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**The Companies Act 1985**

**(As amended by the Companies Act 1989)**

**Private Company Limited by Shares**



**MEMORANDUM OF ASSOCIATION**

of

**EUSEBIUS LIMITED**

(As amended by Special Resolutions passed on 19<sup>th</sup> June 2000 and 22<sup>nd</sup> August 2000)

1. The Company's name is Eusebius Limited<sup>1</sup>
2. The Company's registered office is to be situated in England and Wales
3. The Company's objects are:-
  - (A) To acquire by purchase, lease, exchange or otherwise, and to own, any freehold or leasehold property for the benefit of the Company and its Members and to manage, improve, maintain, repair, decorate, renew, alter, service, furnish and administer any part of such property and to provide such administration or other support services as may be necessary to enable each Member to use such property for the furtherance of its objects
  - (B) To carry on any other trade or business which can, in the opinion of the Board of Directors, be advantageously carried on by the Company in connection with any of the above specified objects
  - (C) To acquire by purchase, lease, exchange, hire or otherwise, or to hold for any estate or interest, any land, buildings, easements, rights, privileges, concessions, patents, patent rights, licences, secret processes, machinery, plant, stock-in-trade and any real or personal property of any kind necessary or convenient for the purposes of or in connection with the Company's business.
  - (D) To erect, alter or maintain any buildings, plant and machinery necessary or convenient for the Company's business and to contribute to or subside the erection, construction and maintenance of any of the above.

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<sup>1</sup>The name of the Company was changed to Eusebius Limited on 1<sup>st</sup> September 2000

- (E) To acquire by subscription or otherwise and hold, sell, deal with, make a market in or dispose of any shares, stocks, debentures, debenture stock, or other securities of any kind whatsoever, guaranteed by any company constituted or carrying on business in any part of the world and debentures, debenture stock and other securities of any kind guaranteed by any Government or Authority, Municipal, Local or otherwise, whether at home or abroad, and to subscribe for the same either conditionally or otherwise and to guarantee the subscription thereof and to exercise and enforce all rights and powers conferred by the ownership thereof.
- (F) To receive money on deposit or otherwise either without security or secured by debentures, debenture stock (perpetual or terminable), mortgage or other security charged on the undertaking or on all or any of the assets of the Company including uncalled capital, and generally to act as bankers.
- (G) To borrow and raise money in any manner and to secure with or without consideration the repayment of any money borrowed, raised, or owing by mortgage, charge, debenture, debenture stock, bond, standard security, lien or any other security of whatsoever nature upon the whole or any part of the Company's property or assets (whether present or future) including its uncalled capital, and also by a similar mortgage, charge, debenture, debenture stock, bond, standard security, indemnity, lien or security of whatsoever nature to secure and guarantee the performance by the Company or any other company or person (including, but without prejudice to the generality of the foregoing) the holding company of the Company or any company which is a subsidiary of such holding company within, in each case, the meaning of Section 736 and Section 736(A) of the Companies Act 1985 (the "Act"), as amended by the Companies Act 1989, of any obligation or liability it or such person or company may undertake or which may become binding upon it or such person or company, and to secure any securities of this Company by a Trust Deed or other assurance and to enter into partnership or any joint purse arrangement with any person, persons, firm or company.
- (H) To lend money with or without security, and to invest money of the Company upon such terms as the Company may approve, and to guarantee the dividends, interest and capital of the shares, stocks or securities of any company of or in which the Company is a member or is otherwise interested, and generally as the Directors think fit.

