

I certify that this is a true copy of the Written Resolution passed
by the company on 22 December 2010

A.P. Mackay
.....
Company Secretary

Company number SC 155016

PRIVATE COMPANY LIMITED BY SHARES

WRITTEN RESOLUTIONS

of

MACKAY'S LTD (Company)

16th December 2010

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the Directors of the Company propose that the following resolutions are passed as special resolutions by way of written resolutions (**Resolutions**).

SPECIAL RESOLUTIONS

1. **THAT** the rights attached to the Ordinary Shares of £1 each in the capital of the Company be varied by the creation, allotment and issue of 340,000 3% Floating Rate Cumulative Redeemable Preferred Ordinary Shares of £1 each in the capital of the Company.

2. **THAT** the authorised share capital of the Company be increased from £250,000 divided into 250,000 Ordinary Shares of £1 each to £590,000 divided into 250,000 Ordinary Shares of £1 each and 340,000 3% Floating Rate Cumulative Redeemable Preferred Ordinary Shares of £1 each having the rights and being subject to the restrictions set out in the Articles of Association of the Company.

3. **THAT** Clause 5 in the Memorandum of Association of the Company be deleted and the following substituted therefor:

"The authorised share capital of the Company is £ 590,000 divided into 250,000 Ordinary Shares of £1 each and 340,000 3% Floating Rate Cumulative Redeemable Preferred Ordinary Shares of £1 each".

4. **THAT** the Articles of Association of the Company be amended by adopting the following articles and inserting the same as articles 3 to 8 and that the remaining articles and article references in the Articles of Association be renumbered accordingly:

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SHARE CAPITAL

In these Articles, the following words have the following meanings:

2006 Act: the Companies Act 2006;

Asset Sale: the sale of the whole or substantially the whole of the undertaking and business of the Company;

Available Profits: the profits available for distribution within the meaning of Part 23 of the 2006 Act;

Base: the official bank rate set from time to time by the Bank of England or if the Bank of England ceases to set the official bank rate the substitute equivalent rate set by the Bank of England (or if there is no equivalent bank rate then the average of the base rates of the four largest clearing banks in London from time to time) as averaged for the relevant period;

Business Day: a day (other than a Saturday or a Sunday) on which commercial banks are open for general business in Scotland;

Listing: the successful application and admission of all or any of the shares in the capital of the Company, or securities representing such shares to the Official List of the UK Listing Authority or on the AIM market operated by the London Stock Exchange plc, or to any recognised investment exchange (as defined in section 285 of the Financial Services and Markets Act 2000 (as amended));

Ordinary Shares: the ordinary shares of £1 each in the capital of the Company;

Preferred Dividends: the 3% floating rate cumulative preferential dividends referred to in Article 5;

Preferred Ordinary Shares: the 3% floating rate cumulative redeemable preferred ordinary shares of £1 each in the capital of the Company;

Sale: an Asset Sale or a Share Sale;

Share Sale: the sale of (or the grant of a right to acquire or to dispose of) any of the shares in the capital of the Company (in one transaction or as a series of transactions) which will result in the buyer of those shares (or grantee of that right) and persons acting in concert with him (within the meaning of The City Code on Takeovers and Mergers) (excluding for these purposes existing shareholders in the capital of the Company at the date of adoption of this Article) together acquiring a controlling interest (within the meaning of section 840 Income and Corporation Taxes Act 1988 as amended) in the Company, except where the shareholders and the proportion of shares held by each of them following completion of the sale are the same as the shareholders and their shareholdings in the Company immediately before the sale;

Subsidiary and Subsidiary Undertaking: shall have the meanings given to them in the 2006 Act.

4. SHARES

4.1 The authorised share capital of the Company at the date of adoption of this Article is £590,000 divided into:

- (a) 340,000 Preferred Ordinary Shares; and
- (b) 250,000 Ordinary Shares.

4.2 Unless the context requires otherwise, references in these Articles to shares of a particular class shall include shares created and/or issued after the date of adoption of this Article and ranking *pari passu* in all respects (or in all respects except only as to the date from which those shares rank for dividend) with the shares of the relevant class then in issue.

4.3 Except as provided in these Articles, the Preferred Ordinary Shares and the Ordinary Shares shall rank *pari passu* in all respects but shall constitute separate classes of shares.

5. DIVIDENDS

5.1 In any financial year, the Available Profits of the Company shall be used to pay dividends as set out in this Article 5.

