

THE COMPANIES ACTS 1985 AND 1989

COMPANY LIMITED BY SHARES

RESOLUTION IN WRITING

of

AMS HOLDINGS LIMITED (the "Company")

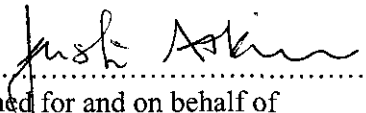
In accordance with section 381A of the Companies Act 1985 (as amended) ("the Act"), we, being all the members of the Company who, at the date of the resolutions are entitled to attend and vote at a general meeting of the Company **HEREBY RESOLVE THAT** the resolution numbered 1 shall take effect as a special resolution of the Company and the resolutions numbered 2 and 3 shall take effect as ordinary resolutions of the Company:

**Special Resolution**

1. "that the Articles of Association of the Company, a copy of which is attached to this written resolution, be adopted as the articles of association of the Company to the exclusion of and in substitution for the existing articles of association."

**Ordinary Resolutions**

2. the authorised share capital of the Company be increased from £1,000 to £500,000 by the creation of 100,000 cumulative redeemable preference shares of £1 each and 399,998 ordinary shares of £1 each in the capital of the Company; and
3. in addition to the existing authorities the directors be generally and unconditionally authorised pursuant to section 80 of the Act to exercise all the powers of the Company to allot options over, offer, and make offers or agreements to allot or otherwise deal with or dispose of any relevant securities (within the meaning of that section) up to an aggregate nominal value of £500,000 for a period expiring (unless previously renewed, varied or revoked by the Company in general meeting) five years after the date of the passing of this resolution but so that the Company may before the expiry of such authority make an offer or agreement which would or might require relevant securities to be allotted after expiry of such authority and the directors may allot relevant securities pursuant to such an offer or agreement as if the authority conferred hereby had not expired.

  
.....  
Signed for and on behalf of  
**KELLER GROUP PLC**

  
.....  
Date



Company no. 3912000

THE COMPANIES ACTS 1985 AND 1989

PRIVATE COMPANY LIMITED BY SHARES

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ARTICLES OF ASSOCIATION

of

AMS HOLDINGS LIMITED

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(Adopted by written resolution passed on 16<sup>th</sup> March 2000)

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**THE COMPANIES ACTS 1985 and 1989**

**PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**

of

**AMS HOLDINGS LIMITED**



(Adopted by written resolution passed on 16<sup>th</sup> March 2000)

**1. PRELIMINARY**

- 1.1 The Regulations contained in Table A in the schedule to the Companies (Tables A to F) Regulations 1985 (as amended) ("**Table A**") shall apply to the Company unless or to the extent that they are excluded or modified by, or are inconsistent with, these articles and, with these articles, shall constitute the articles of association of the Company.
- 1.2 References in these articles to numbered Regulations shall, unless the context requires otherwise, be deemed to be references to regulations in Table A. Regulations 24, 38, 54, 60, 61, 64, 73 to 81 inclusive, 90, 94, 95 and 118 shall not apply.
- 1.3 Where an ordinary resolution of the Company is required for any purpose, a special or extraordinary resolution shall also be effective and where an extraordinary resolution is required for any purpose, a special resolution shall also be effective.

**2. DEFINITIONS AND INTERPRETATION**

- 2.1 In these articles the following words and expressions shall (except where the context otherwise requires) have the following meanings:

**"Accounting Period"** means an accounting reference period of the Company being a period commencing 1 January and ending on the following 31 December or such other date as is notified to the Registrar of Companies for the time being;

**"Board"** means the board of directors of the Company for the time being;

**"Companies Act"** means the Companies Act 1985 (as amended);

**"credited as paid up"** means amounts paid up or credited as paid up on the relevant Share including any premium;

**"Directors"** means the directors for the time being of the Company;

**"Loan Notes"** means the £2,700,000 Series A Unsecured Variable Rate Guaranteed Loan Notes constituted by a Deed Poll dated 16<sup>th</sup> March 2000;

**"Member"** means a holder of any share in the capital of the Company as stated in its Register of Members for the time being;

