

4287995

DATED \_\_\_\_\_ 2001

THE COMPANIES ACTS 1985 TO 1989

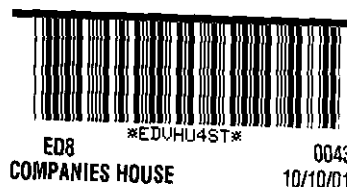
PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION OF

HAMSARD 2386 LIMITED

Company Number: 4287995

Amended by Special Resolution on  
1 October 2001



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## 1 PRELIMINARY

- 1.1 The regulations contained in Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 (SI 1985 No. 805) as amended by the Companies (Tables A to F) (Amendment) Regulations 1985 (SI 1985 No. 1052) (such Table being hereinafter called "Table A") shall apply to the Company save in so far as they are excluded or varied hereby and such regulations (save as so excluded or varied) and the Articles hereinafter contained shall be the Articles of Association of the Company.
- 1.2 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.
- 1.3 In these Articles the expression "Business Day" shall mean a day (other than a Saturday or a Sunday) on which banks are open for general inter-bank business in London and New York.

## 2 ALLOTMENT OF SHARES

- 2.1 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 (subject to section 80 of the Act and to Article 2.4 below) allot, grant options over or otherwise dispose of the same, to such persons, on such terms and in such manner as they think fit.
- 2.2 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 14 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, within 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 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 therefor than the terms on which they were offered to the members. The foregoing provisions of this Article 2.2 shall have effect subject to section 80 of the Act.
- 2.3 In accordance with section 91(1) of the Act sections 89(1) and 90(1) to (6) (inclusive) of the Act shall not apply to the Company.
- 2.4 The directors are generally and unconditionally authorised for the purposes of section 80 of the Act to exercise any power of the Company to allot and grant rights to subscribe for or convert securities into shares of the Company up to the amount of the authorised share capital with which the Company is incorporated at any time or times during the period of five years from the date of incorporation and the directors may, after that period, allot any shares or grant any such rights under this authority in pursuance of an offer or

agreement so to do made by the Company within that period. The authority hereby given may at any time (subject to the said section 80) be renewed, revoked or varied by ordinary resolution.

### 3 SHARES

- 3.1 The authorised share capital of the Company is US\$1,000,000,001 divided into 10,000,000 ordinary shares of US\$100 each and 1 Deferred Share of US\$ each.
- 3.2 Any share, including any subscriber share, may be issued and allotted unpaid, partly paid or fully paid, in respect of nominal value and/or premium, as the directors in their absolute discretion think fit.
- 3.3 The Deferred Share shall have the following rights and shall be subject to the following restrictions:
- (a) The Deferred Share shall on a return of capital on winding-up or otherwise entitle the holder only to the repayment of the amounts paid up on such shares after repayment of the capital paid up on the Ordinary Shares and the payment of US\$1,000,000 on each Ordinary Share and shall not entitle the holder to the payment of any dividend.
  - (b) The Deferred Share shall not confer upon the holder(s) thereof any right to receive notice of or to attend or vote at any General Meeting of the Company.
  - (c) The Company shall be deemed to have the irrevocable authority at any time to appoint any person to execute on behalf of any holder of the Deferred Share a transfer thereof (and/or an agreement to transfer the same) to such person as the Company may determine for not more than US\$1 for all the Deferred Share without obtaining the sanction of the holder or holders thereof and pending such transfer to retain the certificate for such Deferred Share.
  - (d) The Company may at its option at any time after three years after the allotment of the Deferred Share redeem the Deferred Share then in issue, at a price not exceeding US\$1 for all the Deferred Share redeemed, at any time upon giving the registered holder of such share not less than 28 days' previous notice in writing of its intention so to do, fixing a time and place for the redemption and at such time the Company shall pay the redemption monies (if any) to one of the registered holders to be selected by lot.

### 4 CALLS ON SHARES

- 4.1 In these Articles, a "Callable Person" means, in relation to any share which is not fully paid as to both par value and any premium thereon, the person whose name appears in the Company's register of members as the first registered holder of that share (and, where joint holders so appear, they shall be jointly liable), whether or not he is a registered holder of that or any other share in the Company, or a person or persons substituted for such Callable Person pursuant to the provisions of Article 4.2 below and otherwise by agreement between that person (or those persons), such Callable Person and the Company.

