

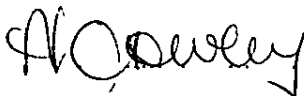
The Companies Act 2006 - private company limited by shares
Written resolution of MITIE Property Services (UK) Limited (the "Company")
(registered number 2935593)

Passed on 10 July 2009

Pursuant to a written resolution of the Company circulated on 19 June 2009 the following resolution was passed on 10 July 2009 as a special resolution of the Company, the holders of the A ordinary shares as a class, and, the holders of the B ordinary shares as a class

Special Resolution

Adoption of new articles - That the draft new articles of association annexed to this written resolution for the purposes of identification be and they are adopted by the Company in substitution for the existing articles of association of the Company



For and on behalf of MITIE Company Secretarial Services Limited

Company Secretary

THURSDAY



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A07

18/02/2010

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COMPANIES HOUSE

Herbert Smith

Certified to be a true copy

A. Bailey *17/10/06*
secretary dated

Company No 2935593

THE COMPANIES ACT 1985

COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of

MITIE PROPERTY SERVICES (UK) LIMITED

(Adopted by Special Resolution passed on 27 July 2006)

Herbert Smith LLP

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Herbert Smith

Company No. 2935593

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THE COMPANIES ACT 1985

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ARTICLES OF ASSOCIATION

of

MITIE PROPERTY SERVICES (UK) LIMITED

(Adopted by Special Resolution passed on

27 July 2006)

1. PRELIMINARY

1.1 In these Articles:

| | |
|---------------------|---|
| "A Director" | means a Director appointed or so designated by the holder of the A Shares and holding office pursuant to Article 16.2, |
| "A Shares" | means "A" ordinary shares of £1 each in the Company, |
| "Act" | means, subject to paragraph 1.3 of this Article, the Companies Act 1985, |
| "Articles" | means these articles of association, as from time to time altered; |
| "B Director" | means a Director appointed or so designated by the holders of the B Shares and holding office pursuant to Article 16.2, |
| "Book Debt" | means any amount deemed to be recoverable from a customer and to which a value has been attributed in the last audited accounts (and, for the avoidance of doubt, shall include, but not be limited to, invoiced receivables, applications for payment and contract retentions), in each case net of any provision relating thereto made in the last audited accounts of the Company; |
| "B Shares" | means "B" ordinary shares of £1 each in the Company; |
| "Bad Leaver" | means a holder of B Shares who is leaving the employment of |

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|--------------------------------|---|
| | his current employer (being a member of the MITIE Group) for any reason, save one which would make him a Good Leaver, |
| "Board" | the Board of Directors of the Company, as from time to time constituted; |
| "Banking Day" | means any day on which the clearing banks in the City of London are open for normal commercial business (excluding Saturday and Sunday); |
| "Daily Official List" | means the Daily Official List of the London Stock Exchange, |
| "Earn-out Formula" | has the meaning given to it in Article 8 13, |
| "Employee Shareholders" | means any shareholders who are employees of the Company or MPSL or who were employees of either of such companies at the time they subscribed for their Shares, |
| "Good Leaver" | means a holder of B Shares who is leaving the employment of his current employer (being a member of the MITIE Group) <ul style="list-style-type: none"> (i) as a result of him falling victim to a physical or mental incapacity to the extent that he is unable to perform his duties of employment (provided, if required by MITIE, he is so assessed following a medical examination by a doctor nominated by MITIE); (ii) having retired at the statutory age of retirement; or (iii) having died; |
| "Group Policies" | means the policies adopted by MITIE from time to time for the MITIE Group including, but not limited to, any policies in respect of accounts, information technology, investments, property and vehicles; |
| "holding company" | means a holding company as defined in Section 736 and Section 736A of the Act; |
| "Index" | means the All Items Index of Retail Prices maintained by the Office for National Statistics (or by any government department upon which the duty to maintain such an index shall have devolved) or any index replacing it, |
| "Index Linked" | means increased annually on 31 March in each year by one percent plus the same percentage as the Index has increased in the last 12 months, the first such increase to take effect on 31 March 2007; |
| "London Stock Exchange" | means the London Stock Exchange plc, |
| "Market Capitalisation" | means the aggregate market value of all MITIE Shares calculated pursuant to the paragraph 5 R(5) of Annex 1 to Rule 10 of the Listing Rules produced by the Financial |

Services Authority;