**"Ordinary Share"** means an ordinary share of £1 in the capital of the Company;

**"Ordinary Shareholder"** means a registered holder of any Ordinary Shares;

**"Preference Share"** means a cumulative redeemable Preference Share of £1 in the capital of the Company;

**"Preference Dividend"** shall have the meaning set out in Article 4.1.1;

**"Preference Shareholder"** means a registered holder of any Preference Shares;

**"Redemption Date"** shall have the meaning set out in Article 4.3;

**"Redemption Monies"** shall have the meaning set out in Article 4.3.2;

**"Share"** means a share in the capital of the Company.

2.2 In these articles, where the context admits:

2.2.1 words and phrases which are defined or referred to in or for the purposes of the Companies Act or Table A have the same meanings in these articles

unless the context otherwise requires;

2.2.2 reference to a statutory provision includes reference to:

2.2.2.1 any order, regulation, statutory instrument or other subsidiary legislation at any time made under it for the time being in force (whenever made);

2.2.2.2 any modification, amendment, consolidation, re-enactment or replacement of it or provision of which it is a modification, amendment consolidation, re-enactment or replacement;

2.2.3 reference to an Article is to a provision of these articles;

2.2.4 reference to a gender includes the other genders, and reference to the singular includes the plural and vice versa;

2.2.5 headings are for ease of reference only and shall not affect the construction or interpretation of these articles.

### **3. SHARE CAPITAL**

3.1 In accordance with section 91(1) of the Companies Act, sections 89(1) and 90(1) to (6) inclusive of the Act shall not apply to the Company.

3.2 The authorised share capital of the Company at the date of adoption of these articles is £500,000 divided into:

3.2.1 100,000 Preference Shares;

3.2.2 400,000 Ordinary Shares.

### **4. SHARE RIGHTS**

Regulation 2 shall not apply to the Company. The rights and restrictions attaching to the Preference Shares and the Ordinary Shares shall be as follows:

#### **4.1 As regards income**

The profits of the Company which are available for lawful distribution in respect of

each Accounting Period shall be applied as follows:

- 4.1.1 first in paying to the Preference Shareholders as a class a fixed cumulative preferential cash dividend ("**Preference Dividend**") at the rate of five per cent per annum on the amounts for the time being credited as paid up on the Preference Shares such dividend to accrue on a daily basis and to be paid by two equal instalments on 30 June and 31 December in each year in respect of the six month periods ending on those dates, provided that the first such payment shall be made on 30 June 2000 or the earlier redemption of the Preference Shares, and shall be calculated in respect of the period from the date of the adoption of these articles to 30 June 2000;
- 4.1.2 No dividend shall be declared or paid to the Ordinary Shareholders in respect of any Accounting Period unless and until:
  - 4.1.2.1 the Preference Dividend has been paid in full in respect of that Accounting Period and in respect of all previous Accounting Periods; and
  - 4.1.2.2 all Preference Shares which have fallen due for redemption have been redeemed.
- 4.1.3 If for any reason the Company is unable pursuant to the Companies Act to pay the Preference Dividend in full on any date fixed for payment, then on such date the Company will pay to the Preference Shareholders on account of the relevant dividends the maximum sum (if any) which can be lawfully paid by the Company.
- 4.1.4 Any arrears of the Preference Dividend shall be carried forward and on each succeeding dividend date the Company will pay on account of the balance of the relevant dividend which is then outstanding the amount which can then lawfully be paid pursuant to the Companies Act until payment in full of such arrears has been made.
- 4.1.5 Any amount which the Company shall distribute by way of dividend to the Preference Shareholders in respect of any Accounting Period shall be applied first in reducing or extinguishing any arrears of the Preference Dividend.

4.1.6 No dividend will be declared or paid in respect of any Accounting Period unless and until all arrears of the cumulative dividends have been paid in full in respect of that and all preceding Accounting Periods.

4.1.7 Notwithstanding anything contained in Regulations 102 to 108 (inclusive), it shall not be necessary for the Company to declare any dividend which in accordance with these articles is payable on the Preference Shares and such dividends shall to the extent lawfully permissible, constitute a debt due from the Company to the Preference Shareholders on the due date or dates for payment without any requirement for a recommendation or declaration by the Company or the Directors.

4.1.8 Any amount of dividend payable under these articles shall belong to and be paid to the holders of the relevant Shares pro rata according to their holdings of such Shares.