- (I) To apply for, purchase or otherwise acquire and hold or use any patents, licences, concessions, copyrights and the like, conferring any right to use or publish any secret or other information and to use, exercise, develop or grant licences in respect of the property, rights or information so acquired.
- (J) To take part in the formation, management, supervision or control of the business or operation of any company or undertaking and for that purpose to appoint and remunerate any directors, accountants, consultants, experts or agents.
- (K) To employ experts, consultants and valuers to investigate and examine the condition, prospects, value, character and circumstances of any business concerns and undertakings and generally of any assets, property or rights.
- (L) To establish or promote or concur in establishing or promoting any other company whose objects shall include the acquisition or taking over of all or any of the assets or liabilities of the Company or the promotion of which shall be in any manner calculated to advance directly or indirectly the objects or the interests of the Company and to acquire, hold or dispose of shares, stocks or securities issued by or any other obligations of any such other company.
- (M) To draw, accept, make, endorse, discount, execute, issue and negotiate promissory notes, bills of exchange, bills of lading, warrants, debentures and other negotiable instruments.
- (N) To invest and deal with the monies of the Company not immediately required for the purposes of the business of the Company in or upon such investments and in such manner as the Company may approve.
- (O) To pay for any property or rights acquired by the Company either in cash or by the issue of fully or partly paid up shares, with or without preferred or deferred or special rights or restrictions in respect of dividend, repayment of capital, voting or otherwise, or by any securities which the Company has power to issue, or partly in one mode and partly in another, and generally on such terms as the Company may determine.
- (P) To accept payment for any property or rights sold or otherwise disposed of or dealt with by the Company, either in cash, by instalments or otherwise, or in fully or partly paid-up shares or stock of any company or corporation, with or without preferred or deferred or special rights or restrictions in respect of dividend, repayment of capital,

voting or otherwise, or in debentures or mortgages or other securities of any company or corporation or partly in one mode and partly in another, and generally on such terms as the Company may determine, and to hold, dispose of or otherwise deal with any shares, stocks or securities so acquired.

- (Q) To enter into arrangements for joint working in business or amalgamate with or enter into any partnership or arrangement for sharing profits, union of interests, reciprocal concession or co-operation with any company, firm or person carrying on or proposing to carry on any business within the objects of the Company or which is capable of being carried on so as directly or indirectly to benefit the Company.
- (R) To purchase or otherwise acquire, take over and undertake all or any part of the business, property, liabilities and transactions of any person, or company carrying on any business the carrying on of which is calculated to benefit the Company or to advance its interests, or possessed of property suitable for the purposes of the Company.
- (S) To sell, improve, manage, develop, turn to account, exchange, let on rent, royalty, share of profits or otherwise, grant licences, easements and other rights in or over, and in any other manner deal with or dispose of the undertaking and all or any of the property and assets for the time being of the Company for such consideration as the Company may think fit.
- (T) To provide for the welfare of persons employed or formerly employed by the Company and to grant pensions, allowances, gratuities and bonuses to officers or ex-officers, employees or ex-employees of the Company or its predecessors in business or of any associated company of the Company or its predecessors in business or the dependants of such persons and to establish and maintain or concur in establishing and maintaining trusts, funds or schemes (whether contributory or non-contributory), with a view to providing pensions or other funds for any such persons as aforesaid to their dependants.
- (U) To subscribe to or otherwise aid the establishment and support of, any schools and any educational, scientific, literary, religious or charitable institutions or trade societies, whether such institutions or societies be solely connected with the business carried on by the Company or its predecessors in business or not, and to institute and maintain any club or other establishment.

- (V) To distribute in specie assets of the Company properly distributable amongst the members, but so that no distribution amounting to a reduction of capital be made except with the sanction (if any) for the time being required by law.
- (W) To purchase and maintain insurance for or for the benefit of any persons who are or were at any time directors, officers, employees or auditors of the Company against any liability incurred by such persons in respect of any act or omission in the actual or purported execution and or discharges of their duties and or in the exercise of their powers and or otherwise in relation to their duties, powers or offices in relation to the Company, and to such extent as may be permitted by law or otherwise to indemnify or to exempt any such person against or from any such liability.
- (X) To do all or any of the things hereinbefore authorised, either alone or in conjunction with others, or as factors, trustees or agents for others, or by or through factors, trustees or agents.
- (Y) Subject to, and always in compliance with, the provisions of Sections 155 to 158 (inclusive) of the Act (if and so far as such provisions shall be applicable), to give, whether directly or indirectly, any kind of financial assistance (as defined in Section 15291)(a) of the Act) for any such purpose as is specified in Section 151(1) and/or Section 151/(2) of the Act.
- (Z) To do all such other things (whether similar to any of the foregoing or not) as are incidental to or which the Company may think conducive to the above objects or any of them.

