

3987682

The Companies Act 1985

**PUBLIC COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION OF ASSUREWEB plc**



**PRELIMINARY**

1. (a) The Regulations contained in Table A in the Schedule to the Companies Dated (Tables A to F) Regulations 1985 (SI 1985 No.805) as amended by the Companies (Tables A to F) (Amendment) Regulations 1985 (SI 1985 No. 1052) (such Table being hereinafter called "Table A") shall apply to the Company save in so far as they are excluded or varied hereby and such Regulations (save as so excluded or varied) and the Articles hereinafter contained shall be the regulations of the Company.
- (b) In these Articles the expression "the Act" means the Companies Act 1985, but so that any reference in these Articles to any provision of the Act shall be deemed to include a reference to any statutory modification or re-enactment of that provision for the time being in force.

**TRANSFER OF SHARES**

2. Notwithstanding any other provision contained in these Articles of Association any restrictions contained in Articles 2A to 2G (other than Articles 2D, 2F and 2G) shall apply only to those Ordinary Shares subscribed prior to a Flotation by any Executive and shall not apply to any Ordinary Share that has been issued by the Company pursuant to the exercise of an option granted with the approval of the Inland Revenue under the terms of Schedule 9 to the Taxes Act (a "Revenue Approved Share"). Articles 2F and 2G impose rights and restrictions applying equally to all Ordinary Shares. Article 2D makes special provision in order to ensure that Revenue Approved Shares are not restricted.

**2A. Definitions**

In Articles 2A to 2G (inclusive) below the words and expressions set out below shall have the meanings specified against them unless otherwise specifically provided and any reference to a provision of an Act of Parliament shall include any modification, consolidation, re-enactment or extension of it.

**"Associate"**

(in relation to any Member):

- (i) the spouse, parent, brother, sister, child (including adopted child) or remoter issue of the relevant person;
- (ii) the trustees of any settlement (whether or not set up by 18

the relevant person) under which the relevant person and/or any other Associate of the relevant person is or is capable of being a beneficiary;

- (iii) any nominee or bare trustee for the relevant person or for any other Associate of the relevant person; and/or
- (iv) any person with whom the relevant person or any Associate of the relevant person is connected, the question of whether any such person is so connected falling to be determined for this purpose in accordance with the provisions of section 839 of the Taxes Act;

<b>"Auditors"</b>	the auditors for the time being of the Company;
<b>"Change of Control"</b>	in the case of the Company a sale or other disposal by DBS of at least fifty per cent. of the issued ordinary share capital of the Company (other than by way of a Flotation of the Company or disposal to another entity within the DBS Group) and in the case of DBS and the Company after Flotation where pursuant to a takeover offer or reorganisation under the Companies Act 1985 or the Insolvency Act 1986, a majority of the issued ordinary share capital is held by parties other than those who held shares prior to the takeover or reorganisation;
<b>"Code"</b>	The City Code on Takeovers and Mergers in force at the date on which these Articles were amended to insert new Articles 2A to 2G (inclusive);
<b>"DBS"</b>	DBS Management plc of Independence House, Holly Bank Road, Huddersfield, West Yorkshire HD3 3HN incorporated in England and Wales under registered number 1451043;
<b>"DBS Group"</b>	DBS and all subsidiaries of DBS (including the Company) together with, if applicable, any holding company of DBS and all subsidiaries of such holding company (and for this purpose "holding company" and "subsidiary" shall have the meanings given by section 736 of the Act) and "member of the DBS Group" shall be construed accordingly;
<b>"Executive"</b>	a director or employee of or a consultant (being an individual not a company) to, the Company or another member of the DBS Group;
<b>"First Put Date"</b>	the date falling 30 months after the Issue Date of an Ordinary Share;
<b>"Flotation"</b>	an unconditional granting of permission for 20 per cent. or more of the ordinary shares of the Company to be dealt in on any Recognised Stock Exchange;

<b>“Issue Date”</b>	in respect of any Ordinary Share, the date upon which the Ordinary Share is issued;
<b>“Member”</b>	a member of the Company;
<b>“Notice Date”</b>	the date on which a Transfer Notice is given or deemed to be given (as the case may be);
<b>“Ordinary Shares”</b>	means the authorised (and/or, as appropriate, issued) ordinary shares in the Company from time to time having the rights set out in and being subject to the restrictions set out in these Articles;
<b>“Permitted Transfer”</b>	a transfer of Ordinary Shares authorised by Article 2B(a);
<b>“Prescribed Period”</b>	the period determined in accordance with Article 2E(f);
<b>“Prescribed Price”</b>	the price at which an Ordinary Share is offered for sale pursuant to a Transfer Notice determined in accordance with Article 2E(e);
<b>“Proposing Transferor”</b>	any Member who serves or is deemed to serve a Transfer Notice;
<b>“Put Notice”</b>	a notice served by a Member on DBS under Article 2D;
<b>“Qualifying Offer”</b>	an offer made in the circumstances referred to in Article 2F(a)(i) and in accordance with the provisions of Article 2F or (where the context so requires) an offer with the meaning specified in Article 2G below;
<b>“Recognised Stock Exchange”</b>	any stock exchange upon which Ordinary Shares are admitted and traded for the first time;
<b>“Relevant Cessation”</b>	a person ceasing to be an Executive in the circumstances described in Article 2E(a);
<b>“Relevant Date”</b>	<ul style="list-style-type: none"> <li>(i) in respect of one fifth of any Ordinary Shares issued to an Executive the date of the first anniversary of the date on which the Ordinary Shares were issued;</li> <li>(ii) in respect of a further fifth of any Ordinary Shares issued to an Executive the date of the second anniversary of the date on which the Ordinary Shares were issued;</li> <li>(iii) in respect of a further fifth of any Ordinary Shares issued to an Executive the date of the</li> </ul>