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| "MITIE" | means MITIE Group PLC (registered in Scotland under the Companies Act (or any provision which replaces it) with number SC19230) whose registered office is at 35 Duchess Road, Rutherglen, Glasgow G73 1AU, |
| "MITIE Group" | means the Company, its Subsidiaries, any holding companies (as such term is defined in Section 736 Companies Act 1985) of the Company and any Subsidiary of any such holding companies (from time to time) and "Group Company" means any particular one of them; |
| "MITIE Shares" | means MITIE ordinary shares of 2½p each and "MITIE Share" means one of them; |
| "MPSL" | means MITIE Property Services Limited (Company No.03528320); |
| "Notice Period" | has the meaning give to such term in Article 8.3; |
| "Offer" | has the same meaning as "offer" in "The City Code on Takeovers and Mergers" in respect of a third party offer for MITIE and for the avoidance of doubt, will not include any offer for MITIE made by scheme of arrangement solely for the purposes of a capital reorganisation of the MITIE Group, |
| "Offer Price" | means the price for Shares as calculated in accordance with Articles 8 13, 8.15, 9.3 and 10.2, |
| "Option" | means the conditional put option over his Shares granted to each Employee Shareholder by Article 12 of this Agreement; |
| "Option Period" | means 21 days commencing on the later of the day following an Offer becoming wholly unconditional and the satisfaction of the condition set out in Article 12.1; |
| "P/E Ratio" | means the price/earning ratio per MITIE Share as shown in The Financial Times; |
| "Profits" | <p>means the average annual profits of the Company after Taxation which are in excess of the Threshold for the two years ending on 31 March (or the last accounting reference date of the Company, if different) immediately preceding the date of a Transfer Notice (and if any accounting period is longer or shorter than 12 months then such adjustments as are reasonable to have it reflect such a true 12 month position shall be made) for those two years, which shall be calculated on the following basis</p> <p>(i) (a) first, according to the specific accounting principles, bases, conventions and rules set out or referred to in paragraph (ii) below;</p> <p>(b) secondly, and subject to (i)(a) above, according to</p> |

UK Generally Accepted Accounting Policies at the date of this Agreement; and

- (c) thirdly, and subject to paragraphs (i)(a) and (b) above, on a basis consistent with the last published audited accounts;
- (ii) The following shall be applied to the calculation of Profits as required by paragraph (i) (a) above.
 - (a) valuing work in progress at the amount agreed to be paid by customers or in default of agreement as certified by an independent quantity surveyor;
 - (b) after making such adjustment as is appropriate for the increase or decrease in the profit on uncompleted contracts;
 - (c) after making such adjustment as is reasonable where work has been invoiced in one accounting period but where such work (or part of it) falls to be undertaken in a prior or subsequent accounting period;
 - (d) after making such adjustment as is reasonable where costs have been incurred in one accounting period but where the invoice for such costs (or part of them) is received in another accounting period;
 - (e) after deleting any profit resulting directly or indirectly from any dealing by the Company being conducted otherwise than on an arm's length basis;
 - (f) after treating any Book Debt which is more than three months overdue at the date at which the relevant accounts are prepared up to and which remains unpaid at the date of a Transfer Notice and which has not already been provided for as an irrecoverable or doubtful bad debt,
 - (g) after deducting any release of any provisions during the two years which were originally booked prior to the commencement of that two year period,
 - (h) after adding back any unnecessary provisions created during the two year period;
 - (i) expensing the annual management charge levied by MITIE being a percentage (but not less than 1%) of the Company's turnover in the relevant year,
 - (j) expensing such other annual management charge as may be levied by the divisional administration

Group Company or any other Group Company;

- (k) expensing any charges relating to the use by the Company of intellectual property belonging to MITIE and/or any other Group Company;
- (l) where the employment costs of the Directors of the Company have been reduced (temporarily or otherwise) below market rates through not taking contractual entitlements to salary, bonuses, benefits or other forms of remuneration there will be an appropriate adjustment to reflect the market rate;
- (m) if the Company has not complied with its obligations to
 - (aa) comply with all Group Policies;
 - (bb) without prejudice to the foregoing, ensure that its premises are properly and adequately maintained, and that in particular expenditure that is properly required to be incurred in any one year is not brought forward or deferred so as improperly to increase or decrease the Profits relating to that year; and
 - (cc) pay its auditors in a timely manner as their fees fall due,

then after allowing such additional amount as is reasonable in the circumstances to reflect the additional expenditure that would have been incurred had the Company complied with those obligations,

"Relevant Proportion"

means, expressed as a percentage, the proportion that the Relevant Shares bear to the total issued B Shares;

"Relevant Shares"

means Shares of an Employee Shareholder in relation to which MITIE has served a Transfer Notice,

"Remaining Shares"

shall have the meaning given to it in Article 8 14,

"Shares"

means A Shares and/or B Shares as the context permits;

"Subsidiary"

means a subsidiary as defined in Section 736 and Section 736A of the Act, and

"Table A"

means Table A in the Companies (Tables A to F) Regulations 1985,

"Taxation"

means the higher of the Company's tax rate and the prevailing mainstream corporation tax rate;