#### **4.2 As regards capital**

4.2.1 On a return of assets whether in a winding-up or reduction of capital or otherwise (except in the case of the redemption of shares of any class or the purchase by the Company of its own shares) the assets and retained profits of the Company available for distribution among the Members shall be applied as follows:

4.2.1.1 first in paying to the Preference Shareholders all arrears and accruals of the Preference Dividend (whether earned or declared or not) calculated up to and including the date on which the return of capital is made; and

4.2.1.2 secondly, in paying to the Preference Shareholders the amounts credited as paid up on the Preference Shares;

4.2.1.3 thirdly in paying to the Ordinary Shareholders the amounts credited as paid up on the Ordinary Shares and in distributing the balance of such assets and retained profits amongst the Ordinary Shareholders in proportion to the amounts credited as paid up on the Ordinary Shares.

4.2.2 The Preference Shares shall not confer any further rights of participation in the profits or assets of the Company.

4.3 **As regards redemption of the Preference Shares**

4.3.1 The Company shall redeem for cash at a redemption price of £1 per share all the Preference Shares on the date of redemption of all the then remaining Loan Notes not previously repaid or redeemed ("**the Redemption Date**") (or as soon thereafter as the Company shall be able to comply with the provisions of the Companies Act relating to redemption of shares out of distributable profits).

4.3.2 On the Redemption Date the redemption price referred to in Article 4.3.1 together with all arrears and accruals of the Preference Dividend (whether earned or declared or not) calculated up to and including the Redemption Date ("**the Redemption Monies**") shall become a debt due and payable by the Company to the Preference Shareholders and on the Redemption Date the Company shall, subject to receipt of the relevant share certificate or an indemnity in lieu of the share certificate in a form reasonably satisfactory to the Company, pay the Redemption Monies to the Preference Shareholders.

4.3.3 On the Redemption Date of the Preference Shareholders whose shares are to be redeemed shall deliver to the Company the share certificate(s) for such shares and the Company shall cancel the same. If any certificate so delivered to the Company includes any Preference Shares not to be redeemed the Company shall without charge issue a certificate for the balance of any unredeemed Preference Shares to the holder of such Preference Shares.

4.3.4 As from the Redemption Date the Preference Dividend shall cease to accrue in respect of any Preference Shares redeemed on that date.

4.3.5 A redemption of some but not all of the Preference Shares shall be made amongst the holders thereof pro rata as nearly as possible to their then holdings of Preference Shares.



#### **4.4 As regards voting**

- 4.4.1 On a show of hands every Member who (being an individual) is present in person or (being a corporation) is present by a duly authorised representative shall have one vote, and on a poll every Member who is present in person or by proxy or (being a corporation) is present by a duly authorised representative shall have such number of votes or proportion of a vote for every Share of which he is a holder as is determined in accordance with Article 4.4.2.
- 4.4.2 On a poll, the Shares shall in total carry a maximum of 1,000,000 votes of which the Preference Shares as a class shall carry a maximum of 100,000 votes and the Ordinary Shares as a class shall carry a maximum of 900,000 votes such votes being exercisable by the Preference Shareholders or the Ordinary Shareholders (as the case may be) pro rata to the number of Preference Shares or Ordinary Shares respectively held by them.
- 4.4.3 Regulation 57 shall be modified by including after the word "shall" the phrase "unless the directors otherwise decide".
- 4.4.4 Regulation 59 shall be modified by adding the following sentence at the end: "Deposit of an instrument of proxy shall not preclude a member from attending and voting at the meeting or at any adjournment of it".
- 4.4.5 An instrument appointing a proxy shall be in writing in any form which is usual or in any form which the Board may approve, and shall be executed by or on behalf of the appointor.
- 4.4.6 Regulation 62 shall be modified by deleting from paragraph (a) the words "deposited at" and by substituting instead the words "left at or sent by post to", by substituting in paragraph (a) the words "one hour" in place of "48 hours" and by substituting in paragraph (b) the words "one hour" in place of "24 hours".

#### **5. MODIFICATION OF RIGHTS**

Subject to the provisions of the Companies Act, the special rights attached to the Preference Shares may, in each case, only be altered or abrogated (whether or not the

Company is being wound up) with the written consent of all of the Preference Shareholders or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of such shares. To any such separate general meeting all the provisions of these Articles as to general meetings of the Company shall mutatis mutandis apply except that:

5.1.1 the necessary quorum shall be two or more persons holding or representing by proxy not less than 50 per cent in nominal value of the issued shares of the class (provided that should all the shares of a class be registered in the name of one holder that holder present in person or by proxy may constitute a meeting);

5.1.2 every holder of shares of the class shall be entitled on a poll to one vote for every such share held by him;

5.1.3 any holder of shares of the class present in person or by proxy may demand a poll; and

5.1.4 at any adjourned meeting of such holders one holder present in person or by proxy (whatever the number of shares held by him) shall be a quorum.