4.2

- (a) Notwithstanding the provisions of Article 4.1 above, a Callable Person may request that another person or persons be substituted as such Callable Person by written request to the directors and by providing such information as the directors may require in order to enable them to evaluate the request.
  - (b) The directors shall respond to and indicate their approval or disapproval of a request for substitution of a Callable Person within 30 days of receipt of a request pursuant to Article 4.2(a) above. Such response shall be in writing and shall be furnished to the Callable Person and the person proposed to be substituted as the Callable Person.
  - (c) If the directors approve a substitution of a Callable Person, the person or persons to be substituted shall, subject to its or their execution of such agreement between that person (or those persons), the Callable Person and the Company as the directors may approve, become for all purposes of this Article 4 the Callable Person and the obligations of the substituting person under this Article 4 shall thereafter be extinguished.
- 4.3 The directors may make calls upon any Callable Person in respect of any moneys unpaid upon shares in relation to which such person is the Callable Person (whether in respect of nominal value or premium), and such Callable Person shall (subject to receiving at least 10 clear days' notice specifying when and where payment is to be made) pay to the Company as required by the notice the amount called on those shares. Calls may not be made on any person other than a Callable Person.
- 4.4 Subject to Article 4.5 and Article 4.6 below the directors may not make calls upon any Callable Person except that on or after the following dates they may call the following specified aggregate sums from all the persons who at that time are Callable Persons and, if more than one, on a basis proportionate to the shareholdings of those persons (or, if appropriate, the shareholdings of the persons by which they have been substituted as Callable Persons pursuant to Article 4.2):
- (a) on or after 21 December 2001 they may call US\$4,017,750;
  - (b) on or after 21 March 2002 they may call a further US\$4,028,750;
  - (c) on or after 20 June 2002 they may call a further US\$4,028,750;
  - (d) on or after 20 September 2002 they may call a further US\$4,028,750;
  - (e) on or after 21 December 2002 they may call a further US\$4,028,750;
  - (f) on or after 21 March 2003 they may call a further US\$4,028,750;
  - (g) on or after 20 June 2003 they may call a further US\$4,028,750;
  - (h) on or after 20 September 2003 they may call a further US\$4,028,750;
  - (i) on or after 21 December 2003 they may call US\$4,028,750;
  - (j) on or after 21 March 2004 they may call a further US\$4,028,750;
  - (k) on or after 20 June 2004 they may call a further US\$4,028,750;

- (l) on or after 20 September 2004 they may call a further US\$4,028,750;
- (m) on or after 21 December 2004 they may call a further US\$4,028,750;
- (n) on or after 21 March 2005 they may call a further US\$4,028,750;
- (o) on or after 20 June 2005 they may call a further US\$4,028,750;
- (p) on or after 20 September 2005 they may call a further US\$4,028,750;
- (q) on or after 21 December 2005 they may call a further US\$4,028,750;
- (r) on of after 21 March 2006 they may call a further US\$4,028,750;
- (s) on or after 21 March 2006 they may call a further US\$275,000,000

each such specific date being a **"Call Date"**

Where any Callable Person would be required pursuant to any call to pay a fraction of a dollar, the directors may round the amount he is required to pay up or down to the nearest whole dollar.

- 4.5 The directors may at any time within a period of 10 days prior to the end of any month (such period being the **"Call Period"**) call for a further US\$275,000,000 and an Additional Amount defined in Article 4.6 such calls to be made on the basis described in Article 4.3 and following any such call being made no further call shall be made therefor pursuant to Article 4.4(s) or 4.5. In the event that a call in respect of an Additional Amount is made then the amount callable on the next Call Date under Article 4.4 will be reduced by the Additional Amount.
- 4.6 The Additional Amount is defined as:
- (a) if the first day of the Call Period commences one month after the preceding Call Date the amount of US\$1,342,917; or
  - (b) if the first day of the Call Period commences two months after the preceding Call Date the amount of US\$2,685,833.
- 4.7 Where the directors make a call in accordance with Article 4.5, the Callable Person shall substitute another person or persons as such Callable Person in respect of all future calls in accordance with Article 4.2.
- 4.8 Regulations 12 and 14 in Table A shall not apply to the Company.
- 4.9 Payment of the amounts due as set out in Article 4.4 shall be made by way of electronic transfer for same day value to the Company to an account as, and on or before the date, specified in the relevant notice of call, provided that no payment in respect of any call can be made or accepted before the Earliest Payment Date for the relevant call. For this purpose, the Earliest Payment Date for any call is the day 10 days after the earliest date on which such call could be made unless this day is not a Business Day in which case the Earliest Payment Date will be the next Business Day subsequent to the expiration of the 10 days.