third anniversary of the date of which the Ordinary Shares in question were issued;

- (iv) in respect of a further fifth of any Ordinary Shares issued to an Executive the date of the fourth anniversary of the date of which the Ordinary Shares in question were issued;
- (v) in respect of a further fifth of any Ordinary Shares issued to an Executive the date of the fifth anniversary of the date of which the Ordinary Shares in question were issued;

or, in each case (a) if later, the date upon which a Flotation occurs or (b) if earlier, the date upon which any of the following occur:

- (I) a Change of Control of DBS (where DBS owns at least 50% of the issued ordinary share capital of the Company);
- (II) a Change of Control of the Company; or
- (III) in respect of a particular Member only, immediately upon that Member serving a Put Notice (but only in respect of the Ordinary Shares the subject of the Put Notice);

**“Sale”**

the sale, transfer or other disposition whatsoever of all or any Ordinary Shares to any person (other than to a member of the DBS Group or to a person otherwise than at arm's length) resulting in that person, together with any person acting in concert (within the meaning given in the Code) with such person holding more than 50% of the issued Ordinary Shares in the Company;

**“Sale Shares”**

the Ordinary Shares in respect of which a Member serves or is deemed to serve a Transfer Notice pursuant to Article 2E(b);

**“Specified Price”**

the price for an Ordinary Share determined in accordance with Article 2F(d)(ii) below;

**“Subscription Price”**

in relation to any Ordinary Share, the amount paid up or credited as paid up thereon (including the full amount of any cash premium at which such Ordinary Share was issued whether or not such premium is applied for any purpose thereafter);

**“Successor”**

any Member who holds the Ordinary Shares in question as the successor or assignee (whether direct or indirect) of an original Member who was an

Executive at the time the Ordinary Shares in question were issued or (if applicable) at the time that an option to subscribe for or acquire the Ordinary Shares was granted;

- “the Taxes Act”** the Income and Corporation Taxes Act 1988; and
- “Transfer”** shall include any disposition whatsoever, whether voluntary or otherwise, in respect of any interest;
- “Transfer Notice”** a notice served or deemed to be served in accordance with Article 2E(b).

## **2B. Permitted Transfers**

- (a) Any Ordinary Shares (other than any Ordinary Shares in respect of which the Member has given a Transfer Notice, shall have been required by the Directors under these Articles to give a Transfer Notice or shall have been deemed to have given a Transfer Notice) may at any time be transferred:

- (i) to any person with the prior consent in writing of:
- (aa) the Board of Directors of the Company; or
- (bb) Members entitled to cast 75% of the votes exercisable on a poll at a general meeting of the Company

which consent may be granted unconditionally or subject to terms or conditions and in the latter case any Ordinary Share so transferred shall be held subject to such terms and conditions notified in writing prior to registration of the transfer; or

- (ii) by a Member who is an individual (the “transferor’s to his spouse, parent, brother, sister or child or remoter issue or the trustees of any trust the sole beneficiaries of which are one or more of such spouse, parent, brother, sister, child or remoter issue (collectively the “trustees” and individually a “trustee” provided that such person or trustees (the “transferee’s shall have entered into a written undertaking in such form as the Directors may require. Under this undertaking, the transferee shall undertake that (i) the transferee shall not transfer any Ordinary Shares at any time or to any person other than at such time and to such person to whom the transferor would have been entitled or obliged to transfer such Ordinary Shares under these Articles and (ii) if the transferor may or would be obliged to give a Transfer Notice in respect of such Ordinary Shares, the transferee will:
- (aa) forthwith give notice of such event to the Directors and thereupon the Directors may require the transferee forthwith to serve a Transfer Notice in respect of any Ordinary Shares owned by the

transferee in accordance with the provisions of these Articles;

