

Company number: 08632251

**WRITTEN RESOLUTIONS**

OF

**X4 SOFTWARE LTD (Company)**

Passed on 6<sup>th</sup> MARCH 2019

Circulation Date 6<sup>th</sup> MARCH 2019

FRIDAY



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08/03/2019  
COMPANIES HOUSE

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006 (CA 2006) the directors of the Company propose that the following resolutions are passed as ordinary and special resolutions of the Company (**Resolutions**).

**ORDINARY RESOLUTION**

**1. AUTHORITY TO ALLOT**

THAT, subject to the passing of Resolution 3 below, in accordance with section 551 of the CA 2006, the directors of the Company be authorised to allot up to 3,326 B preferred ordinary shares of £0.01 each in the capital of the Company (the **Shares**) having the rights and subject to the restrictions set out in the New Articles (as defined in and adopted pursuant to Resolution 3 below). Such authority shall be solely limited to the provisions set out in resolution 2 below. Unless renewed, varied or revoked by the Company, this authority shall expire on the fifth anniversary of its date of passing, save that the Company may, before such expiry, make an offer or agreement which would or might require shares to be allotted and the directors may allot shares in pursuance of such offer or agreement notwithstanding that the authority conferred by this section has expired.

**SPECIAL RESOLUTIONS**

**2. DISAPPLICATION OF PRE-EMPTION RIGHTS**

THAT, subject to the passing of Resolution 3 below, the directors be generally empowered to allot the Shares pursuant to the authority conferred by Resolution 1 above as if article 8 of the New Articles did not apply to such allotment and issue and any and all pre-emption rights which the shareholders of the Company may have in relation to the Shares shall be disregarded for the purposes of, and shall not apply to, the allotment and issue of the Shares.

**3. ADOPTION OF NEW ARTICLES**

THAT the draft articles of association attached to this resolution be adopted as the articles of association of the Company in substitution for, and to the exclusion of, the Company's existing articles of association.

## AGREEMENT

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

The undersigned, a person entitled to vote on the above Resolutions on the Circulation Date hereby irrevocably agrees to the Resolutions:

Signed by Edward Brooks

DocuSigned by:  
*Edward Brooks*  
89C751AE811A482

Signed by Adrian Walker

DocuSigned by:  
*Adrian Walker*  
283C2D9F11C744D...

Signed by Sara Boltman

DocuSigned by:  
*Sara Boltman*  
9E708DD5E1834EE

Signed by Joe Miles

DocuSigned by:  
*Joe Miles*  
48D7326E3EF1435

Signed by Anthony Record

DocuSigned by:  
*Anthony Record*  
7199FAED34D448E

Signed by Naomi Miles

.....

Signed by WCR Limited

DocuSigned by:  
*William Record*  
FBEEA2E4FBE4F0...

Signed by Matthew John

DocuSigned by:  
*Matthew John*  
7F41298DBDFD455

Signed by HIPE Pty Ltd

.....

Signed by DBW Investments (14) Limited

DocuSigned by:  
*R. Ciston*  
8AF263584FA9499

Signed by Andrew Diplock

DocuSigned by:  
*Andrew Diplock*  
1793D3B3B0C1407

Signed by Gruff Dodd

DocuSigned by:  
*Gruff Dodd*  
736AE983081747B

## NOTES

1. If you agree to the Resolutions, please indicate your agreement by applying your electronic signature where indicated above. An electronically signed copy will automatically be sent to the Company after you have so applied your signature and you will be deemed to have irrevocably agreed to the Resolutions set out above.

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

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

3. Unless, within 28 days of circulation sufficient agreement has been received for the Resolutions to pass, they will lapse. If you agree to the Resolutions, please ensure that your agreement reaches us before or during this date.

4. In the case of joint holders of shares, only the vote of the senior holder who votes will be counted by the Company. Seniority is determined by the order in which the names of the joint holders appear in the register of members.

5. If you are signing this document on behalf of a person under a power of attorney or other authority please send a copy of the relevant power of attorney or authority when returning this document.

**Company No. 08632251**

**THE COMPANIES ACT 2006**

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**PRIVATE COMPANY LIMITED BY SHARES**

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**NEW ARTICLES OF ASSOCIATION**

**(adopted by special resolution passed on 6<sup>th</sup> March 2019)**

**of**

**X4 SOFTWARE LTD**

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## PRELIMINARY

### 1. Model Articles

- 1.1 The regulations contained in the Model Articles, save in so far as they are expressly excluded or varied by these Articles, the regulations numbered 25 to 27 (inclusive) and 52 to 62 (inclusive) in the Model Articles of Association for Public Companies set out in schedule 3 of the Companies (Model Articles) Regulations 2008 (SI 2008 No. 3229) and the regulations contained in these Articles shall together constitute the articles of association of the Company.
- 1.2 The regulations of the Model Articles numbered 21 and 30 do not apply to the Company.