- | | |
|------------------------------------|--|
| "Threshold" | means, subject to adjustment by way of ordinary resolutions of the holder or holders of the A Shares and of the B Shares, the amount of £5,289,000 ¹ less an amount equal to mainstream corporation tax at the prevailing rate at the relevant time thereon Index Linked, |
| "Threshold Net Asset Value" | means, subject to adjustment by way of ordinary resolutions of the holder or holders of the A Shares and of the B Shares, the amount of £3,472,000 Index Linked, |
| "Transfer Notice" | means the notice containing the offer, subject to contract, by the holder of the A Shares to purchase some or all of the Shares which are the subject of the Transfer Request Notice, |
| "Transfer Request Notice" | means a notice served by an Employee Shareholder specifying the number of Shares they wish the holder of the A Shares to consider purchasing |
-
- 1 1 Save as provided in this Article 1 and unless the context otherwise requires, words or expressions contained in these Articles bear the same meaning as in the Act
- 1 2 In these Articles, unless expressly provided to the contrary, a reference to any statute or provision of a statute includes a reference to any statutory modification or re-enactment of it and to any subordinate legislation made under it in each case for the time being in force
- 1 3 In these Articles, unless the context otherwise requires
- (a) words in the singular include the plural, and vice versa,
 - (b) words importing any gender include all genders, and
 - (c) a reference to a person includes a reference to a company and to an unincorporated body of persons
- 1 4 In these Articles
- (a) references to writing include references to typewriting, printing, lithography, photography and any other modes of representing or reproducing words in a legible and non-transitory form,
 - (b) references to **"executed"** includes any mode of execution,
 - (c) references to **"other"** and **"otherwise"** shall not be construed *eiusdem generis* where a wider construction is possible,
 - (d) references to a power are to a power of any kind, whether administrative, discretionary or otherwise,
 - (e) references to a committee of the Directors are to a committee established in accordance with these Articles, whether or not comprised wholly of Directors, and
 - (f) references to **"designation"** in the context of shareholders or Directors are to holders of A Shares or B Shares or Directors appointed by the holders of A Shares or B Shares, as appropriate

¹ As amended by Special Resolution on 10 July 2009

1.6 Headings are inserted for convenience only and do not affect the construction of these Articles.

1.7 In these Articles a reference to an Article is to a clause of these Articles and a reference to a Regulation is to a regulation in Table A.

2. TABLE A

The Regulations contained in Table A shall apply to the Company save insofar as they are varied or excluded by or are inconsistent with these Articles. Regulations 40, 50, 53, 54, 64 to 69 (inclusive), 72 to 77 (inclusive), 80, 84, 88, 89, 93, 94, 95 and 118 shall not apply to the Company.

3. SHARE CAPITAL

3.1 The share capital of the Company at the date of the adoption of these Articles is £5,000,000 divided into 1,000,000 A Shares and 4,000,000 B Shares

4. RIGHTS ATTACHING TO SHARES

Subject to any special rights which may be attached to any class of shares issued after the date of adoption of these Articles the rights attaching to the Shares are as follows:

Capital

4.1 On a return of assets on liquidation or capital reduction or otherwise, the assets of the Company available for distribution amongst its shareholders after payment of its liabilities shall be applied in the following manner in the following order of priority:

- (a) firstly, in paying to the holder of the A Shares per A Share: (i) an amount equal in aggregate to the Threshold Net Asset Value at such time divided by the number of A Shares then in issue; (ii) the subscription price paid per Share, and (iii) a sum equal to all unpaid arrears and accruals of dividends on the A Shares calculated down to the date of the return of capital;
- (b) thereafter secondly, in paying to the holders of the B Shares the subscription price paid per Share together with a sum equal to the unpaid arrears and accruals of dividends thereon calculated down to the date of the return of capital; and
- (c) thereafter thirdly, in paying the balance thereof to the holder of the A Shares and the B Shares *pari passu* as if they constituted one class of share *pro rata* to their existing holdings of Shares.

Voting

4.2 Subject to any special rights, privileges or restrictions attached to any Shares, at a general meeting of the Company on a show of hands every shareholder who (being an individual) is present in person or by proxy (not being himself a shareholder) or (being a corporation) is present by a representative duly authorised under Section 375 of the Act (not being himself a shareholder) shall have one vote, and on a poll every shareholder present in person, by representative or by proxy shall have one vote for every Share of which he is the holder.

Dividends

- 4.3 If a dividend is declared by the Board, the profits of the Company available for distribution in respect of any financial year shall be applied.
- (a) firstly, in paying to the holder of the A Shares a cumulative dividend per A Share held equal in aggregate to the Threshold at such time together with any arrears of any cumulative dividend entitlement unpaid from any previous financial year,
 - (b) thereafter secondly, in paying to the holder of the A Shares and the holders of the B Shares a dividend of such amount as the Board shall decide pro rata according to the nominal value of the Shares held by them respectively;
 - (c) thereafter thirdly, in paying to the holder of the A Shares a dividend per A Share held equal in aggregate to one-half of the profits of the Company available for distribution in each financial year less the amount already paid in respect of the A Shares under Article 4.3(a) insofar as there is sufficient profit remaining after the payment in Articles 4.3(a) and (b), and
 - (d) thereafter fourthly, the balance of the profits available for distribution which are resolved to be distributed shall be distributed among the holder of the A Shares and the holders of the B Shares *pari passu* pro rata according to the nominal value of the shares held by each of them respectively,

provided that the holder of the B Shares shall have no entitlement to any dividends whatsoever at any time after the date being ten years after 28 July 2006 and after such date the holder of the A Shares shall be entitled to such dividend as the Board sees fit.