## **6. TRANSFERS OF PREFERENCE SHARES**

The Preference Shares are not transferable.

## **7. PURCHASE OF OWN SHARES**

Regulation 35 shall be modified by deleting the words "otherwise than out of distributable profits of the company or the proceeds of a fresh issue of shares" and substituting instead the words "whether out of its distributable profits or out of the proceeds of a fresh issue of shares or otherwise".

## **8. NOTICE OF GENERAL MEETINGS**

8.1 Regulation 37 shall be modified by deleting the words "eight weeks" and substituting instead the words "28 days".

8.2 An annual general meeting and an extraordinary general meeting called for the passing of a special resolution or an elective resolution shall be called by at least 21

clear days' notice. All other extraordinary general meetings shall be called by at least 14 clear days' notice but a general meeting, other than a meeting called for the passing of an elective resolution, may be called by shorter notice if it is so agreed:

- 8.2.1 in the case of an annual general meeting, by all the Members entitled to attend and vote at that meeting; and
- 8.2.2 in the case of any other meeting, by a majority in number of the Members having a right to attend and vote, being a majority together holding not less than such percentage in nominal value of the Shares giving that right as has been determined by elective resolution of the Members in accordance with the Companies Act, or if no such elective resolution is in force, a majority together holding not less than 95 per cent in nominal value of the shares giving that right.

## **9. PROCEEDINGS AT GENERAL MEETINGS**

- 9.1 A poll may be demanded by the chairman or by any Member present in person or by proxy and entitled to vote, and Regulation 46 shall be modified accordingly.
- 9.2 Regulation 53 shall be modified by adding the following sentence at the end: "If such a resolution in writing is described as a special resolution or as an extraordinary resolution or as an elective resolution, it shall have effect accordingly."
- 9.3 In the case of joint holders of a Share, the signature of any one of them is sufficient for the purposes of passing resolutions in writing under Regulation 53.
- 9.4 A Member of the Company which is a corporation may, by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the Company or at any meeting of any class of Members of the Company. The person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual Member. Unless the Board otherwise decides, a copy of such authority certified notarially or in some other way approved by the Board shall be left at or sent by post or facsimile transmission to the office or such other place within the United Kingdom as the Board may decide before such

representative is entitled to exercise any power on behalf of the corporation which he represents.

- 9.5 In the case of a corporation, a director or its secretary is deemed to be a duly authorised representative for the purposes of Regulations 53 and 54.

## **10. NUMBER OF DIRECTORS**

- 10.1 Until otherwise determined by ordinary resolution, there shall not be any maximum number of Directors but the minimum number shall be one.
- 10.2 When one Director only is in office, he shall have and may exercise all the powers and authorities in and over the affairs of the Company as conferred on the Board by these articles by written resolution.

## **11. APPOINTMENT AND RETIREMENT OF DIRECTORS**

- 11.1 The Directors shall not be subject to retirement by rotation. Reference in any Regulation to retirement by rotation shall be disregarded.
- 11.2 The Company may by ordinary resolution appoint a person who is willing to act as such to be a Director either to fill a vacancy or as an additional Director.
- 11.3 A Director is not required to hold any qualification shares in the Company.
- 11.4 A Director shall not be required to vacate his office or be ineligible for re-election, and no person shall be ineligible for appointment as a Director, by reason only of his attaining or having attained any particular age. Section 293 of the Companies Act shall not apply to the Company.

## **12. ALTERNATE DIRECTORS**

- 12.1 A Director may appoint any person willing to act as such, whether or not he is a Director of the Company, to be an alternate director and such person need not be approved by resolution of the Board, and Regulation 65 shall be modified accordingly.

- 12.2 An alternate director who is absent from the United Kingdom shall be entitled to receive notice of all meetings of the Board and meetings of committees of the Board, and Regulation 66 shall be modified accordingly.
- 12.3 Regulation 68 shall be modified by adding the following sentence at the end: "Any such notice may be left at or sent by post to the office or such other place as may be designated for the purpose by the directors".

### **13. POWERS OF DIRECTORS**

- 13.1 The Board may exercise all the powers of the Company to borrow money and to mortgage or charge all or any part of its undertaking, property and uncalled capital and, subject to the provisions of the Companies Act, to issue debentures, debenture stock and other securities either outright or as security for any debt, liability or obligation of the Company or of any third party.