### 2. Interpretation

- 2.1 In these Articles unless the context otherwise requires each of the following words and expressions shall have the following meanings:

<b>Accountants</b>	means the Company's accountants from time to time;
<b>Act</b>	means the Companies Act 2006 (as amended from time to time);
<b>acting in concert</b>	shall have the meaning set out in the City Code on Takeovers and Mergers for the time being;
<b>Bad Leaver</b>	where EB ceases to be an employee of the Company by dismissal for gross misconduct in accordance with the terms of his employment contract;
<b>Board</b>	means the board of directors of the Company for the time being or, as the context may require, any duly authorised committee;
<b>Business Day</b>	means any day except Saturday, Sunday or any Bank Holiday in England or Wales;
<b>B Preferred Ordinary Shares</b>	means the B preferred ordinary shares of £0.01 each in the capital of the Company having the rights set out in <b>Article 3</b> ;
<b>Conflict</b>	means a situation where a director has, or could have, a direct or indirect interest or duty that conflicts, or may possibly conflict, with the interests of the Company or with any duty he owes to the Company;

<b>connected with</b>	shall be determined in accordance with the provisions of section of the Corporation Act 2010;
<b>Controlling Interest</b>	an interest (within the meaning of section 820 of the Act) in shares in the Company conferring in aggregate more than 50% of the total voting rights normally exercisable at a general meeting of the Company;
<b>Deemed Transfer Notice</b>	has the meaning given in <b>Article 10.1(e)</b> ;
<b>EB</b>	Edward Robert Derwent Brooks;
<b>Equity Shares</b>	means the Ordinary Shares, the Preferred Ordinary Shares and the B Preferred Ordinary Shares;
<b>Finance Wales</b>	DBW Investments (14) Limited (previously Finance Wales Investments (14) Limited) registered in England and Wales with company number 10184892 or (as the context may require) any person to whom Finance Wales has transferred its shares in accordance with these Articles;
<b>Finance Wales Director</b>	means a director appointed pursuant to <b>Article 16.1</b> ;
<b>Financial Year</b>	means an accounting period of 12 months (save for the first) in respect of which the Company prepares its accounts in accordance with the relevant provisions of the Act;
<b>Group</b>	means the Company and its subsidiary undertakings from time to time and references to member of the Group or to Group Member shall be construed accordingly;
<b>Holder</b>	means, in respect of any share in the capital of the Company, the person or persons for the time being registered by the Company as the holder of that share;
<b>Institutional Investor</b>	means a fund, partnership, body corporate, trust or other person or entity whose principal business is to make investments or a person whose business is to make, manage or advise upon investments for any of the foregoing;

<b>Investment Date</b>	means the date of adoption of these Articles;
<b>Investor Group</b>	<p>means (in relation to each Investor):</p> <ul style="list-style-type: none"><li>(a) the Investor or any subsidiary or holding company of the Investor or subsidiary of a holding company of the Investor (each a <b>Relevant Person</b>); or</li><li>(b) any partnership (or the partners in any such partnership) of which any Relevant Person is general partner, manager, consultant or adviser; or</li><li>(c) any unit trust or other fund of which any Relevant Person is trustee, manager, consultant or adviser; or</li><li>(d) any unit trust, partnership or other fund, the managers of which are advised by any Relevant Person; or</li><li>(e) any nominee or trustee of any Relevant Person; or</li></ul> <p>any person or firm, authority or organisation (whether or not incorporated) which is the successor in title to, or in whom is vested, or by whom responsibility is assumed for the whole or a substantial part of the functions, assets and liabilities of a Relevant Person;</p>
<b>Investor</b>	Finance Wales and shall include any Holder to whom the Investor has transferred Shares in accordance with these Articles (each of them being an <b>Investor</b> );
<b>Issue Price</b>	means, in respect of a share in the capital of the Company, the aggregate of the amount paid up (or credited as paid up) in respect of the nominal value and any share premium;
<b>Listing</b>	means the admission by the Financial Services Authority in its capacity as the UK Listing Authority of any part of the share capital of the Company to the Official List of London Stock Exchange plc or the admission by London Stock Exchange plc of any part of the share capital of the Company to trading on the Alternative Investment Market of London Stock



	Exchange plc or the admission by any recognised investment exchange (within the meaning of section 285 of the Financial Services and Markets Act 2000) of any part of the share capital of the Company, and, in each case, such admission becoming effective;
<b>Liquidation</b>	means the passing of a resolution for the winding up of the Company;
<b>Model Articles</b>	means the model articles of association for private companies limited by shares set out in schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2008 No. 3229);
<b>Ordinary Shares</b>	means the ordinary shares of £0.01 each in the capital of the Company having the rights set out in <b>Article 3</b> ;
<b>Preferred Ordinary Shares</b>	means the preferred ordinary shares of £0.01 each in the capital of the Company having the rights set out in <b>Article 3</b> ;
<b>Sale</b>	means the transfer (other than a transfer permitted under <b>Articles 7.2, 7.3(a) or 7.3(c)</b> ) of any interest in the Shares (whether by one transaction or by a series of transactions) resulting in that person alone or together with persons acting in concert with such person having the right to exercise a Controlling Interest; and
<b>Shares</b>	means the Ordinary Shares, the Preferred Ordinary Shares and the B Preferred Ordinary Shares.

2.2 Words and expressions defined in or having a meaning provided by the Act (but excluding any statutory modification not in force on the date of adoption of these Articles) shall, unless the context otherwise requires, have the same meanings when used in these Articles but the statutory meanings of "subsidiary" and "subsidiary undertaking" shall be varied as follows:

- (a) paragraph 6(1) of schedule 6 to the Act shall be reworded as follows: "Rights held by a person ("A") as nominee for another ("B") shall be treated as held by B, and where A has been registered as a member of the company as nominee for B, B shall be deemed to be a member of the company in place of A in respect of all shares to which the nomination relates.";
- (b) paragraph 7 of schedule 6 to the Act shall be modified as follows: there shall be inserted after the words "shall be treated as held by the person providing the security" the following "(and if, in connection with or as a

consequence of the provision of that security, some person other than the person providing the security is registered as a member of the company in respect of shares which are subject to the security, the person providing the security shall be deemed to be registered as a member of the company in respect of those shares); and

- (c) paragraph 8 of schedule 7 to the Act shall be modified as follows: there shall be inserted after the words "shall be treated as held by the person providing the security" the following "(and if, in connection with or as a consequence of the provision of that security, some person other than the person providing the security becomes a member of the undertaking in relation to any share or other interest which is subject to the security, the person providing the security shall be deemed to be a member of the undertaking in respect of that share or interest)".