The objects set forth in any sub-clause of this clause shall not be restrictively construed but the widest interpretation shall be given thereto, and they shall not, except when the context expressly so requires, be in any way limited to or restricted by reference to or inference from any other object or objects set forth in such sub-clause or from the terms of any other sub-clause or by the name of the Company. None of such sub-clauses or the object or objects therein specified or the powers thereby conferred shall be deemed subsidiary or ancillary to the objects or powers mentioned in any other sub-clause, but the Company shall have full power to exercise all or any of the powers and to achieve or to endeavour to achieve all or any of the objects conferred by and provided in any one or more of the said sub-clauses.

4. The liability of the Members is limited.

5. The Share Capital of the Company is £1,500,000 divided into 500,000 'A' Ordinary Shares of £1 each, 500,000 'B' Ordinary Shares of £1 each and 500,000 'C' Ordinary Shares of £1 each.

WE, the subscribers to this Memorandum of Association wish to be formed into a Company pursuant to this Memorandum; and we agree to take the number of shares shown opposite our respective names.

Names and Addresses of Subscribers

Number of shares taken  
by each Subscriber

For and on behalf of  
WATERFLOW NOMINEES LIMITED  
6-8 Underwood Street  
LONDON  
N1 7JQ

ONE

For and on behalf of  
WATERFLOW SECRETARIES LIMITED  
6-8 Underwood Street  
LONDON  
N1 7JQ

ONE

Dated the 14<sup>th</sup> day of January 2000

WITNESS to the above Signatures:-

JOANNE VINES  
22 Gittens Close  
Durham Hill  
Bromley  
BR1 5LA

**THE COMPANIES ACT 1985**

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**COMPANY LIMITED BY SHARES**

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**N E W**

**NEW ARTICLES OF ASSOCIATION**

**OF**

**EUSEBIUS LIMITED**

(adopted by Special Resolution passed on

22<sup>nd</sup> August 2000)

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**1 PRELIMINARY**

The regulations contained in Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 in force at the time of adoption of these Articles (such Table being called "**Table A**") shall apply to the Company save insofar as they are excluded or varied by these Articles and such regulations (save as so excluded or varied) and these Articles shall be the regulations of the Company.

**2 INTERPRETATION**

2.1 In these Articles, the following expressions shall have the following meanings:-

<b>"the Act"</b>	the Companies Act 1985 including every statutory modification or re-enactment thereof for the time being in force
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<b><i>"A" Director</i></b>	any director appointed and holding office from time to time pursuant to Article 11.2
<b><i>"B" Director</i></b>	any director appointed and holding office from time to time pursuant to Article 11.3
<b><i>"C" Director</i></b>	any director appointed and holding office from time to time pursuant to Article 11.4
<b><i>"the Shareholder's Agreement"</i></b>	means the agreement dated 22 <sup>nd</sup> August 2000 made between The Association of British Dispensing Opticians (1) The Federation of Ophthalmic and Dispensing Opticians Limited (2) and The Federation of Manufacturing Opticians (3) (as supplemented and/or amended from time to time).
<b><i>"Ordinary Share"</i></b>	means an 'A' Ordinary Share, a 'B' Ordinary Share or a 'C' Ordinary Share and any or all of the aforesaid

- 2.2 Unless the context otherwise requires, words or expressions contained in these Articles and in Table A bear the same meaning as in the Act but excluding any statutory modification thereof not in force when these Articles become binding on the Company. Regulation 1 of Table A 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 £1,500,000 divided into 500,000 'A' Ordinary Shares of £1 each (*"the 'A' Ordinary Shares"*), 500,000 'B' Ordinary Shares of £1 each (*"the 'B' Ordinary Shares"*) and 500,000 'C' Ordinary Shares of £1 each (*"the 'C' Ordinary Shares"*).
- 3.2 The 'A' Ordinary Shares, the 'B' Ordinary Shares and the 'C' Ordinary Shares constitute different classes of shares for the purposes of the Act but, except as provided for in these Articles, confer upon the holders the same rights and rank pari passu in all respects.
- 3.3 If a holder of a class (*"Original Class"*) of Ordinary Shares acquires shares of another class of Ordinary Shares (*"the Transferred Shares"*) in accordance with the Shareholders Agreement and these Articles the Transferred Shares shall convert with effect from the date of such acquisition into the same number of fully paid Ordinary Shares of the Original Class. Such converted shares shall as from the conversion date



rank pari passu in all respects with the Ordinary Shares of the Original Class in issue immediately prior to the conversion date.