- 4.10 Amounts payable in respect of a share on allotment, whether in respect of nominal value or premium, shall be deemed not to be a call, and Regulation 16 in Table A shall not apply to the Company.
- 4.11 If a call remains unpaid after it has become due and payable, the person from whom it was called shall pay interest on the amount unpaid from (and including) the day it became due and payable up to the date of actual payment (after as well as before judgment) at a rate which is 4 per cent per annum above US prime from time to time. The interest will accrue from day to day and shall be payable on demand and shall be compounded monthly in arrears. Regulation 15 in Table A shall not apply to the Company.
- 4.12 The liability of any member in default in respect of a call shall be increased by the addition at the end of the first sentence of regulation 18 in Table A of the words "and all expenses that may have been incurred by the Company by reason of such non-payment".
- 4.13 Unless a Callable Person notifies the Company of any other address, the last address standing in the Company's register of members as the address of that Callable Person shall be deemed by the Company to be his address for all purposes.

## **5 LIEN**

The lien conferred by regulation 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. Regulation 8 in Table A shall be modified accordingly.

## **6 GENERAL MEETINGS AND RESOLUTIONS**

- 6.1 Every notice convening a general meeting shall comply with the provisions of section 372(3) of the Act as to giving information to members in regard to their right to appoint proxies; and notices of and other communications relating to any general meeting which any member is entitled to receive shall be sent to the directors and to the auditors for the time being of the Company and to every Callable Person.
- 6.2
- (a) No business shall be transacted at any general meeting unless a quorum is present. Subject to Article 6.2(b) below, two persons entitled to vote upon the business to be transacted, each being a member or a proxy for a member or a duly authorised representative of a corporation, shall be a quorum.
  - (b) If and for so long as the Company has only one member, that member present in person or by proxy or (if that member is a corporation) by a duly authorised representative shall be a quorum.
  - (c) 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.

- (d) Regulations 40 and 41 in Table A shall not apply to the Company.

### 6.3

- (a) If and for so long as the Company has only one member and that member takes any decision which is required to be taken in general meeting or by means of a written resolution, that decision shall be as valid and effectual as if agreed by the Company in general meeting, subject as provided in Article 6.3(c) below.
- (b) Any decision taken by a sole member pursuant to Article 6.3(a) above shall be recorded in writing and delivered by that member to the Company for entry in the Company's minute book.
- (c) Resolutions under section 303 of the Act for the removal of a director before the expiration of his period of office and under section 391 of the Act for the removal of an auditor before the expiration of his period of office shall only be considered by the Company in general meeting.

- 6.4 A member present at a meeting by proxy shall be entitled to speak at the meeting and shall be entitled to one vote on a show of hands. In any case where the same person is appointed proxy for more than one member he shall on a show of hands have as many votes as the number of members for whom he is proxy. Regulation 54 in Table A shall be modified accordingly.

- 6.5 Unless resolved by ordinary resolution that regulation 62 in Table A shall apply without modification, the instrument appointing a proxy and any authority under which it is executed or a copy of such authority certified notarially or in some other way approved by the directors may be deposited at the place specified in regulation 62 in Table A up to the commencement of the meeting or (in any case where a poll is taken otherwise than at the meeting) of the taking of the poll or may be handed to the chairman of the meeting prior to the commencement of the business of the meeting.

## 7 APPOINTMENT OF DIRECTORS

### 7.1

- (a) Regulation 64 in Table A shall not apply to the Company.
- (b) The maximum number and minimum number respectively of the directors may be determined from time to time by ordinary resolution. Subject to and in default of any such determination there shall be no maximum number of directors and the minimum number of directors shall be one. Whenever the minimum number of directors is 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 regulation 89 in Table A shall be modified accordingly.

- 7.2 The directors shall not be required to retire by rotation and regulations 73 to 80 (inclusive) in Table A shall not apply to the Company.

- 7.3 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 14 nor more than 35 clear days before the date appointed for the general meeting, notice signed by a member qualified to vote at the general meeting has been given to the Company of the intention to propose that person for appointment, together with notice signed by that person of his willingness to be appointed.

#### 7.4

- (a) Subject to Article 7.3 above, the Company may by ordinary resolution appoint any person who is willing to act to be a director, either to fill a vacancy or as an additional director.
- (b) 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 7.1(b) above as the maximum number of directors and for the time being in force.

- 7.5 In any case where as the result of death or deaths the Company has no members and no directors the personal representatives of the last member to have died shall have the right by notice in writing to appoint a person to be a director of the Company and such appointment shall be as effective as if made by the Company in General Meeting pursuant to Article 7.4(a) above. For the purpose of this article, where two or more members die in circumstances rendering it uncertain which of them survived the other or others, the members shall be deemed to have died in order of seniority, and accordingly the younger shall be deemed to have survived the elder.

### 8 BORROWING POWERS

- 8.1 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.