## **SHARE RIGHTS**

### **3. Rights attached to shares**

The rights attached to the Shares are as follows:

#### **3.1 Dividends**

Such proportion of the profits of the Company which the Company determines to distribute in respect of any Financial Year shall, subject to the approval of members of the Company in general meeting, be distributed amongst the Holders of the Preferred Ordinary Shares, Holders of the B Preferred Ordinary Shares and the Ordinary Shares then in issue *pari passu* according to the number of such shares held by them respectively as if they constituted one class of share.

#### **3.2 Capital**

On a return of capital on a Liquidation or Sale, (in respect of a Liquidation) the surplus assets of the Company or (in respect of a Sale) the consideration payable for the Shares, in each case remaining after the payment of the Company's liabilities (the **Balance**) shall be applied as follows:

- (a) firstly, the Balance, if any, shall be distributed by paying up to the Holder(s) of the B Preferred Ordinary Shares an amount equal to the Issue Price of each such B Preferred Ordinary Share held by him unless the Balance is insufficient for these purposes in which case the Balance shall be distributed between the Holder(s) of the B Preferred Ordinary Shares *pro rata* to the number of B Preferred Ordinary Shares held; and
- (b) secondly, if the remaining Balance after 3.2(a) is:
  - (i) £100,000 or less, it shall be distributed by paying up to the Holder(s) of the Preferred Ordinary Shares an amount equal to the Issue Price of each such Preferred Ordinary Share held by him unless the remaining Balance is insufficient for these purposes in which case the remaining Balance shall be distributed between the Holder(s) of the Preferred Ordinary Shares *pro rata* to the number of Preferred Ordinary Shares held; or

- (ii) more than £100,000 but no more than £740,741, it shall be distributed by:-
  - (A) firstly paying up to the Holder(s) of the Preferred Ordinary Shares an amount equal to the Issue Price of each such Preferred Ordinary Share held by him; and
  - (B) thereafter the remaining Balance shall be distributed amongst the Holders of the Ordinary Shares pro rata to the number of Ordinary Shares held; or
- (iii) more than £740,741, it shall be distributed amongst the Holders of the Shares pro rata to the number of Shares held, as if they all constituted shares of the same class.

### **3.3 Voting**

The Holders of the Ordinary Shares, B Preferred Ordinary Shares and the Preferred Ordinary Shares shall be entitled to receive notice of and to attend and speak at any general meetings of the Company and any Holder of such Shares who (being an individual) is present in person or by proxy or (being a corporation) is present by duly authorised representative or by proxy shall, on a show of hands, have one vote, and, on a poll, have one vote each for every Share of which he is the Holder.

### **4. Sale of the share capital of the Company**

In the event of a Sale then, notwithstanding anything to the contrary in the terms and conditions governing such Sale, the selling Holders (immediately prior to such Sale) shall procure that the consideration (whenever received) shall be paid into a designated trustee account and shall be distributed amongst such selling Holders in the same order of priority as a return of capital as set out in **Article 3.2**.

### **5. Variation of rights**

- 5.1 Whenever the share capital of the Company is divided into different classes of share, the special rights attached to any such class may only be varied or abrogated (either whilst the Company is a going concern or during or in contemplation of a winding-up) either (i) with the consent in writing of the Holders of more than 75% of the issued Shares of that class, or (ii) with the sanction of a special resolution passed at a separate general meeting of the Holders of that class. To every such separate general meeting all the provisions of these Articles relating to general meetings of the Company (and to the proceedings at such general meetings) shall apply.

## **TRANSFER OF SHARES**

### **6. General**

- 6.1 No transfer of any share in the capital of the Company shall be made or registered unless such transfer complies with the provisions of these Articles. The Board shall not be entitled to refuse to register any transfer of a share made in accordance with these Articles unless (i) the shares concerned are subject to the Company's lien (ii) the transfer is to a minor or (iii) the Board is

otherwise entitled to refuse to register such transfer pursuant to these Articles. Regulation 26(5) of the Model Articles shall be varied accordingly.

- 6.2 For the purposes of these Articles, the following shall be deemed (but without limitation) to be a transfer by a Holder of shares in the Company:
- (a) any direction (by way of renunciation or otherwise) by a Holder entitled to an allotment or transfer of shares that a share be allotted or issued or transferred to some person other than himself; and
  - (b) any sale or any other disposition of any legal or equitable interest in a share (including any voting right attached to it), (i) whether or not by the relevant Holder, (ii) whether or not for consideration, and (iii) whether or not effected by an instrument in writing.

## **7. Permitted transfers**

- 7.1 Notwithstanding the provisions of any other Article, the transfers set out in this **Article 7** shall be permitted subject always to Finance Wales approval (not to be unreasonably withheld or delayed). The provisions of **Article 8** (Voluntary Transfers) and **9** (Change of Control) shall have no application to a transfer made in accordance with this **Article 7**.

### **7.2 Permitted transfers by Finance Wales**

- (a) Finance Wales shall be entitled to transfer all or any of its Shares to any other body corporate with which is for the time being its subsidiary or holding company or another subsidiary of its holding company (each such body corporate being a **Group Company**) but if a Group Company whilst it is a Holder shall cease to be a Group Company in relation to Finance Wales it shall, within 15 Business Days of so ceasing, transfer the Shares held by it to Finance Wales or any Group Company of Finance Wales.
- (b) A Group Company to whom shares are transferred by Finance Wales in accordance with **Article 7.2(a)** may, with Finance Wales approval, transfer shares to another Group Company in relation to Finance Wales, provided that if the Group Company ceases to be a Group Company in relation to Finance Wales it shall, within 15 Business Days of so ceasing, transfer the shares held by it to Finance Wales or any Group Company of Finance Wales.
- (c) Finance Wales shall be entitled, to transfer all or any of its shares to any Institutional Investor or group of Institutional Investors as part of any transaction involving the sale or other disposal of all, or a substantial proportion, of its investments.