#### **ALTERATIONS TO THE AUTHORISED SHARE CAPITAL**

- 4 Regulation 32 of Table A shall not apply. The Company may, by special resolution, increase its authorised share capital, such increased capital to be divided into shares of such amount as shall be similarly sanctioned.

#### **ISSUE OF SHARES**

- 5 No shares comprised in the authorised share capital of the Company from time to time shall be issued without the consent in writing of the holder(s) of a majority of the 'A' Ordinary Shares, of the holder(s) of a majority of the 'B' Ordinary Shares and of the holder(s) of a majority of the 'C' Ordinary Shares.

#### **PURCHASE OF OWN SHARES**

- 6 Regulation 35 of Table A shall not apply. Subject to the provisions of Sections 151 to 181 (inclusive) of the Act and the written agreement of the holder(s) of a majority of the 'A' Ordinary Shares, the holder(s) of a majority of the 'B' Ordinary Shares and the holder(s) of a majority of the 'C' Ordinary Shares, the Company may purchase its own shares. Any payment by the Company in respect of the purchase of shares hereunder may be made otherwise than out of distributable profits or the proceeds of a fresh issue of shares.

#### **LIEN**

- 7 The Company shall 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 7 of Table A shall be modified accordingly.

#### **TRANSFERS**

- 8 Regulation 24 of Table A shall not apply.
- 9 No 'A' Ordinary Share, 'B' Ordinary Share or 'C' Ordinary Share or any beneficial interest therein shall be transferred except in accordance with the provisions of the Shareholders Agreement.

## **PROCEEDINGS IN GENERAL MEETING**

- 10** Regulation 40 of Table A shall not apply. No business shall be transacted at any general meeting unless a quorum of members is present. Save as herein otherwise provided, three members present in person or by proxy or by a duly authorised representative (if a corporation) shall be a quorum, one of whom shall be a holder of 'A' Ordinary Shares or its proxy or its duly authorised representative (if a corporation), one of whom shall be a holder of 'B' Ordinary Shares or its proxy or its duly authorised representative (if a corporation) and one of whom shall be a holder of 'C' Ordinary Shares or its proxy or its duly authorised representative. In the event of there not being a quorum, the meeting shall be adjourned for 7 days and immediate notice of such adjournment shall be given to all members not present at such meeting. Any two members (being the holders of two different classes of Ordinary Shares) present in person or by proxy or by a duly authorised representative (if a corporation) shall be deemed to be a quorum at the adjourned meeting.

Regulation 50 of Table A shall not apply.

## **APPOINTMENT OF DIRECTORS**

- 11** Regulation 64 of Table A shall not apply. The maximum number of directors holding office at any time shall be six (6).
- 11.1** The holders of a majority of the 'A' Ordinary Shares shall be entitled by notice in writing to the Company to appoint two directors and by like notice, in their absolute discretion, to dismiss or remove any such directors and by like notice to appoint any other person to be a director in the place of a director so dismissed or removed. Any director so appointed shall be an 'A' Director.
- 11.2** The holders of a majority of the 'B' Ordinary Shares shall be entitled by notice in writing to the Company to appoint two directors and by like notice, in their absolute discretion, to dismiss or remove any such directors and by like notice to appoint any other person to be a director in the place of a director so dismissed or removed. Any director so appointed shall be a 'B' Director.
- 11.3** The holders of a majority of the 'C' Ordinary Shares shall be entitled by notice in writing to the Company to appoint two directors and by like notice, in their absolute discretion, to dismiss or remove any such directors and by like notice to appoint any

other person to be a director in the place of a director so dismissed or removed. Any director so appointed shall be a 'C' Director.

- 11.4 No director shall be appointed or removed otherwise than as provided in these Articles. Regulations 73 to 80 inclusive of Table A shall not apply.