5. ISSUE OF SHARES

- 5.1 Unless otherwise agreed in writing by all the shareholders for the time being of the Company entitled to attend and vote at general meetings any Shares which are unissued from time to time shall be available for issue and shall before they are issued whether for cash or otherwise be offered to the shareholders of that class in proportion, as nearly as may be, to their holdings of Shares.
- 5.2 Any such offer as referred to in Article 5.1 shall be made by notice specifying the number of Shares and the price per Share at which the same are offered and limiting period (being not less than 14 days unless the shareholder to whom the offer is to be made otherwise agrees) within which the offer, if not accepted, shall be deemed to be declined. The price stated in the notice shall be, as nearly as may be, the fair value of the Shares at the date of issue valued as a proportion of the value of the whole Company.
- 5.3 Following the expiration of the time limit in Article 5.2:
- (a) If a holder of the B Shares does not take up his proportion of B Shares then such shortfall may be taken up by the holder of the A Shares,
 - (b) the Directors shall allot the Shares so offered to or amongst the shareholders who have notified their willingness to take all or any of such shares and the Directors shall make such arrangements as they shall think fit concerning entitlements to fractions

5.4 Save with the consent of the holder of the A Shares, no Shares may be allotted or issued to any person who is not immediately prior to such allotment or issue a shareholder.

5.5 Sections 89 and 90 of the Act shall not apply to the allotment of equity securities by the Company.

5.6 Any Share issued to a shareholder pursuant to this Article shall on issue be designated as either an A Share or a B Share.

6. LIEN

6.1 Without prejudice to the lien conferred by Regulation 8 of Table A the Company shall have a first and paramount lien on all Shares for all moneys presently payable by a shareholder or his estate to the Company. The liens conferred above and by Regulation 8 of Table A shall attach to all Shares (whether fully paid up or otherwise) registered in the name of any person indebted or under liability to the Company.

6.2 All Shares to be sold in the enforcement of the Company's *lien or rights of forfeiture* shall be offered in accordance with Article 5 as if they were unissued Shares of the Company.

7. CALLS

7.1 If a call remains unpaid after it has become due and payable the person from whom it is due and payable shall pay interest on the amount unpaid from the day it became due and payable until it is paid at the rate fixed by the terms of allotment of the Share or in the notice of the call or, if no rate is fixed by the terms of allotment of the Share or in the notice of the call, at the appropriate rate (as defined by the Act) and all expenses that may have been incurred by the Company by reason of such non-payment but the Directors may waive payment of the interest and expense wholly or in part.

7.2 If a call remains unpaid after it has become due and payable the Directors may give to the person from whom it is due not less than fourteen clear days' notice requiring payment of the amount unpaid together with any interest and all expenses that may have been incurred by the Company by reason of non-payment which may have accrued. The notice shall name the place where payment is to be made and shall state that if the notice is not complied with the Shares in respect of which the call was made will be liable to be forfeited

8. TRANSFERS OF SHARES

8.1 Transfers of Shares may only be made in accordance with Articles 8 – 13 unless the shareholders otherwise agree in writing.

8.2 Subject to Article 8.3 an Employee Shareholder seeking to sell or transfer any Shares may serve a Transfer Request Notice to the holder of the A Shares (and if he elects to do so a copy of such notice should be sent for information only to the Board) between the fifth anniversary and the tenth anniversary of 28 July 2006

8.3 Each Employee Shareholder may only serve one Transfer Request Notice in any calendar year and it must be served in the period between the seventh and fourteenth day (inclusive) after the annual general meeting of MITIE (the "Notice Period").

- 8.4 Where a Transfer Request Notice is served in the Notice Period in any year from the fifth to the seventh anniversary of 28 July 2006 (and some/all of the Shares subject to the Transfer Request Notice are, at its election, acquired by the holder of the A Shares in accordance with this Article 8) an Employee Shareholder may not serve a second Transfer Request Notice until one year has elapsed from the date of the first Transfer Request Notice.
- 8.5 A Transfer Request Notice shall stipulate the number of Shares an Employee Shareholder wishes to sell and the first Transfer Request Notice served by an Employee Shareholder shall specify a minimum of 20% and a maximum of 80% of the Employee Shareholders' shareholding in the Company as at the date of the Transfer Request Notice as the Shares he wishes to be transferred.
- 8.6 The serving of a Transfer Request Notice by an Employee Shareholder shall, conditional on the holder of the A Shares issuing a Transfer Notice to such an Employee Shareholder referring to his Transfer Request Notice, oblige the Employee Shareholder to accept any offer made by the holder of the A Shares to purchase some or all of the Shares at the Offer Price pursuant to the terms and conditions set out in the Transfer Notice and execute a share purchase agreement relating to the Shares to be sold.
- 8.7 The holder of the A Shares shall have ninety days following receipt of the Transfer Request Notice to elect to issue a Transfer Notice stating:
- (a) the amount of Shares it shall purchase;
 - (b) the relevant Offer Price;
 - (c) the method by which the consideration shall be satisfied;
 - (d) the value of one MITIE Share (if relevant);
 - (e) the number of MITIE Shares that it proposes to issue to the proposing transferor (and if the number of MITIE Shares of equivalent value to the Relevant Shares is not a whole number it shall be rounded down to the nearest whole number) (if relevant);
 - (f) that its acceptance is conditional on the execution of a share purchase agreement relating to the Shares to be sold, and
 - (g) any further conditions that must be satisfied before completion of the purchase can take place.
- 8.8 If the holder of the A Shares elects to purchase any Shares offered by an Employee Shareholder pursuant to a Transfer Request Notice, the holder of the A Shares shall have the right to satisfy the Offer Price:
- (a) in cash; or
 - (b) by issuing sufficient MITIE Shares to the proposing transferor; or
 - (c) by a mixture of cash and MITIE Shares in such proportion as MITIE sees fit.
- 8.9 For the purpose of Article 8.8 the value of the MITIE Shares to be issued in payment of the Offer Price shall be the closing middle market price of MITIE Shares as derived from the Daily Official List on the fourteenth day after the annual general meeting of MITIE which immediately precedes the date of the Transfer Notice.