- (bb) if so required by the Directors, the transferee will forthwith serve such a Transfer Notice and the provisions of Articles shall have effect;
  - (cc) if the transferee makes default in the service of the Transfer Notice in accordance with this Article 2B(a)(ii) the Directors may authorise some person (who shall be deemed to be the attorney of the transferee for such purpose) to give such a Transfer Notice on behalf of the transferee; or
  - (iii) by a trustee to another trustee or to a beneficiary of any trust provided that (in either case) the trust in question is for the benefit of persons falling within Article 2B(a)(ii) above (and in this context it shall be relationship to the original individual Member that is relevant) and provided that such transferee shall have entered into a written agreement with the Member or Members for the time being in such form as the Directors may require and otherwise in accordance with the provisions set out in Article 2B(a)(ii) above; or
  - (iv) by any person entitled to Ordinary Shares in consequence of the death or bankruptcy of an individual Member to any person to whom such individual Member, if not dead or bankrupt, would be permitted hereunder to transfer the same (subject to any transferee entering into a written agreement with the Member or Members for the time being in such form as the Directors may require and otherwise in accordance with the provisions set out in Article 2B(a)(ii) above);
  - (v) to a bare trustee, nominee or custodian; or
  - (vi) notwithstanding anything to the contrary elsewhere in this Article 2B, to any person in relation to any Revenue Approved Share.
- (b) If an Ordinary Share remains registered in the name of a deceased Member for longer than one year after the date of his death, the Directors may require the legal personal representatives of such deceased Member either to effect a transfer of such Ordinary Shares (including for such purpose an election to be registered in respect thereof) being a Permitted Transfer or to show to the satisfaction of the Directors that a Permitted Transfer will be effected up to or promptly upon the completion of the administration of the estate of the deceased Member or (failing compliance with either of the foregoing within one month or such longer period as the Directors may allow for the purpose) the legal personal representatives shall be deemed to authorise such person as the Directors shall direct to be their attorney and to give a Transfer Notice on their behalf.

## **2C. Restriction on Transfer**

- (a) Except in the case of:
  - (i) a Permitted Transfer; or
  - (ii) a transfer pursuant to Articles 2D to 2G prior to any Relevant Date in respect of an Ordinary Share, no sale, transfer or any other kind of disposition whatsoever shall be permitted and any purported disposition in breach of this Article 2C shall be null and void. References in this Article 2C to a disposition of Ordinary Shares or to Sale Shares shall include any interest in and grant of contractual rights or options over or in respect of Ordinary Shares.

## **2D. Put and Call Options**

- (a) Subject to Article 2D(b) below, if by the First Put Date neither a Flotation nor a Change of Control of either the Company or DBS has occurred, then the following shall apply:
  - (i) the Company shall procure that the remuneration committee of the board of DBS shall appoint a firm of chartered accountants (not being the Auditors or the auditors to DBS) to report as to their Articles of Association opinion of the value of an issued Ordinary Share at the First Put Date. The firm shall be instructed to report on the following basis:
    - (aa) there is no discount or premium by reason of the fact that any Ordinary Share may form a minority, majority or half interest in the Company;
    - (bb) there is a willing buyer and seller for the Ordinary Shares on an arm's length basis;
    - (cc) regard is taken of the fair value of the business of the Company as a going concern; and
    - (dd) all inherent tax and other liabilities and obligations of the Company and, where relevant, other members of the DBS Group are taken into account.

The firm shall be instructed to act at the cost and expense of DBS and to act as experts and not as arbitrators. Their opinion as to the value of an Ordinary Share shall be final and binding on all persons concerned and, in the absence of fraud, they shall be under no liability to any such person by reason of their report or by anything done or omitted to be done by them for the purpose thereof or in connection therewith. The Company shall procure that the opinion of the firm as to the value per Ordinary Share is notified to Members on or immediately following the First Put Date.

Provided that where the Directors and a majority in number of the shareholders agree on the value of an issued Ordinary Share at the First Put Date (the "Agreed Value") that Agreed Value shall be the value of an issued Ordinary Share for the purposes of the remaining provisions of this Article 2 (a).

- (ii) if the reported value under Article 2D(a)(i) above is more than 25p per Ordinary Share (but not otherwise) then in respect of up to 20% of the Ordinary Shares issued on the Issue Date to a Member, a Member may serve a Put Notice on the Company within 21 days of the First Put Date. That notice, which must be in writing, shall require the Company to procure that DBS shall purchase the number of Ordinary Shares properly specified in that notice at the value per share determined under paragraph (i) above
- (iii) if prior to each of the first, second, third and fourth anniversaries of the First Put Date neither a Flotation nor a Change of Control of either the Company or DBS has occurred, then the provisions of Article 2D(a)(i) and (ii) above shall apply save that the references therein to the First Put Date shall instead be construed as references to the respective anniversary date;
- (iv) if on the fourth anniversary of the First Put Date neither a Flotation nor a Change of Control of either DBS or the Company has occurred, then DBS may, on that date, serve a notice on any Member still holding Ordinary Shares issued on or more than six years and six months prior to that date, requiring him to sell all of the Ordinary Shares issued to him at that prior date. In this case the price per Ordinary Share shall be the price determined on that date pursuant to Article 2D(a)(iii) above save that it shall also be reduced by the amount then unpaid on each Ordinary Share in respect of which notice is served by DBS under this sub-paragraph; and
- (v) where a Put Notice or a notice from DBS under sub-paragraph (iv) above is served then within seven days:
  - (aa) the respective Member shall deliver to DBS the relevant share certificates) for the relevant shares together with a duly signed stock transfer form in relation to the same and shall sell the shares free from all liens, charges, encumbrances, third party rights and together with all rights at that time attaching thereto; and
  - (bb) DBS shall purchase the same on that basis and shall by that date deliver to the relevant Member payment of the relevant purchase price.