### **14. DISQUALIFICATION AND REMOVAL OF DIRECTORS**

- 14.1 The office of a Director shall be vacated if:
- 14.1.1 he ceases to be a director by virtue of any provision of the Companies Act or becomes prohibited by law from being a director;
  - 14.1.2 he becomes bankrupt or makes any arrangement or composition with his creditors generally;
  - 14.1.3 he becomes, in the opinion of all his fellow Directors, incapable by reason of mental disorder of discharging his duties as a director;
  - 14.1.4 he resigns his office by notice in writing to the Company;
  - 14.1.5 both he and his alternate director (if any) are absent without the permission of the Board from meetings of the Board for six consecutive months, and the Board resolves that his office be vacated; or
  - 14.1.6 he is removed from office by notice addressed to him at his last-known address and signed by all his fellow Directors.

## **15. PROCEEDINGS OF DIRECTORS**

- 15.1 Regulation 88 shall be modified by excluding the third sentence and substituting instead the following sentence: "Every director shall receive notice of a meeting whether or not he is absent from the United Kingdom."
- 15.2 Any Director or his alternate may validly participate in a meeting of the Board or a committee of the Board through the medium of conference telephone or similar form of communication equipment provided that all persons participating in the meeting are able to hear and speak to each other throughout such meeting. A person so participating shall be deemed to be present in person at the meeting and shall accordingly be counted in a quorum and be entitled to vote. Subject to the Companies Act, all business transacted in such manner by the Board or a committee of the Board shall, for the purposes of these articles, be deemed to be validly and effectively transacted at a meeting of the Board or of a committee of the Board even if fewer than two Directors or alternate directors are physically present at the same place. 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.

## **16. DIRECTORS' APPOINTMENTS AND INTERESTS**

- 16.1 Without prejudice to the obligation of a Director to disclose his interest in contracts in accordance with the Companies Act, a Director may vote at any meeting of the Board or of a committee of the Board on any resolution concerning a matter in which he has, directly or indirectly, an interest, and, if he does so vote, his vote shall be counted and he shall be counted in the quorum present at a meeting in relation to any such resolution.
- 16.2 A Director may hold any other office or place of profit under the Company (other than the office of auditor) in conjunction with his office of director for such period and on such terms (as to remuneration and otherwise) as the Board may determine, and no Director or intending Director shall be disqualified by his office from contracting with the Company either with regard to his tenure of any such other office or place of profit or as vendor, purchaser or otherwise, nor shall any such contract, or any contract or arrangement entered into by or on behalf of the Company

in which any Director is in any way interested, be liable to be avoided, nor shall any Director so contracting or being so interested be liable to account to the Company for any profit realised by any such contract or arrangement by reason of such Director holding that office or of the fiduciary relationship established by his holding of that office.

- 16.3 Any Director may act by himself or through his firm in a professional capacity for the Company, and he or his firm shall be entitled to remuneration for professional services as if he were not a Director provided that nothing contained in this article shall authorise a director or his firm to act as auditor to the Company.

## **17. NOTICES**

- 17.1 A notice may be given by the Company to any Member, either personally or by sending it by first class prepaid post to his registered address, whether or not in the United Kingdom, and Regulations 111 to 116 shall be modified accordingly. The words "to all persons entitled to a share in consequence of the death or bankruptcy of a member and to the directors and auditors" in the last sentence of Regulation 38 shall not apply to the Company.

## **18. INDEMNITY AND INSURANCE**

- 18.1 Subject to the provisions of the Companies Act but without prejudice to any indemnity to which he may otherwise be entitled, every Director, alternate director, auditor or other officer of the Company shall be entitled to be indemnified out of the assets of the Company against all costs, charges, expenses, losses or liabilities which he may sustain or incur in or about the execution of his office or otherwise in relation to it, including (without prejudice to the generality of the foregoing) any liability incurred defending any proceedings, whether 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 in which judgement is given in his favour or in which he is acquitted, or which are otherwise disposed of without any finding or admission of material breach of duty on his part or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company.

- 18.2 The Board may exercise all the powers of the Company to purchase and maintain for any Director, auditor or other officer (including former directors and other officers), or any person, insurance against any liability for negligence default, breach of duty or breach of trust or any other liability in relation to the affairs of the Company which may be lawfully insured against.