- 8.10 The holder of the A Shares will use its reasonable endeavours to have any MITIE Shares issued to the proposing transferor admitted to the Official List and admitted to trading on the London Stock Exchange. In the event that those MITIE Shares are not so admitted within three months of service of the Transfer Notice on the Employee Shareholder the relevant former Employee Shareholder shall transfer any MITIE Shares issued to him to such person as the holder of the A Shares shall nominate for aggregate consideration of £1 and the holder of the A Shares shall pay such part of the Offer Price represented by such MITIE Shares in cash
- 8.11 When an Employee Shareholder receives MITIE Shares in exchange for his B Shares under Articles 8 (but in relation thereto only in relation to those MITIE Shares issued pursuant to the first Transfer Notice issued by MITIE to such Employee Shareholder), 9 or 10, such Employee Shareholder may thereafter not dispose of such MITIE Shares for a period of two years from the date of the allotment of the relevant MITIE Shares. If, under Article 8, a second Transfer Notice is issued in the calendar year following the first Transfer Notice, such Employee Shareholder may thereafter not dispose of the MITIE Shares which are the subject of that second Transfer Notice for a period of one year from the date of the allotment of the relevant MITIE Shares. There shall be no restrictions on the disposal of MITIE Shares which are the subject of any subsequent Transfer Notice.
- 8.12 Completion of a transfer of Shares pursuant to these Articles shall be at the place and time agreed by the relevant parties when:
- (a) the proposing transferor shall deliver any and all share certificates (or a suitable indemnity in lieu thereof), a completed stock transfer form in respect of the Relevant Shares to MITIE and any other documents required by the share purchase agreement used to acquire the Relevant Shares; and
 - (b) MITIE shall satisfy the Offer Price

Earn-out

- 8.13 If an Employee Shareholder serves a Transfer Request Notice in a Notice Period occurring between the fifth anniversary and the tenth anniversary of the date of the issue of his Shares inclusive and MITIE elects to issue a Transfer Notice in relation thereto, the Offer Price to be set out in each Transfer Notice shall be calculated as the lower of the Profits multiplied by:
- (i) twelve; and
 - (ii) one half of one point below the P/E Ratio for MITIE on the date that the Transfer Request Notice is served by the proposing transferor,
- multiplied by the Relevant Proportion (the "**Earn-out Formula**").
- 8.14 On the day following the tenth anniversary of 28 July 2006, any Employee Shareholders shall be deemed to have sent a Transfer Request Notice in respect of all of their Shares held on such date (such Shares being "**Remaining Shares**")
- 8.15 The holder of the A Shares shall have the option to acquire any or all of such Remaining Shares by issuing a Transfer Notice stating an Offer Price which for these purposes shall be the lower of.
- (a) the price that the relevant Employee Shareholder paid for the Shares to be transferred, and

- (b) the Relevant Proportion of the net asset value of the Company as shown in the last audited accounts produced prior to the deemed sending of the Transfer Request Notice less the Threshold Net Asset Value

9. TRANSFER OF SHARES BY A GOOD LEAVER

- 9.1 A Good Leaver shall be deemed to have given a Transfer Request Notice in respect of all his B Shares on the last day of the Notice Period prior to the date the relevant Good Leaver became a Good Leaver unless the Good Leaver leaves between 31 March and the last day of the next Notice Period in that same year in which case he shall be deemed to give a Transfer Request Notice in respect of all his B Shares on the last day of the Notice Period after the date the relevant Good Leaver became a Good Leaver
- 9.2 Subject to Article 9.3, if the holder of the A Shares elects to give a Transfer Notice to the Good Leaver, such Transfer Notice shall state an Offer Price using the Earn-out Formula.
- 9.3 If a Good Leaver is deemed to serve a Transfer Request Notice before it is possible to calculate an Offer Price using the Earn-out Formula, then the Offer Price shall be the price the holder of the B Shares paid for all the B Shares subject to the Transfer Request Notice.
- 9.4 The provisions of Articles 8.6 – 8.12 shall apply to a transfer of shares by a Good Leaver.

10. TRANSFER OF SHARES BY A BAD LEAVER

- 10.1 A Bad Leaver shall be deemed to have given a Transfer Request Notice in respect of all his B Shares on the last day of the next Notice Period after the date the relevant Bad Leaver became a Bad Leaver.
- 10.2 If a Transfer Request Notice is deemed to be given by a Bad Leaver at any time prior to the tenth anniversary of the date of the issue of his Shares and if the holder of the A Shares elects to give a Transfer Notice to the Bad Leaver, the Offer Price which the Bad Leaver shall be obliged to accept shall be the lower of:
- (a) the price that the holder of the B Shares paid for all his Shares; and
 - (b) the Relevant Proportion of the net asset value of the Company as shown in the audited accounts produced by the Company prior to the deemed issue of the Transfer Request Notice less the Threshold Net Asset Value.
- 10.3 The provisions of Articles 8.6 - 8.12 shall apply to a transfer of Shares by a Bad Leaver.

