitled to exercise any rights attaching thereto except:

- (a) to the extent that the person appointed to act as attorney fails to act in accordance with the directions of the Purchaser; and
- (b) in accordance with the directions of the Purchaser."; and

4. subject to and conditional upon the Scheme taking effect, the Articles of Association of the Company be altered by:

- (a) deleting Articles 6, 9 and 10 and by deleting in Article 7.1 the phrase "which is not fully paid"; and
- (b) renumbering the Articles of Association accordingly.



Director