### **7.3 Permitted Transfers by all Shareholders**

- (a) Any Holder may at any time transfer any shares in accordance with the provisions of the Act to the Company.
- (b) Subject always to the written consent of Finance Wales (not to be unreasonably withheld or delayed), any Holder (**Original Holder**) may at any time transfer all or any of his Shares to a spouse or civil partner

(as defined in the Civil Partnerships Act 2004) (**Privileged Relation**) but

- i) if a **Privileged Relation** whilst it is a Holder ceases to be a **Privileged Relation** in relation to such Holder it shall, within 15 Business Days of so ceasing, transfer the Shares (for their nominal value) held by it back to the Original Holder and
- ii) upon Finance Wales notifying the Company that EB is a Bad Leaver in accordance with **Article 10.1(c)**, a **Privileged Relation** which is a Holder in relation to EB shall immediately transfer the Shares held by it back to EB to be dealt with under the provisions of Article 10.5 and 10.6.
- (c) Any Holder may at any time transfer all or any of his Shares to any other person with the prior written consent of the Board and Finance Wales.
- (d) Any shares may be transferred pursuant to **Article 8** (Main Voluntary Transfers) and **9** (Change of Control).

7.4 In respect of Articles 7.2(a) and 7.3(b), if the Holder fails to make a transfer of the Shares within the period of 15 Business Days stipulated in the Articles, the chairman for the time being of the Company or, failing him, one of the Directors, or some other person duly nominated by a resolution of the Board for that purpose, shall forthwith be deemed to be authorised by the Holder to execute, complete and deliver in the name and on behalf of the Holder a transfer of the relevant Shares back to Finance Wales or the Original Holder (as appropriate) and (subject to the transfer being duly stamped) enter the name of the recipient in the register of members as the Holder or Holders of the shares so transferred to him or them.

## 8. Main Voluntary transfers

8.1 Except as permitted under **Article 7** any Holder who wishes to transfer Shares pursuant to a bona fide third party offer (the **Vendor**) shall give notice in writing (the **Transfer Notice**) to the Company of his wish specifying:

- (a) the number and class(es) of shares (the **Sale Shares**) which he wishes to transfer;
- (b) the name of any third party to whom he proposes to sell or transfer the Sale Shares;
- (c) the price per share at which he wishes to transfer the Sale Shares (the **Transfer Price**); and
- (d) whether or not the Transfer Notice is conditional upon all, and not part only, of the Sale Shares being sold pursuant to the offer referred to in **Article 8.4** (a **Total Transfer Condition**) and, in the absence of such stipulation, it shall be deemed not to be so conditional.

8.2 No Transfer Notice or Deemed Transfer Notice shall be withdrawn unless the Vendor is obliged to procure the making of an offer under **Article 9** and is unable so to procure. In that event the Vendor shall be entitled to withdraw such Transfer Notice, without liability to any person, prior to completion of any transfer.

8.3 The Transfer Notice shall constitute the Company the agent of the Vendor for the sale of the Sale Shares at the Transfer Price.

8.4

- (a) The Company shall forthwith upon receipt of a Transfer Notice or, where later, upon the determination of the Transfer Price give notice in writing to each of the Holders of Shares (other than the Vendor) offering the Sale Shares for sale at the Transfer Price to those Holders in proportion to the number of Shares then held by them respectively. Every such notice shall specify (a) the total number of Sale Shares; (b) the Transfer Price; (c) the number of Sale Shares offered to the Holder (its **Proportionate Entitlement**); (d) whether or not the Transfer Notice contained a Total Transfer Condition; and (e) a period of 20 Business Days (or 10 Business Days if the Vendor is Finance Wales ) within which the offer must be accepted or shall lapse. The notice shall be accompanied by a form of application for use by the Holder in applying for its Proportionate Entitlement and for any shares in excess of such entitlement which it wishes to purchase. Finance Wales shall be entitled to elect that all or any of the rights under this **Article 8** shall be exercisable by any member of its Investor Group and/or any of its Group Companies (as defined in **Article 7.3(a)**), and references in this **Article 8** to "Holder" shall be construed accordingly.
- (b) Within 3 days of the expiry of the offers to be made pursuant to **Article 8.4(a)** (or sooner if all the Sale Shares offered shall have been accepted in the manner provided in **Article 8.4(a)**), the Board shall allocate the Sale Shares in the following manner:
  - (i) to each Holder who has agreed to purchase shares, its Proportionate Entitlement or such lesser number of Sale Shares for which it applied;
  - (ii) if any Holder has applied for less than its Proportionate Entitlement, the excess shall be allocated to the Holders who have applied for any part of such excess in proportion to the number of Shares then held by them respectively (but without allocating to any Holder a greater number of Sale Shares than the maximum number applied for by it) and any remaining excess shall be apportioned by applying this **Article 8.4(b)(ii)** without taking account of any Holder whose application has already been satisfied in full

and the Company shall forthwith give notice of each such allocation (an **Allocation Notice**) to the Vendor and each of the persons to whom Sale Shares have been allocated (a **Member Applicant**) and shall specify in the Allocation Notice the place and time (being not later than 10 Business Days (or 5 Business Days if the Vendor is Finance Wales) after the date of the Allocation Notice) at which the sale of the Sale Shares shall be completed.