5.2 The Company shall, without resolution of the Board or the Company in general meeting and before application of any Available Profits to reserve or for any other purpose, pay the holders of the Preferred Ordinary Shares a cumulative preferential dividend (**Preferred Dividend**) at the rate of 3% above Base per Preferred Ordinary Share, excluding any associated tax credit, which shall be paid annually on 31 December in each year to the persons registered as holders of such shares at that date and which shall accrue daily and be calculated in respect of the period to such dates assuming a 365 day year. The first payment shall be made on 31 December 2010 for the period from and including the date of issue of the Preferred Ordinary Shares to such date.

5.3 Once all the Preferred Dividends have been paid, any Available Profits remaining in any financial year that the Company determines to distribute shall be applied first in paying to the holders of Ordinary Shares a dividend on each Ordinary Share of an amount not greater than the aggregate amount of dividend paid or payable on each Preferred Ordinary Share in respect of that financial year and, subject thereto, any balance shall be distributed among the holders of the Ordinary Shares and Preferred Ordinary Shares (*pari passu* as if they were one class of share) according to the amount paid up or credited as paid up on each such share.

5.4 Subject to the 2006 Act and these Articles, the Board may pay interim dividends if the Available Profits for the relevant period justify such payment.

- 5.5 Each dividend shall be distributed to the appropriate shareholders pro rata according to the number of shares held by them respectively and shall accrue daily (assuming a 365-day year). All dividends shall be paid in cash.
- 5.6 If the Company is unable to pay the Preferred Dividend in full on the due date because there are insufficient Available Profits, it shall pay the Preferred Dividend on that date to the extent that it is lawfully able to do so.
- 5.7 Unless the Company has insufficient Available Profits, the Preferred Dividend shall be paid immediately on the due date. Such payment shall be made notwithstanding any other provision of these Articles and in particular notwithstanding that there has not been a recommendation of the directors or resolution of the Company in general meeting.
- If the Preferred Dividend is not paid on the due date, it shall immediately become a debt due by the Company and shall be payable in priority to any other dividend and shall attract interest at an annual rate of 2% per annum above the Preferred Dividend rate calculated daily assuming a 365-day year from and including the date any sum becomes due to the actual date of payment. Such interest shall accumulate and form part of the Preferred Dividend to which it relates.
- 5.8 If the Company is in arrears in paying the Preferred Dividend, the first Available Profits arising shall be applied in the following order of priority:
- (a) first, in or towards paying off any arrears or unpaid amounts of Preferred Dividend; and
 - (b) second, in or towards redeeming all Preferred Ordinary Shares that have not been redeemed on or by the due date for redemption in accordance with Article 7.
- 5.9 The Company shall procure so far as it is able that each of its subsidiaries and subsidiary undertakings which has Available Profits shall from time to time declare and pay to the Company such dividends as are necessary to permit lawful and prompt payment by the Company of the Preferred Dividend and the redemption of any Preferred Ordinary Shares on their due date for redemption.
- 6. LIQUIDATION: RETURN OF CAPITAL**
- 6.1 On a return of assets on liquidation, capital reduction or otherwise (other than a conversion, redemption or purchase of shares), the assets of the Company remaining after the payment of its liabilities shall be applied in the following order of priority:
- (a) first, in paying to the holders of the Preferred Ordinary Shares, £1 per Preferred Ordinary Share, together with a sum equal to any arrears and accruals of the Preferred Dividend calculated down to and including the date of the return of capital and, if there is a shortfall of assets remaining to satisfy the entitlements of holders of Preferred Ordinary Shares in full, the proceeds shall be distributed to the holders of the Preferred Ordinary Shares in proportion to the amounts due to each such share held;

- (b) second, in paying to each holder of Ordinary Shares in respect of each Ordinary Share of which he is the holder £1 per share;
- (c) third, the balance of such assets shall be distributed amongst the holders of the Ordinary Shares pro rata.

7. REDEMPTION OF PREFERRED ORDINARY SHARES

7.1 The Preferred Ordinary Shares shall, subject to the 2006 Act, be redeemed as follows:

- (a) the Company shall redeem:
 - (i) 68,000 of the Preferred Ordinary Shares then in issue, on 31 December 2011;
 - (ii) 68,000 of the Preferred Ordinary Shares then in issue on 31 December 2012;
 - (iii) 68,000 of the Preferred Ordinary Shares then in issue on 31 December 2013;
 - (iv) 68,000 of the Preferred Ordinary Shares then in issue on 31 December 2014; and
 - (v) 68,000 of the Preferred Ordinary Shares then in issue on 31 December 2015.
- (b) the Company shall redeem all the Preferred Ordinary Shares then in issue immediately prior to either a Sale or a Listing and a Sale or Listing shall be conditional on such redemption in full together with payment of all accruals and arrears of Preferred Dividend;
- (c) subject to the receipt of any necessary consents, the Company may, at any time on not less than 25 Business Days' notice in writing to the holders of Preferred Ordinary Shares, redeem, in multiples of not less than 68,000 Preferred Ordinary Shares, such total number of Preferred Ordinary Shares as is specified in such notice.

