

Company Number: 4287995

## THE COMPANIES ACT 1985

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PRIVATE COMPANY LIMITED BY SHARES

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## WRITTEN RESOLUTION

of



HAMSARD 2386 LIMITED

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PASSED THE 1 OCTOBER 2001

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I, the undersigned, being the sole member of the above named Company who, at the date of these resolutions will be entitled to receive notice of and attend and vote at general meetings of the Company in respect of the Resolutions set out below do hereby agree to and make the following resolutions which shall, pursuant to Section 381 Companies Act 1985 have effect as Ordinary and Special Resolutions and agree that the said resolutions shall, for all purposes, be as valid and effective as if the same had been passed at a general meeting of the Company duly convened and held:

## Ordinary Resolutions

- 1 THAT the authorised share capital of the Company be and is hereby increased from US\$1 to US\$1,000,000,001 by the creation of 10,000,000 Ordinary Shares of US\$100 each.
- 2 THAT the directors of the Company be and are hereby authorised pursuant to section 80 Companies Act 1985 generally and unconditionally to exercise each and every power of the Company to allot relevant securities (as defined in that section) up to a maximum amount in nominal value of the authorised but unissued share capital of the Company.
- 3 THAT the one issued Ordinary Share in the Ordinary Share Capital of the Company be re-designated as a Deferred Share having the rights set out in the Articles of Association as amended by Resolution 3 above.

## Special Resolution

4 THAT the Articles of Association be altered and amended as follows:

- (a) Article 3.1 be amended to read "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\$1.00 each"
- (b) The insertion of the following as Article 3.3 of the Companies Articles of Association:
 

"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 share 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 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."
- (c) The insertion of the following as Article 4 of the Company's Articles of Association and the subsequent renumbering of the subsequent article of the Company's Articles of Association:
- (d) The insertion of the following as Article 1.3 of the Company's Articles of Association:-
 

"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."

## 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;
- (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".

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.



For and on behalf of Pinnacle Automation, Inc