8.5 If any of the Sale Shares shall not be capable of being offered or allocated as aforesaid without involving fractions, the shares forming part of each and every fractional entitlement shall be aggregated and offered to or allocated amongst the Holders, or some of them, as may be determined by lots drawn in respect

thereof, and the lots shall be drawn in such manner as the directors shall think fit.

- 8.6 Subject to **Article 8.7**, upon such allocations being made as aforesaid, the Vendor shall be bound, on payment of the Transfer Price, to transfer the Sale Shares comprised in the Allocation Notice to the Member Applicants named therein at the time and place therein specified free from any lien, charge or encumbrance. If he makes default in so doing, the chairman for the time being of the Company or, failing him, one of the Directors, or some other person duly nominated by a resolution of the Board for that purpose, shall forthwith be authorised by the Board to execute, complete and deliver in the name and on behalf of the Vendor a transfer of the relevant Sale Shares to the Member Applicant and any Director may receive and give a good discharge for the purchase money on behalf of the Vendor and (subject to the transfer being duly stamped) enter the name of the Member Applicant in the register of members as the Holder or Holders of the shares so purchased by him or them. The Board shall forthwith pay the purchase money into a separate bank account in the Company's name and shall hold such money on trust (but without interest) for the Vendor until he shall deliver up his certificate or certificates for the relevant shares (or an indemnity, in a form reasonably satisfactory to the Board, in respect of any lost certificate) to the Company whereupon he shall be paid the purchase money.
- 8.7 If the Vendor included a Total Transfer Condition in the Transfer Notice and the total number of shares applied for by Member Applicants is less than the number of Sale Shares then the Allocation Notice shall refer to such provision and shall contain a further invitation, open for 10 Business Days (or 5 Business Days if the Vendor is Finance Wales), to those persons to whom Sale Shares have been allocated to apply for further Sale Shares which, in the event of competition, shall be allocated in accordance with **Article 8.4(b)(ii)**. If the Transfer Notice included a Total Transfer Condition, completion of the sale of the Sale Shares in accordance with **Article 8.6** shall be conditional upon applications having been made for all of the Sale Shares.
- 8.8 In the event of all the Sale Shares not being sold under the preceding paragraphs of this **Article 8** the Vendor may, at any time within three calendar months after receiving confirmation from the Company that the pre-emption provisions herein contained have been exhausted, transfer any Sale Shares (which have not been sold) to any person or persons at any price not less than the Transfer Price PROVIDED THAT:
- (a) if the Vendor included a Total Transfer Condition in the Transfer Notice, the Vendor shall not be entitled, save with the written consent of all the other shareholders of the Company, to sell hereunder only some of the Sale Shares comprised in the Transfer Notice to such person or persons;
  - (b) any such sale shall be a bona fide sale and the Board may require to be satisfied in such manner as it may reasonably require that the Sale Shares are being sold in pursuance of a bona fide sale for not less than the Transfer Price without any deduction, rebate or allowance whatsoever to the purchaser and, if not so satisfied, may refuse to register the instrument of transfer; and.

- (c) Finance Wales approval is obtained (such approval not to be unreasonably withheld or delayed).

8.9 For the avoidance of doubt, the Board shall refuse registration of the transfer if such transfer obliges the Vendor to procure the making of an offer in accordance with **Article 9.1**, until such time as such offer has been made and, if accepted, completed.

## **9. Change of control**

### **9.1 Tag Along Rights**

- (a) With the exception of transfers of Shares pursuant to **Article 7** (other than **Article 7.4(d)**), no transfer of Shares which would, if completed and registered, result in a person or persons acting in concert obtaining or increasing a Controlling Interest, will be made or registered unless:
  - (i) an Approved Offer is made by the proposed transferee(s) (**Purchaser**) or, at the Purchaser's written request, by the Company as agent for the Purchaser; and
  - (ii) the Purchaser complies in all respects with the terms of the Approved Offer at the time of completion of the sale and purchase of Shares pursuant to it.
- (b) For the purposes of this **Article 9 Approved Offer** means an offer in writing served on all Holders (including the proposing transferor), offering to purchase all the Shares held by such Holders which:
  - (i) is stipulated to be open for acceptance for at least 15 Business Days;
  - (ii) offers the same or equivalent consideration for each Share (whether in cash, securities or otherwise in any combination), provided that a reduction, withholding or retention of consideration to take account of tax payable or which might be payable by a Holder or by his employing company in relation to the conversion of securities, the exercise of an option over Shares and/or the disposal of Shares shall not prejudice the application of this paragraph;
  - (iii) includes an undertaking by or on behalf of the Purchaser that, subject to compliance by the Purchaser with **Articles 9.1(b)(iii)** and **9.1(b)(v)**, no other consideration, (whether in cash or otherwise) is to be received or receivable by any Holder which, having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or payable for the Shares to be sold by such Holder, and that neither the Purchaser nor any person acting by agreement or understanding with it has otherwise entered into more favourable terms or has agreed more favourable terms with any other Holder for the purchase of Shares;
  - (iv) includes provision for the payment of all arrears and accruals of any dividend;



- (v) is on terms that the sale and purchase of Shares in respect of which the offer is accepted will be completed at the same time; and
- (vi) is approved by the Board (with the prior written consent of Finance Wales (not to be unreasonably withheld or delayed)).