- (b) In relation to all Revenue Approved Shares the provisions of Article 2D(a) above shall apply, but with the following amendments:
- (i) sub-paragraph (a)(i) shall apply if immediately following issue of the Ordinary Shares in question (and not 30 months thereafter) neither a Flotation nor a Change of Control of either DBS or the Company has occurred, save that the First Put Date shall be whenever is the next date upon which a Put Notice may be served by any Member in respect of other Ordinary Shares; and
  - (ii) sub-paragraph (a)(ii) shall apply, in respect of the first Put Notice which may be served in respect of such shareholding only, in respect of 40% of the Ordinary Shares issued on the relevant Issue Date (but thereafter the references in sub-paragraph (a)(iii) shall be deemed to refer to the first, second and third anniversaries only of the first date upon which a member may have served his first Put Notice and in respect of the three further tranches of 20% respectively; and
  - (iii) sub-paragraph (a)(iv) shall not apply.
- (c) If a Relevant Date arises as a result of a Change of Control of DBS, then (provided there has not been a prior Flotation) the following shall apply:
- (i) the Company shall procure that the remuneration committee of the board of DBS shall appoint a firm of chartered accountants (not being the Auditors or the auditors to DBS) to report as to their opinion of the value of an issued Ordinary Share as at the date of the Change of Control of DBS. The firm shall be instructed to report on the following basis:
    - (aa) there is no discount or premium by reason of the fact that any Ordinary Share may form a minority, majority or half interest in the Company;
    - (bb) there is a willing buyer and seller for the Ordinary Shares on an arm's length basis;
    - (cc) regard is taken of the fair value of the business of the Company as a going concern; and
    - (dd) all inherent tax and other liabilities and obligations of the Company and, where relevant, other members of the DBS Group are taken into account.

The firm shall be instructed to act at the cost and expense of DBS and to act as experts and not as arbitrators. Their opinion as to the value of an Ordinary Share shall be final and binding on all persons concerned and, in the absence of fraud, they shall be under no liability to any such person by reason of their report or by anything done or omitted to be done by them for the purpose thereof or in connection therewith. The Company

shall procure that the opinion of the firm as to the value per Ordinary Share is notified to Members as soon as practicable following the Change of Control of DBS. Where a Change of Control is likely, DBS shall be required to instruct the firm to commence work prior to the Change of Control taking place in order that its report can be made at the time of the Change of Control or as soon thereafter as practicable.

Provided that where the Directors and a majority in number of the shareholders agree on the value of an issued Ordinary Share at the date of the Change of Control (the "Agreed Value") that Agreed Value shall be the value of an issued Ordinary Share for the purposes of the remaining provisions of this Article 2 (c).

- (ii) in respect up to 100% of the Ordinary Shares issued on the Issue Date to a Member, a Member may serve a Put Notice on the Company and/or DBS may serve a notice on any Member (a "Call Notice"). A Put Notice may be served within 21 days of the date that the value of an Ordinary Share is notified to Members in accordance with Article 2D(c)(i) above. However, a Call Notice may only be served within 2 days of that notification date. That notice, which must be in writing, shall require the Company to procure that DBS shall purchase (in the case of a Put Notice) or shall require a Member to sell to DBS or whomsoever it shall nominate (in the case of a Call Notice) the number of Ordinary Shares properly specified in that notice at the value per share determined under Article 2D(c)(i) above.
- (iii) where a notice is served under Article 2D(c)(ii) above then within seven days:
  - (aa) the respective Member shall deliver to DBS the relevant share certificate(s) for the relevant shares together with a duly signed stock transfer form in relation to the same and shall sell the shares free from all liens, charges, encumbrances, third party rights and together with all rights at that time attaching thereto; and
  - (bb) DBS (or its nominee) shall purchase the same on that basis and shall by that date deliver to the relevant Member payment of the relevant purchase price; and
- (iv) the provisions of this Article 2D(c) shall apply in relation to a Revenue Approved Share as they apply to any other Ordinary Share save that no Call Notice may be served in respect of a Revenue Approved Share under Article 2D(c)(ii) above.