7.2 Where Preferred Ordinary Shares are to be redeemed in accordance with Article 7.1(b) or (c), the Company shall give to the holders of the Preferred Ordinary Shares falling to be redeemed prior notice in writing of the redemption (Company Redemption Notice). The Company Redemption Notice shall specify the particular Preferred Ordinary Shares to be redeemed and the date fixed for redemption (which, in the case of a redemption pursuant to Article 7.1(b), shall be the expected date for redemption) and shall be given not less than 25 nor more than 28 Business Days prior to the date fixed for redemption. In the case of a redemption pursuant to Article 7.1(b), the Company Redemption Notice shall be conditional on such Sale or Listing occurring within one month of the date fixed for redemption, failing which the Company Redemption Notice shall be revoked.

- 7.3 Notwithstanding Article 7.1, the holders of the Preferred Ordinary Shares may require the Company, by serving on it a notice (Shareholder Redemption Notice), to redeem such amount of Preferred Ordinary Shares as is specified in the Shareholder Redemption Notice if, at any time:
- (a) the Company has not paid the Preferred Dividend within 30 Business Days of the due date (irrespective of whether such dividend would be unlawful);
 - (b) the Company has not redeemed any Preferred Ordinary Shares in accordance with the requirements of these Articles within 30 Business Days of the due date (irrespective of whether such redemption would be unlawful);
 - (c) there has been proposed a resolution for the winding-up of the Company, a resolution for a reduction in the capital of the Company or a resolution varying any of the rights attaching to the Preferred Ordinary Shares.
- 7.4 The holders of the Preferred Ordinary Shares shall be entitled to withdraw the Shareholder Redemption Notice if they serve the Company with written notice to that effect before the redemption takes place.
- 7.5 Where a Shareholder Redemption Notice has been duly given, the Company shall be obliged, subject to having sufficient Available Profits with which to redeem the same, to redeem the Preferred Ordinary Shares specified in the Shareholder Redemption Notice on the first Business Day following the receipt of such notice (which day shall be the date fixed for redemption).
- 7.6 If the Company is unable, because of having insufficient Available Profits, to redeem in full the relevant number of Preferred Ordinary Shares on the date fixed for redemption, the Company shall redeem as many of such Preferred Ordinary Shares as can lawfully and properly be redeemed and the Company shall redeem the balance as soon as it is lawfully and properly able to do so.
- 7.7 If the Company is at any time redeeming less than all the Preferred Ordinary Shares from time to time in issue, the number of Shares to be redeemed shall (subject to any contrary requirement in a Shareholder Redemption Notice) be apportioned between those holders of the Preferred Ordinary Shares then in issue *pro rata* according to the number of Preferred Ordinary Shares held by them respectively at the date fixed for redemption.
- 7.8 On the date fixed for redemption, each of the holders of the Preferred Ordinary Shares falling to be redeemed shall be bound to deliver to the Company, at the Company's registered office, the certificate(s) for such Preferred Ordinary Shares (or an indemnity, in a form reasonably satisfactory to the Board, in respect of any lost certificate) in order that the same may be cancelled. Upon such delivery, the Company shall pay to the holders (or, in the case of any joint holders, to the holder whose name stands first in the Company's register of members in respect of such Shares) the amount due in respect of such redemption against delivery of a proper receipt for the redemption monies.

- 7.9 If any certificate delivered to the Company pursuant to Article 7.8 includes any Preferred Ordinary Shares not falling to be redeemed on the date fixed for redemption, a new certificate in respect of those shares shall be issued to the holder(s) thereof as soon as practicable thereafter (and, in any event, within 20 Business Days thereafter).
- 7.10 There shall be paid on the redemption of each Preferred Ordinary Share an amount equal to:
- (a) £1; and
 - (b) all accruals and/or unpaid amounts of Preferred Dividend in respect thereof, calculated down to and including the date of actual payment
- and such aggregate amount shall, subject to the Company having Available Profits or other monies which may be lawfully applied for such redemption, at that time become a debt due from and immediately payable by the Company to the holders of such Preferred Ordinary Shares.
- 7.11 If the Company is unable to pay the amounts referred to in Article 7.10 in full on a date fixed for redemption by reason of having insufficient Available Profits or not having other monies which may be lawfully applied for such redemption, then the amount so unpaid shall be increased by an amount equal to the interest which would have accrued had interest on the unpaid amount been charged at 2% per annum above the Preferred Dividend rate in respect of the period from and including the due date down to and including the date of actual payment and shall be paid as soon thereafter as, and to the extent that, Available Profits or other monies that may lawfully be applied for such redemption have arisen.
- 7.12 If the Company fails or is unable to redeem any of the Preferred Ordinary Shares in full on the date due for redemption for any reason whatsoever, all Available Profits (or other monies which may lawfully be applied for the purpose of redeeming shares) shall be applied in the order of priority specified in Article 5.8.