11. THIRD PARTY OFFER FOR THE COMPANY

- 11.1 If an offer is made by or on behalf of a bona fide purchaser (the "Offeror") to acquire all the issued Shares in the capital of the Company at an arms length price (the "Third Party Offer") and the holder of the A Shares wishes to accept the Third Party Offer, then the holder of the A Shares shall notify all the Employee Shareholders of:
- (i) the identity of the Offeror;
 - (ii) the offer price for each A Share, and

- (iii) the offer price for each B Share.

11.2 The offer price for each B Share shall be:

- (i) the consideration to be paid by the Offeror for each of the B Shares held by the holder of the A Shares (excluding any consideration attributable to accruals or arrears of dividends) (the "**Offer Consideration**"); or
- (ii) such consideration certified by the Company's auditors as not being less favourable to the Employee Shareholders than the Offer Consideration.

11.3 Upon such notification and conditional only on acceptance of the Third Party Offer by MITIE, the Employee Shareholders shall:

- (i) be deemed to have accepted the Third Party Offer in accordance with its terms and shall sell to the Offeror such Shares with full title guarantee and free of all liens, charges and encumbrances, and
- (ii) be obliged to deliver to the Offeror or his nominee an executed transfer of the B Shares held by him and the certificate(s) in respect of them (or a suitable indemnity in lieu thereof).

12. TAKEOVER OFFER FOR MITIE

12.1 In the event of an Offer becoming wholly unconditional the holder of the A Shares grants to each Employee Shareholder the right, conditional upon receipt of the approval of MITIE Shareholders if required by the Panel on Takeovers and Mergers or any other approval or consent required by law, regulation or the City Code on Takeovers and Mergers, to require the holder of the A Shares to purchase all of the Shares held by each Employee Shareholder for a price calculated as follows:

$$P \times X \times Y$$

where.

P is the greater of:

- (i) net profits after Taxation of the Company for the relevant trading period (to be adjusted to a period of twelve months if longer or shorter than twelve months) as shown in the last audited annual accounts in excess of the Threshold; or
- (ii) the average of the net profits after Taxation of the Company for the two relevant trading periods (to be adjusted to a period of twelve months if longer or shorter than twelve months) as shown in the last two audited annual accounts of the Company in excess of the Threshold.

X is the lower of:

- (i) twelve; and
- (ii) one half of one point below the P/E Ratio on the last Banking Day before the commencement of the Option Period

Y is the Relevant Proportion,

PROVIDED that the aggregate consideration that may be payable by the holder of the A Shares in respect of the acquisition of all the B Shares held by Employee Shareholders shall be capped at 24.9% of the Market Capitalisation of MITIE as at the close of business on the last Banking Day prior to 13 June 2006. If the aggregate consideration actually paid is so capped each Employee Shareholder shall be entitled to such amount of consideration as is proportional to his holding of B Shares

- 12.2 Each Employee Shareholder may exercise his Option during the Option Period in respect of all (but not part) of the Shares owned by him at the commencement of the Option Period.
- 12.3 The Option shall be exercised by an Employee Shareholder serving a notice on the holder of the A Shares which shall be irrevocable and oblige the Employee Shareholder to transfer all of his B Shares.
- 12.4 If a notice is so served the holder of the A Shares shall purchase the Shares of each Employee Shareholders, at its election, either
 - (a) for cash;
 - (b) by issuing fully paid to the relevant Employee Shareholder sufficient MITIE Shares valued at the price of the Offer for it to satisfy the purchase price for those Shares, or
 - (c) a mixture of cash and MITIE Shares as per paragraph (b) above.
- 12.5 The MITIE Shares issued to the Employee Shareholders pursuant to this Article 12 shall rank *pari passu* in all respects with all other MITIE Shares then in issue save in respect of any dividend then declared but unpaid.
- 12.6 Completion of the acquisition of an Employee Shareholder's Shares pursuant to this Article 12 shall take place at 8 Monarch Court, The Brooms, Emersons Green, Bristol, BS16 7FH seven days after the expiry of the Option Period (or at such other time and place as MITIE may direct) when:
 - (a) each Employee Shareholder who exercises the Option shall sell his Shares to the holder of the A Shares with full title guarantee free from all liens, charges and encumbrances and with all rights attached or attaching to them at or after the date of the Notice;
 - (b) each Employee Shareholder who exercises the Option shall deliver a duly completed and executed stock transfer form in favour of the holder of the A Shares in respect of his Shares together with the relevant share certificate(s) (or a suitable indemnity in lieu thereof),
 - (c) the holder of the A Shares shall allot or procure the allotment of the relevant number of MITIE Shares fully paid to each Employee Shareholder and/or shall pay the appropriate cash consideration, and
 - (d) the holder of the A Shares and the Employee Shareholders shall procure that a Board meeting is held at which the transfers of the Shares to the holder of the A Shares are approved (subject to them being appropriately stamped) and registered in the Company's books

- 12.7 Any dispute as to the amount to be paid for any Shares of an Employee Shareholder or, if appropriate, as to the number of MITIE Shares to be issued in payment for those Shares shall be referred to MITIE's auditors for the time being (or if they are unable to act a firm of international accountants appointed by the President of the Institute of Chartered Accountants in England and Wales) who shall act as experts and whose decision shall be final and binding upon the parties.
- 12.8 Each of the Shareholders hereby irrevocably waives all rights of pre-emption conferred on him by these Articles or otherwise over all Shares in respect of which a notice is served pursuant to this Article 12.