## **2E. Compulsory Transfers - Executives**

- (a) For the purposes of this Article there shall be a Relevant Cessation if a Member ceases to be an Executive (or in the case of a Successor if the original Subscriber of his Ordinary Shares ceases to be an Executive) otherwise than by reason of:
- (i) death of the Executive in question;
  - (ii) early retirement due to ill health of the Executive in question;
  - (iii) redundancy (within the meaning of Part IX of the Employment Rights Act 1996) of the Executive in question;
  - (iv) retirement (on reaching the age of 65 or such other age at which it is agreed with the Executive's employer company that such Executive may retire) of the Executive in question;
  - (v) the company for which the Executive in question works ceasing to be a member of the DBS Group; or
  - (vi) the business or part-business in which the Executive works being transferred to a person who is not a member of the DBS Group.
- (b) Subject to Article 2E(c) below, on a Relevant Cessation any Member shall be required to serve pursuant to Article 2E(d) below a Transfer Notice for those Ordinary Shares in respect of which a Relevant Date has not yet occurred (but ignoring for this purpose only the postponement of a Relevant Date by virtue of a Flotation not having occurred). If the Member fails to give a Transfer Notice within 21 days of being so required he shall be deemed to authorise such person as the Directors shall direct to be his attorney to give a Transfer Notice on his behalf.
- (c) Where the Relevant Cessation of the Executive in question occurs at any time as a result of that Executive being dismissed where the dismissal is both lawful and statutorily fair (but not taking into account any procedural unfairness) then Article 2E(b) shall apply to require the Member in question to give a Transfer Notice in respect of all of the Ordinary Shares held by him.
- (d) The Transfer Notice given pursuant to 2E(b) above shall constitute the Company the agent of a Member for the sale of the Sale Shares (together with all rights then attached thereto) at the Prescribed Price during the Prescribed Period to the Company, to any Member or to any other person selected or approved by the Directors on the basis set out in the following provisions of this Article and the Transfer Notice shall include such of the details as the Directors may reasonably require and shall not be revocable except with the consent of the Directors.
- (e) The Prescribed Price shall be the Subscription Price less the amount then unpaid on each Sale Share.

- (f) The Prescribed Period shall commence on the Notice Date and expire 8 weeks thereafter.
- (g) All Sale Shares included in any Transfer Notice shall by notice in writing be offered by the Company on behalf of the relevant Member forthwith on receipt of the relevant Transfer Notice to the Company to buy back the Sale Shares. Where the Company is unable to buy back the Sale Shares in accordance with the provisions of the Act the Company may (subject to the agreement of the Directors) in its absolute discretion make a second offer on the same terms to DBS Management plc. The Company may in its absolute discretion make a third offer on the same terms to all Members (other than the Member holding the Sale Shares) if any Sale Shares remain unsold after the period for acceptance of the first or second offer by the Company has expired. The Sale Shares shall be offered for purchase at the Prescribed Price on the terms that in case of competition on an offer to Members the Sale Shares shall be sold to the acceptors in proportion (as nearly as may be without involving fractions or increasing the number sold to any Member beyond that applied for by him) to their existing holdings of Ordinary Shares (with notice being given to all other Members of the offer). Such offer:
- (i) shall stipulate a time not exceeding 21 days within which it must be accepted or in default will lapse; and
  - (ii) may stipulate in the case of an offer to all Members that any Members who desire to purchase a number of the Sale Shares in excess of the proportion to which each is entitled shall in their acceptance state how many excess Sale Shares they wish to purchase and any Sale Shares not accepted by other Members shall be used for satisfying the requests for excess Sale Shares pro rata to the existing Ordinary Shares held by such Members making such requests.
- (h) If the Company shall within the Prescribed Period accept the offer or (in the case of a second offer) shall find Members (each such person being hereinafter called "a purchaser" to purchase the Sale Shares or any of them and give notice in writing thereof to the Proposing Transferor he shall be bound, upon payment to him of the Prescribed Price, to transfer such Sale Shares to the respective purchaser(s). Every notice given by the Company under this Article 2E(h) shall state the name and address of each purchaser and the number of Sale Shares agreed to be purchased by him and the purchase shall be completed at a place and time to be appointed by the Directors not being less than three days nor more than ten days after the date of the notice.
- (i) If a Proposing Transferor shall fail or refuse to transfer any Sale Shares to a purchaser(s) hereunder the Directors may authorise some person to execute and deliver on his behalf the necessary transfer and the Company may receive the purchase money in trust for the Proposing Transferor and cause the purchaser(s) to be registered as the Member(s) holding the Sale Shares in question. The receipt of the Company for the purchase money shall constitute a good discharge to the purchaser(s)

(who shall not be bound to see to the application thereof) and after the purchaser(s) has been registered in purported exercise of the aforesaid powers the validity of the proceedings shall not be questioned by any person. The Company shall not pay the purchase money to the Proposing Transferor until he shall have delivered his share certificate(s) or a suitable indemnity and the necessary transfers to the Company and nor shall it be liable to account to him for any interest on the same.

- (j) If the Company shall not within the Prescribed Period find purchasers willing to purchase any or all of the Sale Shares and gives notice in writing thereof to the Proposing Transferor, or if the Company shall within the Prescribed Period give to the Proposing Transferor notice in writing that the Company has no prospect of finding purchasers, the Proposing Transferor at any time during a period of 45 days after the end of the Prescribed Period shall be at liberty to transfer those Sale Shares, for which the Company has not within the Prescribed Period given notice that it has found (or has given notice that it has no prospect of finding) purchasers, to any person by way of a bona fide sale at any price not being less than the Prescribed Price (after deducting, where appropriate, any dividend or other distribution declared or made after the date of the Transfer Notice and to be retained by the Proposing Transferor) provided that the Directors may require to be satisfied that the Sale Shares are being transferred under this Article pursuant to a bona fide sale for the consideration stated in the Transfer Notice without any deduction, rebate or allowance whatsoever to the purchaser and if not so satisfied may refuse to register the instrument of transfer.