## 9.2 Drag Along Obligation

- (a) If an Approved Offer is made at any time following the adoption of these Articles, the Holders of 50.1% or more in number of the Shares shall require (in the manner set out in **Article 9.2(b)**) all of the other Holders of Shares to accept the Approved Offer in full (**Drag Along Obligation**.)
- (b) The Drag Along Obligation will be exercised by service of notice to that effect on the Holders at the same time as, or within five Business Days following the making of the Approved Offer.
- (c) On the exercise of the Drag Along Obligation, each of the Holders will be bound to accept the Approved Offer in respect of its entire holding of Shares and to comply with the obligations assumed by virtue of such acceptance.
- (d) If any of the Holders fails to accept the Approved Offer or otherwise fails to take any action required of it under the terms of the Approved Offer, Finance Wales may accept the offer on behalf of the Holders in question, or undertake any action required under the terms of the Approved Offer on the part of the Holders in question. In particular, Finance Wales may execute the necessary transfer(s) on that Holder's behalf, issue a receipt by the Company (on trust for the Holder in question) of the consideration payable for the relevant Shares (the receipt being a good discharge to the Purchaser who will not be bound to see to the application of it) and ensure compliance by the Company with all other terms of the Approved Offer.

## 10. Compulsory transfers

### 10.1 In this **Article 10**, a **Transfer Event** means, in relation to any Holder:

- (a) who is an individual:
  - (i) a bankruptcy petition or application has been presented or an order has been made for the individual's bankruptcy; or
  - (ii) his death;and Finance Wales notifying the Company within 3 months of the matter coming to its attention that such event is a Transfer Event in relation to that Holder;
- (b) which is a body corporate:
  - (i) the appointment of a receiver, manager or administrative receiver over all or any part of its undertaking or assets; or

- (ii) the appointment of an administrator in relation to it; or
- (iii) entering into liquidation (other than a voluntary liquidation for the purpose of a bona fide scheme of solvent amalgamation or reconstruction); or
- (iv) the Holder having any equivalent action taken in any jurisdiction;

and Finance Wales notifying the Company within 3 months of the matter coming to its attention that such event is a Transfer Event in relation to that Holder;

- (c) in respect of EB only and subject to Articles 10.5 and 10.6, EB ceasing to be an employee or director of the Company as a result of being a Bad Leaver and Finance Wales notifying the Company within 3 months of the matter coming to its attention that such event is a Transfer Event in relation to EB; or
- (d) attempting to deal with or dispose of any Share or any interest in a Share otherwise than in accordance with these Articles and Finance Wales notifying the Company within 3 months of the matter coming to its attention that such event is a Transfer Event in relation to that member; or.
- (e) failure by a member to make a transfer of shares required by **Article 7.2(a)** and Finance Wales notifying the Company within 3 months of the matter coming to its attention that such event is a Transfer Event in relation to that member.

10.2 Upon the happening of any Transfer Event, the member in question (or his personal representatives or trustee in bankruptcy where applicable) shall be deemed to have given a Transfer Notice immediately before the occurrence of such Transfer Event in respect of all the Shares then held by them or, in the case of any transferee of shares who is not the immediate subject of the Transfer Event, in respect of those Shares received directly or indirectly from the member who is the immediate subject of the Transfer Event (**a Deemed Transfer Notice**). A Deemed Transfer Notice shall supersede and be deemed to cancel any then current Transfer Notice insofar as it relates to the same Shares except for Shares which have already been validly transferred pursuant to that Transfer Notice.

10.3 Notwithstanding any other provision of these Articles, if Finance Wales so notify the Board in relation to any Shares, any member holding Shares in respect of which a Deemed Transfer Notice is deemed given shall not be entitled to exercise any voting rights at general meetings of the Company in respect of those Shares between the date of the relevant Deemed Transfer Notice and the expiry of 3 months after the date of the relevant Deemed Transfer Notice given in respect of those Shares or, if earlier, the entry in the register of members of the Company of another person as the Holder of those Shares.

10.4 The Shares the subject of any Deemed Transfer Notice shall be offered for sale in accordance with **Article 8** as if they were Sale Shares in respect of which a Transfer Notice had been given save that:

- (a) a Deemed Transfer Notice shall be deemed to have been given on the date of the Transfer Event;
  - (b) subject to **Article 10.5**, the Transfer Price shall be a price per Sale Share agreed between the Vendor or his personal representatives or Trustee in Bankruptcy where applicable), the Board and Finance Wales or, in default of agreement within 21 days after the date of the Transfer Event, the Fair Value;
  - (c) a Deemed Transfer Notice shall be deemed not to contain a Total Transfer Condition and shall be irrevocable;
  - (d) the Vendor may retain any Sale Shares for which purchasers are not found or, after the lapse of the offer referred to in **Article 8.4(a)** and with the prior written approval of Finance Wales, sell all or any of those Sale Shares to any person (including any member) at any price per Sale Share which is not less than the Transfer Price; and
  - (e) the Sale Shares sold in accordance with this **Article 10.4** shall be sold together with all rights attaching thereto as at the date of the Transfer Event.
- 10.5 Where a Deemed Transfer Notice is given as a consequence of a Transfer Event falling within **Article 10.1(c)**:-
- (a) the Deemed Transfer Notice shall be in respect of such number of Shares held by EB on the date of the Transfer Event as is equal to 36% of the Shares held by EB on the date these Articles were adopted;
  - (b) the price per Share payable for the Sale Shares under Article 10.5(a) shall be the Shares' nominal value and
  - (c) any Shares held by EB following the completion of the transfer contemplated under Article 10.5(a) shall not, as from the date of the transfer, entitle EB to any of the rights outlined in Article 3.3.
- 10.6 For the purpose of **Article 10.1(c)**, the date upon which EB ceases to be an employee or director of the Company shall be determined in accordance with his contract of employment or directorship.
- 10.7 **Fair Value** for the purposes of these Articles means as agreed between the Board (with the approval of Finance Wales) and the Vendor or, in the absence of agreement within 21 days of the Transfer Event, by the Accountants in accordance with **Article 11**.
- 10.8 Regulations 27 and 28 in the Model Articles shall take effect subject to the express provisions of these Articles.
- 11. Valuation of shares**
- 11.1 In the event that the Accountants are required to determine the price at which shares are to be transferred pursuant to these Articles, such price shall be the amount the Accountants shall, on the application of the Board (which application shall be made as soon as practicable following the time it becomes apparent that a valuation pursuant to this **Article 11** is required), certify in

writing to be the price which, in their opinion, represents a fair value for such shares as between a willing vendor and a willing purchaser as at the date the Transfer Notice or Deemed Transfer Notice is given. In making such determination, the Accountants shall not take any account of whether the Sale Shares comprise a majority or a minority interest in the Company nor the fact that transferability is restricted by these Articles (and shall assume that the entire issued share capital of the Company is being sold and comprises only of Ordinary Shares).