8. VOTING

- 8.1 Subject to any other provisions in these Articles concerning voting rights, shares in the Company shall carry votes as follows:
- (a) the Ordinary Shares shall confer on each holder of Ordinary Shares the right to receive notice of and to attend, speak and vote at all general meetings of the Company, and each Ordinary Share shall carry one vote per share;
 - (b) the Preferred Ordinary Shares shall in the circumstances set out in Article 8.2 confer on each holder of such shares the right to receive notice of and to attend, speak and vote at all general meetings of the Company, and each Preferred Ordinary Share shall carry one vote per share until payment or redemption has been effected, or in relation to such resolutions as are referred to in Article 8.2;

- 8.2 The Preferred Ordinary Shares shall, subject as herein provided, carry the right to vote:
- (a) if the Company has not paid any Preferred Dividend within 30 Business Days of the due date (irrespective of whether unlawful);
 - (b) if the Company has not redeemed any of the Preferred Ordinary Shares within 30 Business Days of the due date (whether or not unlawful);
 - (c) if there has been proposed a resolution for the winding up of the Company, reduction in capital of the Company or a resolution varying the class rights of the Preferred Ordinary Shares.
- 8.3 Where shares confer a right to vote, votes may be exercised:
- (a) on a show of hands by every shareholder entitled to vote who (being an individual) is present in person or by proxy or (being a corporation) is present by a representative or by a proxy (in which case, each shareholder holding shares with votes shall have one vote); or
 - (b) on a poll by every shareholder entitled to vote who (being an individual) is present in person or by proxy or (being a corporation) is present by a representative or by a proxy (in which case, each shareholder holding shares with votes shall have one vote for each such share held)."
5. **THAT** subject to the passing of resolutions 1 to 4 above the Directors be and they are hereby generally and unconditionally authorised for the purposes of section 551 of the 2006 Act to exercise all powers of the Company to allot shares in the Company up to an aggregate nominal amount of £340,000, provided that this authority shall, unless renewed, varied or revoked by the Company in general meeting, expire on the date falling five years after the date of passing of this resolution, but the Company may, before such expiry, make an offer or agreement which would or might require shares to be allotted after such expiry, and the Directors may allot shares in pursuance of such offer or agreement notwithstanding that the authority conferred by this resolution has expired. This authority is in substitution for all previous authorities conferred upon the Directors pursuant to section 80 of the Companies Act 1985 or section 551 of the 2006 Act.
6. **THAT** subject to the passing of resolution 5 above, the Directors be empowered to allot and issue 340,000 3% Floating Rate Cumulative Redeemable Preferred Ordinary Shares of £1 each free of the restrictions and provisions set out in renumbered Article 10 of the Articles of Association of the Company.

Director

AGREEMENT

Please read the notes at the end of this document before signifying your agreement to the Resolutions.

The undersigned, a person entitled to vote on the Resolutions on 16th December 2010, hereby irrevocably agrees to the Resolutions:

Signed by David Fitch

Date:

David Fitch
16-12-10

Signed by

A.R. Macgregor
17.12.10.

17/12/10

Date:

[Signature]
17-12-10.

Signed by

[Signature]
22 Dec 2010.

Date:

17/12/10
on behalf of the
shareholders
returning the
resolutions

NOTES

1. If you agree with the Resolutions, please indicate your agreement by signing and dating this document where indicated above and returning the signed version either by hand or by post to the Company Secretary at Unit 4, James Chalmers Road, Kirkton Industrial Estate, Arbroath DD11 3LR

You may not return the Resolutions by any other method.

If you do not agree to the Resolutions, you do not need to do anything: you will not be deemed to agree if you fail to reply.

2. Once you have indicated your agreement to the Resolutions, you may not revoke your agreement.

3. Unless, by 28 days after the date hereof, sufficient agreement has been received for the Resolutions to pass, they will lapse. If you agree to the Resolutions, please ensure that your agreement reaches the Company Secretary before or during this date.