13. FURTHER PROVISIONS CONCERNING THE TRANSFER OF SHARES

- 13.1 Without prejudice to the restrictions set out elsewhere in these Articles, save with the consent of the Board, no transfer, disposal, charge, mortgage, assignment or other dealing in any Shares or any interest or right therein shall occur other than the transfer of the whole legal and equitable title to such Shares free from all liens, charges and encumbrances and with all rights, title and interest in existence at the date of transfer together with all rights which may arise in respect thereof thereafter (and "transfer", in the context of a transfer of Shares, shall be construed accordingly in these Articles)
- 13.2 The Directors may decline to register the transfer of a Share on which the Company has a lien.
- 13.3 The instrument of transfer of a Share shall be signed by or on behalf of the transferor (and in the case of a transfer of a partly paid Share also by the transferee) and the transferor shall be deemed to remain the holder of the Share until the name of the transferee is entered in the Register in respect thereof. All instruments of transfer, when registered, shall be retained by the Company.
- 13.4 Save where otherwise approved in writing by the holder of the A Shares, the B Shares shall only be transferred to a holder of A Shares.

14. CLASS MEETINGS AND VARIATION OF RIGHTS

- 14.1 The provisions of these Articles relating to general meetings shall apply, with necessary modifications, to any meeting of the holders of Shares of a class held otherwise than in connection with the variation or abrogation of the rights attached to Shares of that class.
- 14.2 Save as provided for elsewhere in these Articles, all or any of the special rights for the time being attached to any Share or class of Shares in the capital of the Company may, either with the prior consent in writing of the holders of not less than three-fourths of the issued Shares of the class or with the sanction of an extraordinary resolution passed at a separate meeting of the holders of Shares of the class duly convened and held as hereinafter provided (but not otherwise) be varied or abrogated. To such meetings the provisions of these Articles with respect to notice and proceedings at general meetings shall apply mutatis mutandis apply, but so that the quorum shall be a person or persons present in person, by proxy or by corporate representative, holding or representing not less than one-third of the issued Shares of the class.

15. PROCEEDINGS AT GENERAL MEETINGS

- 15.1 Every notice calling a general meeting shall comply with the provisions of Section 372(3) of the Act as to giving information to shareholders in regard to their right to appoint proxies
- 15.2 No business shall be transacted at any general meeting unless a quorum is present at the time when the meeting proceeds to business. The quorum shall be the holder of the A Shares or its proxy or duly authorised representative.
- 15.3 If within half an hour of the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of shareholders, shall be dissolved; in any other case it shall stand adjourned to the same day in the same week, at the same time and place or to such other day and at such other time and place as the Directors may determine. If at any such adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the meeting shall be dissolved.
- 15.4 Subject to any special rights, privileges or restrictions attached to any Shares, at a general meeting of the Company on a show of hands every shareholder who (being an individual) is present in person or by proxy (not being himself a shareholder) or (being a corporation) is present by a representative duly authorised under Section 375 of the Act (not being himself a shareholder) shall have one vote, and on a poll every shareholder present in person, by representative or by proxy shall have one vote for every Share of which he is the holder. No resolution of the shareholders in general meeting shall be valid unless the holder of the A Shares votes in favour of such a resolution
- 15.5 A poll may be demanded at any general meeting by the chairman or any shareholder present in person, by proxy or by corporate representative and entitled to vote. Regulation 46 of Table A shall be modified accordingly
- 15.6 Any shareholder able to participate in the proceedings of any general meeting by means of a communication device (including, without limitation, a telephone) which allows all shareholders present at that meeting (whether in person or by proxy or by means of such type of communication device) to hear at all times that shareholder and that shareholder to hear at all times all shareholders present who speak shall be deemed to be present at such meeting and shall be counted when reckoning a quorum
- 15.7 A resolution executed or approved in writing by or on behalf of the holders of all the issued Shares entitled to vote thereon shall be as valid and effective for all purposes as a resolution passed at a general meeting duly convened and held and may consist of several documents in the like form, each executed by or on behalf of one or more persons. In the case of a corporation the resolution may be signed on its behalf by a Director or the secretary thereof or by its duly appointed attorney or duly authorised representative.