- 11.2 In so certifying, the Accountants shall act as experts and not as arbitrators and their decision shall be conclusive and binding on the Company and upon all of its Holders for the purposes of these Articles.
- 11.3 The costs of the Accountants shall be borne by the Company unless, in the case of a determination required pursuant to the provisions of **Article 10**, the amount determined by the Accountants is less than that suggested by the Board in which event the costs of the Accountants shall be borne by the Vendor.

## **12. Compliance**

- 12.1 For the purpose of (i) ensuring that a transfer of shares is duly authorised under these Articles or (ii) ensuring that no circumstances have arisen whereby a Transfer Notice is required to be or ought to have been given under these Articles or (iii) determining whether an offer is required to be or ought to have been made under **Article 9**, the Board may require any member or the personal representatives of any deceased member or any person named as transferee in any transfer lodged for registration or such other person as the Board may reasonably believe to have information relevant to such purpose, to furnish to the Company such information and evidence as the Board may reasonably think fit regarding any matter which they deem relevant to such purpose; including (but not limited to) the names, addresses and interests of all persons respectively having interests in the shares from time to time registered in the Holder's name.
- 12.2 Failing such information or evidence being furnished to enable the Board to determine to its reasonable satisfaction whether such Transfer Notice is required to be or ought to have been given, or whether any offer is required to be or ought to have been made under **Article 9**:
  - (a) where the purpose of the enquiry by the Board was to establish whether a Transfer Notice is required to be or ought to have been given, then a Transfer Notice shall be deemed to have been given by the Holder of the relevant shares in respect of such shares; or
  - (b) where the purpose of the enquiry by the Board was to establish whether a Tag Along Offer is required to be or ought to have been made under **Article 9**, then any shares the transfer or proposed transfer of which the Board indicates prompted its request for information or evidence shall cease to entitle the relevant Holder or Holders to voting rights (whether on a show of hands or on a poll and whether exercisable at a general meeting of the Company or at a separate meeting of the class in question) or to any further shares issued in right of such shares or in pursuance of an offer made to the relevant Holders.

## GENERAL

### 13. Issue of shares

- 13.1 All new Shares shall, before they are issued whether for cash or otherwise, be offered for subscription to the registered Holders of the Shares (which for these purposes shall be treated as one class of share) in proportion, as nearly as may be, to their respective holdings of Shares. Finance Wales shall be entitled to elect that all or any of the rights under this **Article 13** shall be exercisable by any member of its Investor Group and/or any of its Group Companies (as defined in **Article 7.3(a)**), and references in this **Article 13** to "Holder" shall be construed accordingly.
- 13.2 The offer referred to in **Article 13.1** shall be made by notice specifying the number and class of shares offered, the proportionate entitlement of the relevant member, the price per share and the period (not being less than 14 days) (the **First Offer Period**) within which the offer, if not accepted will be deemed to be declined.
- 13.3 After the expiry of the First Offer Period, the Board shall offer any shares which have been declined or are deemed to have been declined to the persons who have within that period accepted all the shares offered to them. Such further offer (the **Second Offer**) shall be on the same terms as the first offer (save that it shall not be necessary to specify each Holder's proportionate entitlement to the shares offered) and shall invite each Holder to whom the offer is made to state in writing within a period (the **Second Offer Period**) of not less than 14 days whether he is willing to take any, and if so what maximum, number of the shares so offered.
- 13.4 At the expiration of the Second Offer Period, the Board shall allot the shares so offered to or amongst the persons who have notified their willingness to take such shares. In the event of competition amongst two or more Holders to whom the Second Offer was made, each Holder to whom the Second Offer was made shall be allocated the number of shares which bears the same proportion to the total number of shares offered pursuant to the Second Offer as his total holding of Equity Shares bears to the total number of Equity Shares held by all Holders to whom the Second Offer was made and any further shares not allocated on this basis shall be allocated to any remaining Holders who have expressed a willingness to purchase those further shares in proportion as nearly as may be to the number of Equity Shares held by such remaining Holders respectively (provided always that no Holder shall be allocated more shares than he stated he was willing to take pursuant to the Second Offer). The Board shall make such arrangements as they shall think fit concerning entitlements to fractions, overseas Shareholders and Shareholders unable by law or regulation to receive or accept any offer pursuant to this **Article 13**.
- 13.5 Any shares not accepted by the foregoing procedure shall be at the disposal of the Board who may allot, grant options over, or otherwise dispose of them to such persons at such time and generally on such terms and conditions as they determine provided that no shares shall be issued at a discount and provided further that, in the case of shares not accepted as aforesaid, such shares shall not be disposed of on terms which are more favourable to the subscribers thereof than the terms on which they were offered to the members.
- 13.6 Sections 561 and 562 of the Act shall not apply to the Company.