### 9 ALTERNATE DIRECTORS

- 9.1 Unless otherwise determined by the Company in general meeting by ordinary resolution 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 regulation 66 in Table A shall be modified accordingly.
- 9.2 A director, or any such other person as is mentioned in regulation 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 of any committee of the directors to one vote for every director whom he represents in addition to his own vote (if any) as a director, but he shall count as only one for the purpose of determining whether a quorum is present.

## **10 GRATUITIES AND PENSIONS**

- 10.1 The directors may exercise the powers of the Company conferred by its Memorandum of Association in relation to the payment of pensions, gratuities and other benefits and shall be entitled to retain any benefits received by them or any of them by reason of the exercise of any such powers.
- 10.2 Regulation 87 in Table A shall not apply to the Company.

## **11 PROCEEDINGS OF DIRECTORS**

- 11.1 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 a matter in which he has, directly or indirectly, any kind of interest whatsoever, and if he shall vote on any such resolution 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.
- 11.2 Each director shall comply with his obligations to disclose his interest in contracts under section 317 of the Act.
- 11.3 Regulations 94 to 97 (inclusive) in Table A shall not apply to the Company.
- 11.4 The Board, or a committee of the Board, may hold meetings by telephone, either by conference telephone connection(s) or by a series of telephone conversations, or by exchange of facsimile transmissions and addressed to the secretary. The views of the Board, or a committee of the Board, as ascertained by such telephone conversations or facsimile transmissions and communicated to the secretary shall be treated as votes in favour of or against a particular resolution. A resolution passed at any meeting held in this manner and signed by the Chairman shall be as valid and effectual as if it had been passed at a meeting of the Board (or, as the case may be, of that committee) duly convened and held.

## **12 THE SEAL**

- 12.1 If the Company has a seal it shall only be used with the authority of the directors or of a committee of directors. The directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a director and by the secretary or second director. The obligation under regulation 6 of Table A relating to the sealing of share certificates shall apply only if the Company has a seal. Regulation 101 in Table A shall not apply to the Company.
- 12.2 The Company may exercise the powers conferred by section 39 of the Act with regard to having an official seal for use abroad, and such powers shall be vested in the directors.

## **13 NOTICES**

- 13.1 Without prejudice to regulations 112 to 116 inclusive in Table A, the Company may give notice to a member by electronic means provided that:-
- (a) the member has given his consent in writing to receiving notice communicated by electronic means and in such consent has set out an address to which the notice shall be sent by electronic means; and

- (b) the electronic means used by the Company enables the member concerned to read the text of the notice.

- 13.2 A notice given to a member personally or in a form permitted by Article 13.1 above shall be deemed to be given on the earlier of the day on which it is delivered personally and the day on which it was despatched by electronic means, as the case may be.
- 13.3 Regulation 115 in Table A shall not apply to a notice delivered personally or in a form permitted by Article 13.1 above.
- 13.4 In this article "electronic" means actuated by electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy and "by electronic means" means by any manner only capable of being so actuated.

#### **14 INDEMNITY**

- 14.1 Every director or other officer or auditor of the Company shall be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the execution of the duties of his office or otherwise in relation thereto, including any liability incurred by him in defending any proceedings, whether civil or criminal, 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 or 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 in so far as its provisions are not avoided by section 310 of the Act.
- 14.2 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.
- 14.3 Regulation 118 in Table A shall not apply to the Company.

#### **15 TRANSFER OF SHARES**

- 15.1 Subject to Article 15.2 below, 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 regulation 24 in Table A shall not apply to the Company.
- 15.2 The directors shall register every transfer of a share (whether fully paid or not) provided:-
- (a) it is lodged at the office or at such other place as the directors may appoint and is accompanied by the certificate for the shares to which it relates and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer;
  - (b) it is in respect of only one class of shares; and
  - (c) it is in favour of not more than four transferees.

## **16 MEETINGS**

- 16.1 In this Article "electronic" means actuated by electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy and "by electronic means" means by any manner only capable of being so actuated.
- 16.2 A person in communication by electronic means with the chairman and with all other parties to a meeting of the directors or of a committee of the directors shall be regarded for all purposes as personally attending such a meeting provided that but only for so long as at such a meeting he has the ability to communicate interactively and simultaneously with all other parties attending the meeting including all persons attending by electronic means.
- 16.3 A meeting at which one or more of the directors attends by electronic means is deemed to be held at such place as the directors shall at the said meeting resolve. In the absence of a resolution as aforesaid, the meeting shall be deemed to be held at the place, if any, where a majority of the directors attending the meeting are physically present, or in default of such a majority, the place at which the chairman of the meeting is physically present.

## **17 CAPITALISATION OF PROFITS**

- 17.1 Regulation 110 in Table A shall not apply to the Company.