16. DIRECTORS

- 16.1 Unless otherwise determined by ordinary resolution, there shall be at least two Directors (of whom one shall be an A Director and one shall be a B Director) and the maximum number of Directors shall be determined by the Company in general meeting

- 16.2 The holder of the A Shares shall be entitled to appoint any number of Directors to the Board and the holders of the B Shares shall be entitled to appoint two Directors to the Board and, in each case, to remove any Directors so appointed by them
- 16.3 In addition to the situations set out in Regulation 81 of Table A, the office of Director shall be automatically vacated if:
- (a) he resigns the office of Director by providing notice in writing to the Company,
 - (b) he is requested to resign by notice in writing addressed to him at his address as shown in the register of Directors and signed by an A Director (without prejudice to any claim for damages which he may have for breach of any contract between him and the Company); or
 - (c) he is convicted of an indictable offence or his conduct (whether or not concerning the affairs of the Company) is the subject of an investigation by an inspector appointed by the Secretary of State or by the Serious Fraud Squad (or any successor body or body equivalent in any foreign jurisdiction) and the Directors shall resolve that it is undesirable in the interests of the Company that he remains a Director of the Company; or
 - (d) his contract of employment is terminated for any reason; or
 - (e) he has been in breach of any material provision of his contract of employment or engagement with the Company for a period of 30 days after having been given written notice (if the breach is capable of remedy) to rectify the same.
- 16.4 The Directors may resolve that a person who is willing to act as 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 fixed as the maximum number of Directors.
- 16.5 A Director shall automatically retire from office at the annual general meeting following his 70th birthday but shall be eligible for re-appointment. If re-appointed the Director shall automatically retire at each subsequent annual general meeting but shall continue to be eligible for re-appointment on an annual basis
- 16.6 The Directors shall not be required to retire by rotation
- 16.7 The Board may exercise all the powers of the Company to borrow and raise money and to mortgage and charge its undertaking, property and uncalled capital or any part of it, and subject to Section 80 of the Act, to issue debentures, debenture stock and other securities outright or as security for any debt, liability or obligation of the Company or of any third party.
- 16.8 The chairman of the Board shall at all times be an A Director.
- 16.9 A Director who pursuant to Section 317 of the Act has declared at a meeting of the Directors the nature of his interest in a transaction or arrangement or proposed transaction or proposed arrangement with the Company shall be entitled to vote in respect of that transaction or arrangement or proposed transaction or proposed arrangement, or upon any matter arising therefrom and if he shall do so his vote shall be counted, and he may be taken into account in ascertaining whether or not a quorum is present at the meeting of the Directors or the committee at which the vote is taken.

- 16.10 The quorum necessary for the transaction of the business of the Board shall be two *Directors (one of which must be an A Director)*. A person who holds office only as an alternate Director shall, if his appointor is not present, be counted in the quorum.
- 16.11 Questions arising at any meeting of the Board shall be decided by a majority of votes provided that an A Director votes in favour of the decision. For the avoidance of doubt, a resolution of Directors shall not be validly passed unless at least one A Director votes in favour of the resolution.
- 16.12 A Director may, and the secretary on the requisition of a Director shall, summon a meeting of the Board at any time. Unless otherwise agreed by all the Directors of the Board, not less than seven days' notice of meetings of the Directors shall be given to each of the Directors at their address in the United Kingdom whether present in the United Kingdom or not.
- 16.13 Meetings of the Directors may be held by means of a communication device (including a conference telephone or similar equipment) so long as all participants can hear each other and address each other simultaneously. Such meetings shall be as effective as if the Directors had met in person and each person so participating in the meeting shall be deemed to be present at the meeting and shall be counted when reckoning a quorum.
- 16.14 A resolution executed or approved in writing by all the Directors shall be as valid and effective for all purposes as a resolution passed at a meeting of the Board duly convened and held and may consist of several documents in the like form, each signed by one or more of the Directors. A resolution signed by an alternate Director need not also be signed by his appointor and, if it is signed by a Director who has appointed an alternate Director, it need not be signed by the alternate Director in that capacity.
- 16.15 The Directors may grant retirement pensions or annuities or other allowances including allowances on death, to any person or to the widow or widower or dependants of any person, in respect of services rendered by him to the Company as managing Director or in any other executive office or employment under the Company or indirectly as an executive officer or employee of any subsidiary company of the Company or of its holding company (if any) notwithstanding that he may be or may have been a Director of the Company and may make payments towards insurances or trusts for such purposes in respect of such persons and may include rights in respect of such pensions, annuities and allowances in the terms of engagement of any such person.

17 INDEMNITY

17.1 Subject to the provisions of the Act, the Company may.

- (a) indemnify any person who is or was a Director, directly or indirectly (including by funding any expenditure incurred or to be incurred by him), against any loss or liability, whether in connection with any proven or alleged negligence, default, breach of duty of trust by him or otherwise, in relation to the Company or any associated company; and/or
- (b) purchase and maintain insurance for any person who is or was a Director against any loss or liability or any expenditure he may incur whether in connection with any proven or alleged negligence, default, breach of trust by him or otherwise, in relation to the Company or any associated company.

For the purposes of this article, "**associated company**" has the same meaning as in Section 309A of the Act.

18. WINDING UP

Subject to Article 4.1, in a winding up the liquidator may, with the sanction of an extraordinary resolution, distribute all or any of the assets in specie among the shareholders in such proportions and manner as may be determined by such resolution, provided always that if any such distribution is proposed to be made otherwise than in accordance with the existing rights of the shareholders, every shareholder shall have the same right of dissent and other ancillary rights as set out in Section 111 of the Insolvency Act 1986