## **2F. Transfers Changing Control of the Company**

- (a) Prior to a Flotation only, notwithstanding anything in these Articles to the contrary but subject as provided below, no transfer of any Ordinary Shares (the "specified shares" which would result if made or registered in a Sale shall be made or registered unless:
  - (i) before the transfer is lodged for approval by the Directors or registration the proposed transferee has made a Qualifying Offer to purchase free from liens, charges, encumbrances, rights of pre-emption or third party rights and together with all rights thereafter attaching all the Ordinary Shares at the Specified Price; and
  - (ii) before or at the same time as the transfer of the specified shares is approved by the Directors (subject to stamping), each contract constituted by the acceptance of the Qualifying Offer is completed and the consideration thereunder paid except insofar as any failure to complete is due to the fault of the offeree.

For the avoidance of doubt, the provisions of this Article 2F shall not apply in the circumstances where an offeror becomes entitled to acquire Ordinary Shares from the other Shareholders (as such term is defined in Article 2G(b) below) pursuant to Article 2G.

- (b) A Qualifying Offer shall be in writing, despatched to all Members and shall be stipulated to be open for acceptance in the United Kingdom for at least 21 days and in default of acceptance in writing within such time by an offeree shall be deemed to have been rejected by such offeree.
- (c) For the avoidance of doubt, the provision of Article 2F(a) shall not apply to the acquisition of Ordinary Shares by way of subscription.
- (d) For the purposes of this Article 2F:
  - (i) “transfer” and “transferee” shall include respectively the renunciation of a renounceable letter of allotment and the renouncee under any such letter of allotment; and
  - (ii) “Specified Price” shall mean:
    - (aa) a price per Ordinary Share of not less than that offered or paid or agreed to be paid by the proposed transferee or any Associate of such person or any person acting in concert (within the meaning given in the Code) with such person for each specified share (less any amount representing the unpaid element on any share); or, if higher,
    - (bb) if the proposed transferee or any Associate of such person or any person acting in concert with such person has acquired any Ordinary Shares during the preceding twelve months, the “Specified Price” shall mean a price of not less than the average price per Ordinary Share paid or agreed to be paid in respect of all such Ordinary Shares so acquired during the preceding twelve months, including the specified shares;
    - (cc) In determining the price paid or agreed to be paid for an Ordinary Share for the purposes of Article 2F(d)(ii), there shall be included in each case an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the seller of the Ordinary Shares (or any connected person or person acting in concert with him) which (having regard to the substance of the transaction as a whole) can reasonably be regarded as forming part of the consideration for the relevant Ordinary Shares.
- (e) When a Qualifying Offer is made pursuant to Article 2F(a) and the Company has convertible securities outstanding, the proposed transferee must make an appropriate offer or proposal to the holders of such securities to ensure that their interests are safeguarded. Equality of treatment is required. Unless the Directors otherwise agree, the offer or proposals should be despatched to holders of such securities at the same time as the Qualifying Offer is made. If the Directors agrees that the

offer or proposal need not be made at the same time as the Qualifying Offer, the offer or proposal should be despatched as soon as possible thereafter. If the Company has options or subscription rights outstanding, the provisions of this Article 2F shall apply mutatis mutandis.

- (f) In the event of disagreement as to the calculation of the Specified Price or as to the terms or timing of an offer or proposal required pursuant to Article 2F, such disagreement shall be referred to an umpire (acting as expert and not as arbitrator) nominated by and acting at the joint expense of the parties concerned (or, in the event of disagreement as to a nomination, appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales (or any successor body thereto) at the request of any of the parties concerned) whose decision shall in the absence of manifest error be final and binding. In the absence of fraud such umpire shall be under no liability to any person by reason of his calculation or anything done or omitted to be done by him for the purposes thereof or in connection therewith. The proposing transferor and any other Shareholder shall provide such umpire with whatever information the umpire reasonably requests for the purposes of the calculation.