#### **DISQUALIFICATION OF DIRECTORS**

- 12 Regulation 81 of Table A shall be modified by deleting paragraph (e) thereof. The office of a director shall also be vacated if:
- 12.1 he shall be removed from office as provided in Article 11; or
- 12.2 if the holders of a majority of the class of Ordinary Shares who appointed him a director under Articles 11 or 20 cease to hold any Ordinary Shares; or
- 12.3 the holders of the class of Ordinary Shares who appointed him a director under Article 11 have an Option Notice served on them pursuant to Clause 11 of the Shareholders Agreement

#### **PROCEEDINGS OF DIRECTORS**

- 13 Regulation 89 of Table A shall not apply. The quorum for the transaction of any business of the directors shall be three directors (present in person or by alternate at the commencement of and throughout the whole of the meeting), of which at least one shall be an 'A' Director, one shall be a 'B' Director and one shall be a 'C' Director. No business shall be transacted at any meeting of the directors unless such a quorum is present.
- 14 If a quorum is not present the meeting shall be adjourned to the same place day and time next week and immediate written notice of the adjourned meeting shall be given to all directors not present at the meeting and to the holder(s) of Ordinary Shares who appointed such directors. The adjourned meeting shall be quorate if two directors (being directors appointed by the holders of two classes of Ordinary Shares) are present in person or by alternate at the commencement of and throughout the whole of the meeting.
- 15 Questions arising at any meeting of the directors or of a committee of directors shall be determined by a majority of votes of the members present (subject to Article 16)

and, in the case of an equality of votes, the Chairman shall not have a second or casting vote. Regulation 88 of Table A shall be modified accordingly.

- 16 The directors present at a meeting of the directors who are appointed by the holder(s) of the same class of Ordinary Shares shall together have one vote only.
- 17 A meeting of the directors may be held in person or through telephone or video conference means agreed by the directors in which each participant may communicate with all the other participants.
- 18 Regulations 94, 95 and 96 of Table A shall not apply. A director may vote at a meeting of directors or of a committee of directors in respect of any contract or proposed contract or arrangement in which he may be directly or indirectly interested and shall be capable of being counted in the quorum at any meeting of the directors at which any such contract or proposed contract or arrangement shall come before the meeting for consideration.
- 19 Regulation 93 of Table A shall not apply. A resolution in writing signed or approved by letter or facsimile by each director (or his alternate) shall be as valid and effectual as if it had been passed at a meeting of the directors duly convened and held and, when signed or approved, may consist of several documents each signed or approved by one or more of the persons aforesaid. A resolution signed by an alternate director need not be signed by the director for whom he is an alternate and, if it is signed by a director for whom an alternate has been appointed, it need not be signed by an alternate director in that capacity.

#### **ALTERNATE DIRECTOR**

- 20 The holders of a majority of a class of Ordinary Shares shall have power from time to time to nominate any person to act as an alternate director to the director appointed by them under Article 11 and shall have power to remove from office an alternate director so appointed by them.
- 21 An alternate director shall be subject in all respects to the terms and conditions existing with reference to the other directors and shall be entitled to receive notices of all meetings of the directors and attend speak and vote at any such meeting at which the director for which he is an alternate is not present.

- 22 Any appointment or removal of an alternate director may be made by letter or facsimile or in any other manner approved by the directors. Any facsimile shall be confirmed as soon as possible by letter, but shall be acted upon by the Company meanwhile.
- 23 If the holders of Ordinary Shares making any such appointment shall cease to be a holder of Ordinary Shares in the Company, the person appointed by them shall thereupon cease to have any power or authority to act as an alternate director.
- 24 An alternate director shall not be taken into account in reckoning the minimum or maximum number of directors allowed for the time being (but he shall be counted for the purposes of reckoning whether a quorum is present at any meeting of the directors attended by himself at which he is entitled to vote).

Regulations 65 to 68 inclusive of Table A shall not apply.

#### **INDEMNITY**

- 25 Regulation 118 of Table A shall not apply. Subject to the provisions of the Act, but without prejudice to any indemnity to which a director may otherwise be entitled:-
- 25.1 Every director of the Company and every alternate director shall be entitled to 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 his duties of his office or otherwise in relation thereto, including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgement is given in his favour or in which he is acquitted or in connection with any application under 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. Article 25.1 shall only have effect in so far as its provisions are not avoided by Section 310 of the Act.
- 25.2 The directors may purchase and maintain insurance at the expense of the Company for the benefit of any director or other officer or auditor of the Company against any liability which may attach to him, or loss or expenditure which he may incur, in relation to anything done or omitted to be done, or alleged to have been done or omitted to be done, as a director or an officer or auditor.