- 13.7 No shares shall be allotted on terms that the right to take up the shares may be renounced in favour of, or assigned to, another person and no person entitled to allotment of a share may direct that such share may be allotted or issued to any other person.
- 13.8 Shares issued to a member by reference to his holding of a class of the Equity Shares shall on issue be designated a share of such class unless the Board with the prior approval of Finance Wales decide otherwise.
- 13.9 In regulation 22(1) of the Model Articles the words **ordinary resolution** shall be omitted and the words **special resolution** shall be substituted for them.
- 13.10 Notwithstanding any other provision of these Articles, the Board shall be bound to offer to Finance Wales such a proportion of any Equity Shares which the Board determine to issue as the aggregate nominal value of Equity Shares for the time being held by Finance Wales bears to the total issued Equity Shares immediately before the issue of the shares. Any shares issued to Finance Wales pursuant to such offer shall be issued upon no less favourable terms and conditions than those issued to any other person and so that such shares shall at the request of Finance Wales be registered in the name or names of any one or more members of its group of companies from time to time.

#### **14. General meetings**

- 14.1 No business shall be transacted at any general meeting unless a quorum of Holders is present at the time when the meeting proceeds to business and for its duration. Two persons, being Holders present in person, by proxy or by duly authorised representative (if a corporation), shall be the quorum at any general meeting. If a meeting is adjourned under regulation 41 of the Model Articles because a quorum is not present, and at the adjourned meeting a quorum is not present within half an hour from the time appointed for that adjourned meeting, the Holders then present shall form a quorum, whatever their number.
- 14.2 A poll may be demanded at a general meeting either by the chairman of the meeting or by any Holder who is present in person, by proxy or by duly authorised representative (if a corporation) and who, in any such case, has the right to vote at the meeting, and regulation 44 of the Model Articles shall be modified accordingly.
- 14.3 The words or the chairman of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed shall be inserted after the words as the chairman of the meeting may determine), in regulation 47(1)(a) of the Model Articles.

#### **15. Removal of directors**

The office of any Director (other than the Finance Wales Director) shall be vacated if:

- 15.1 (in the case of an executive Director only) he shall, for whatever reason, cease to be employed by the Company or any subsidiary of the Company and he does not remain an employee of any other Group Member; or
- 15.2 all the other Directors request his resignation in writing;

and the provisions of regulation 18 of the Model Articles shall be extended accordingly.

**16. Finance Wales Director and observer**

- 16.1 Finance Wales may from time to time appoint any one person to be a director on its behalf with the title of **Finance Wales Director**, which expressions shall, where the context so permits, include a duly appointed alternate of such a director) and from time to time remove the Finance Wales Director from office..
- 16.2 There shall not be more than one director bearing the title of Finance Wales Director in office at any time.
- 16.3 Any appointment or removal of Finance Wales Director shall be in writing served on the Company signed by Finance Wales and shall take effect at the time it is served on the Company or produced to a meeting of the Board, whichever is earlier. Any such appointment or removal by a corporation may be signed on its behalf by its duly authorised representative.
- 16.4 Notice of meetings of the Board shall be served on any Finance Wales Director who is absent from the United Kingdom at the registered office of Finance Wales.
- 16.5 Upon written request by Finance Wales, the Company shall procure that a Finance Wales Director is forthwith appointed as a director of any other member of the Group, to any committee of the Board or the board of any member of the Group.
- 16.6 Finance Wales has the right to nominate an observer to attend all meetings of the Board and the Company (**the Observers**). The Observers shall have the right to attend and speak but not vote at such meetings.

**17. Alternate directors**

- 17.1 A Finance Wales Director may appoint a person who is not a director to be his alternate director and there shall be no requirement for the directors to approve the appointment of such a person.

**18. Proceedings of directors**

- 18.1 The quorum for meetings of the Board shall be two directors one of whom must be a Finance Wales Director (if appointed) and regulation 11(2) of the Model Articles shall be varied accordingly.
- 18.2 Except with the prior written consent of the Finance Wales Director (or, in the event that there is no Finance Wales Director, the prior written consent of Finance Wales) where this **Article 18.2** is applied in relation to a Director other than the Finance Wales Director, a Director shall not vote on any resolution concerning a matter (other than a permitted cause referred to in regulation 14(4) of the Model Articles) in which he has, directly or indirectly, any kind of interest or duty whatsoever. Regulation 14 of the Model Articles shall be modified accordingly. Where this **Article 18.2** is applied in relation to a Director other than the Finance Wales Director, references in regulations 14(6) and 14(7) of the Model Articles to the chairman shall be construed as a reference to a Finance Wales Director for so long as one is appointed.

**19. Conflicts of interest**

- 19.1 The consent of the Finance Wales Director or, if there are is no Finance Wales Director, Finance Wales, shall be required before the Company or any Group Member shall, through its directors, authorise for the purposes of section 175 of the Act or otherwise any director (other than a Finance Wales Director) to have a Conflict.
- 19.2 Subject to **Article 19.1**, the directors may for the purpose of section 175 of the Act authorise any Conflict and revoke or vary any authorisation so given. The directors may give any such authorisation subject to such terms as they shall consider appropriate and reasonable in the circumstances.

**20. Indemnity and insurance**

- 20.1 In regulation 52(1) of the Model Articles, the words shall be indemnified shall be substituted for the words may be indemnified.
- 20.2 The directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant officer in respect of any relevant loss.
- 20.3 In this article **20**:
- (a) a **relevant officer** means any director or former director, secretary or former secretary, manager or former manager of the Company or an associated company;
  - (b) a **relevant loss** means any loss or liability which has been or may be incurred by a relevant officer in connection with that officer's duties or powers in relation to the Company, any associated company or any pension fund or employees' share scheme of the Company or associated company; and
  - (c) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.
- 20.4 Regulation 53 of the Model Articles shall not apply to the Company.