## **2G. Compulsory Sale**

- (a) For the purposes of this Article 2G the expression, "Qualifying Offer" shall mean a document in writing delivered to any Member containing an offer to acquire all the share capital of the Company then in issue for cash payable on completion of such transaction (otherwise than an offer by a member of the DBS Group or an offer otherwise than on arm's length terms). Any disagreement as to whether an offer is a Qualifying Offer shall be referred to an umpire (who shall act as an expert and not as an arbitrator) nominated by and acting at the joint expense of the parties concerned (or, in the event of disagreement as to the nomination, appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales (or any successor body thereto) at the request of any of the parties concerned) whose decision shall in the absence of manifest error be final and binding.
- (b) If a Qualifying Offer is made by or on behalf of any person (the "offeror") and the holders of 85 per cent. of the issued share capital (the "proposed vendors") wish to accept the Qualifying Offer, then the proposed vendors shall notify the remaining Members holding Ordinary Shares (the "other shareholders" of the fact of the Qualifying Offer, the identity of the offeror and the offer price.
- (c) Upon such notification and conditional on acceptance by proposed vendors of the Qualifying Offer the other shareholders shall:
  - (i) be deemed to have accepted the Qualifying Offer in accordance with its terms at the time of which the Qualifying Offer is made (or if the Qualifying Offer is conditional, at the time such conditions are satisfied or waived) and to have irrevocably

waived any pre-emption rights that they may have in relation to the transfer of the Ordinary Shares in respect of which they are Members; and

- (ii) be obliged to deliver to the offeror or his nominee an executed transfer of such Ordinary Shares and the certificate(s) in respect of them (or a suitable indemnity in lieu thereof), together with a contract by which such other shareholders shall agree to sell, with full title guarantee, their Ordinary Shares to such offeror.
- (d) If any other shareholder shall not, within seven days of being required to do so, execute and deliver the documents referred to in Article 2G(c) in respect of the Ordinary Shares held by him, then the Directors and/or a majority in number of the proposed vendors shall be entitled to, and shall be entitled to authorise and instruct such person as they think fit to execute the documents referred to in Article 2G(c) on the other shareholder's behalf and, against receipt by the Company (on trust for such shareholder) of the purchase monies payable for the relevant Ordinary Shares, deliver such documents and certificates or indemnities to the offeror or his nominee and register such offeror or his nominee as the holder thereof and, after such offeror or his nominee has been registered as the holder, the validity of such proceedings shall not be questioned by any person. As security for the above obligations, each Member irrevocably appoints any of the Directors, whom failing any of the proposed vendors, as its attorney to execute and do all such deeds, documents and things in the name of and on behalf of such Member as may reasonably be required to give full effect to the provisions of this Article 2G.

### **ALLOTMENT OF SHARES**

- 3. (a) Shares which are comprised in the authorised but unissued share capital of the Company shall be under the control of the Directors who may (subject to Sections 80 and 89 of the Act and to paragraphs (b) and (c) below) allot, grant options over or otherwise dispose of the same, to such persons, on such terms and in such manner as they think fit.
- (b) The Directors are generally and unconditionally authorised for the purposes of Section 80 of the Act to exercise any power of the Company to allot and grant rights to subscribe for or convert securities into shares of the Company up to the amount of the authorised share capital with which the Company is incorporated at any time or times during the period of five years from the date of incorporation of the Company and the Directors may, after that period, allot any shares or grant any such rights under this authority in pursuance of an offer or agreement so to do made by the Company within that period. The authority hereby given may at any time (subject to the said Section 80) or be renewed, revoked or varied by Ordinary Resolution of the Company in General Meeting.
- (c) The Directors are empowered to allot and grant rights to subscribe for or convert securities into shares of the Company pursuant to the authority conferred under paragraph (b) above as if Section 89(1) of the



Act did not apply. This power shall enable the Directors so to allot and grant rights to subscribe for or convert securities into shares of the Company after its expiry in pursuance of an offer or agreement so to do made by the Company before its expiry.

- (d) Save as authorised by the Act, the Company shall not give, whether directly or indirectly, any financial assistance (as defined in Section 152(1)(a) of the Act) for any such purpose as is specified in Section 151 of the Act.
- (e) Save as permitted by Section 101(2) of the Act, no shares of the Company shall be allotted except as paid up at least as to one quarter of their nominal value and the whole of any premium.
- (e) The liability of any Member in default in respect of a call shall be increased by the addition at the end of the first sentence of Clause 18 in Table A of the words "and all expenses that may have been incurred by the Company by reason of such non-payment".

#### **GENERAL MEETINGS AND RESOLUTIONS**

- 4. Every notice convening a General Meeting shall comply with the provisions of Section 372(3) of the Act as to giving information to Members in regard to their right to appoint proxies; and notices of and other communications relating to any General Meeting which any Member is entitled to receive shall be sent to the Directors and to the Auditors for the time being of the Company.
- 5.
  - (a) If a quorum is not present within half an hour from the time appointed for a General Meeting the General Meeting shall stand adjourned to the same day in the next week at the same time and place or to such other day and at such other time and place as the Directors may determine; and if at the adjourned General Meeting a quorum is not present within half an hour from the time appointed therefor such adjourned General Meeting shall be dissolved.
  - (b) Clause 41 in Table A shall not apply to the Company.

#### **APPOINTMENT OF DIRECTORS**

- 6.
  - (a) Clause 64 in Table A shall not apply to the Company.
  - (b) The maximum number and minimum number respectively of the Directors may be determined from time to time by Ordinary Resolution in General Meeting of the Company. Subject to and in default of any such determination there shall be no maximum number of Directors and the minimum number of Directors shall be two.
  - (c) The Directors shall not be required to retire by rotation and Clauses 73 to 80 (inclusive) in Table A shall not apply to the Company.
  - (d) No person shall be appointed a Director at any General Meeting unless either:-

- (i) he is recommended by the Directors; or
  - (ii) not fewer than fourteen nor more than thirty-five clear days before the date appointed for the General Meeting, notice signed by a Member qualified to vote at the General Meeting has been given to the Company of the intention to propose that person for appointment, together with notice signed by that person of his willingness to be appointed.
- (e) Subject to paragraph (d) above, the Company may by Ordinary Resolution in General Meeting appoint any person who is willing to act to be a Director, either to fill a vacancy or as an additional Director.
- (f) The Directors may appoint a person who is willing to act to be a Director, either to fill a vacancy or as an additional Director, provided that the appointment does not cause the number of Directors to exceed any number determined in accordance with paragraph (b) above as the maximum number of Directors for the time being in force.
- (g) A member or members holding a majority in nominal value of the issued shares for the time being in the Company shall have power from time to time to appoint any person or persons as a Director or Directors either as an additional Director or to fill any vacancy (provided that the total number of Directors shall not exceed any maximum number from time to time prescribed by or in accordance with these Articles) and to remove from office any Director howsoever appointed. Any such appointment or removal shall be effected by notice in writing to the Company signed by the member or members making the same or in the case of a member being a company, signed by any director thereof or by any person so authorised by resolution of the Directors or of other governing body thereof. Any such appointment or removal shall take effect when the notice effecting the same is delivered to the registered office of the Company or to the Secretary or is produced at a meeting of the Directors, and any such removal shall be without prejudice to any claim which a Director so removed may have under any contract between him and the Company subject to the provisions of the Act.

## **BORROWING POWERS**

7. The Directors may exercise all the powers of the Company to borrow money without limit as to amount and upon such terms and in such manner as they think fit, and subject (in the case of any security convertible into shares) to Section 80 of the Act to grant any mortgage, charge or standard security over its undertaking, property and uncalled capital, or any part thereof, and to issue debentures, debenture stock, and other securities whether outright or as security for any debt, liability or obligation of the Company or of any third party.

## **ALTERNATE DIRECTORS**

8. (a) An alternate Director shall not be entitled as such to receive any remuneration from the Company, save that he may be paid by the Company such part (if any) of the remuneration otherwise payable to his

appointor as such appointor may by notice in writing to the Company from time to time direct, and the first sentence of Clause 66 in Table A shall be modified accordingly.

- (b) A Director, or any such other person as is mentioned in Clause 65 in Table A, may act as an alternate Director to represent more than one Director, and an alternate Director shall be entitled at any meeting of the Directors or of any committee of the Directors to one vote for every Director whom he represents in addition to his own vote (if any) as a Director, but he shall count as only one for the purpose of determining whether a quorum is present.

## **GRATUITIES AND PENSIONS**

- 9. (a) The Directors may exercise the powers of the Company conferred by Clause 4(17) of the Memorandum of Association of the Company and shall be entitled to retain any benefits received by them or any of them by reason of the exercise of any such powers.
- (b) Clause 87 in Table A shall not apply to the Company.

## **PROCEEDINGS OF DIRECTORS**

- 10 (a) A Director may vote at any meeting of the Directors or of any committee of the Directors on any resolution, notwithstanding that it in any way concerns or relates to a matter in which he has, directly or indirectly, any kind of interest whatsoever, and if he shall vote on any such resolution as aforesaid his vote shall be counted; and in relation to any such resolution as aforesaid he shall (whether or not he shall vote on the same) be taken into account in calculating the quorum present at the meeting.
- (b) Clauses 94 to 97 (inclusive) in Table A shall not apply to the Company.

## **THE SEAL**

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

## **EXECUTION OF CERTIFICATES**

- 12 Every certificate for share or loan capital or other securities of the Company (other than letters of allotment, scrip certificates or similar documents) shall be

issued under the Seal (or in such other manner as the Board, having regard to the terms of issue and applicable legal requirements and each share certificate shall specify the shares to which it relates, the distinguishing number (if any) of the shares and the amount paid up on the shares. The Board may determine, either generally or in relation to any particular case, that any signature on any certificate need not be autographic but may be applied by some mechanical or other means, or printed on the certificate, or that certificates need not be signed.

## INDEMNITY

- 13        (a)        Every Director or other officer or Auditor of the Company shall be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the execution of the duties of his office or otherwise in relation thereto, including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application under Section 144 or Section 727 of the Act in which relief is granted to him by the Court, and no Director or other officer shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in the execution of the duties of his office or in relation thereto. But this Article shall only have effect in so far as its provisions are not avoided by Section 310 of the Act.
- (b)        The Directors shall have power to purchase and maintain for any Director, officer or Auditor of the Company insurance against any such liability as is referred to in Section 310(1) of the Act from and after the bringing in to force of Section 137 of the Companies Act 1989.
- (c)        Clause 118 in Table A shall not apply to the Company.