

THE COMPANIES ACT 1985 AND 1989

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COMPANY LIMITED BY SHARES

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**RESOLUTION**

of

**SHAZAM ENTERTAINMENT LIMITED**

(the "Company")

At an extraordinary general meeting of the Company held at Charles House 4<sup>th</sup> Floor, 375 Kensington High Street, London W14 8QH on 23<sup>rd</sup> September 2003 at 10:00a.m. the following resolution was passed as a special resolution:

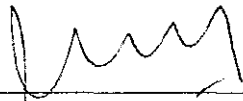
**SPECIAL RESOLUTION**



THAT, subject to the passing of the resolutions to be proposed at a meeting of Preferred Ordinary 'A' Shareholders and a meeting of Preferred Ordinary 'B' Shareholders, both convened to be held later on the same day as the meeting at which this resolution is proposed:

- (i) the regulations produced to the meeting are approved and adopted by the Company as new articles of association in substitution for its current articles of association;
- (ii) the authorised share capital of the Company is increased from £7,154,083 to £7,277,933 by the creation of:
  - (a) 1,200,000,000 Preferred Ordinary 'C' Shares of £0.0001 having rights and being subject to the restrictions set out in the amended articles of association adopted by this resolution;
  - (b) 250,000,000 Management Incentive Shares of £0.000001 having rights and being subject to the restrictions set out in the amended articles of association adopted by this resolution;
  - (c) 900,000,000 Ordinary Shares of £0.000004 having rights and being subject to the restrictions set out in the amended articles of association adopted by this resolution.
- (iii) the directors of the Company are authorised to allot relevant securities up to the Company's unallocated authorised share capital as at the end of the meeting at which this resolution is passed. The authority given by this

- resolution shall expire five years after the date on which this resolution is passed and the interpretation provisions applying to section 80 of the Companies Act 1985 shall apply equally to this paragraph (iii); and
- (iv) to the extent the directors are authorised to allot equity securities they may do so as if section 89(1) of the Companies Act did not apply to the allotment and the interpretation provisions applying to section 95 of the Companies Act 1985 shall apply equally to this paragraph (iv).

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CHAIRMAN

Company number 03998831

**THE COMPANIES ACTS 1985 to 1989**  
**PRIVATE COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION**  
**OF**  
**SHAZAM ENTERTAINMENT LIMITED**

Adopted ~~21~~ September 2003

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**ARTICLES OF ASSOCIATION**  
**OF**  
**SHAZAM ENTERTAINMENT LIMITED**  
**("Shazam" or the "Company")**

**1 Preliminary - definitions and interpretation**

1.1 In these Articles, unless the contrary intention appears, the following definitions apply:

<i>Acquirer</i>	as defined in Article 14.2;
<i>Act</i>	the Companies Act 1985 including any statutory modification or re-enactment of that Act for the time being in force;
<i>Applicant</i>	as defined in Article 12.6;
<i>Articles</i>	these regulations, and reference to an <i>Article</i> is reference to the regulation of corresponding number in these regulations;
<i>Approved Option Scheme</i>	means the Company's employee share option schemes granting options over up to 22% of the issued share capital of the Company (calculated on a fully diluted and converted basis) immediately following the Series C Investment (the "22% Option Pool"). For the avoidance of doubt, where an option has been exercised and an Ordinary Share issued by virtue of the exercise of an option granted under an employee share option scheme then such Ordinary Share shall be deemed to be part of the 22% Option Pool;
<i>Auditors</i>	the Company's auditors from time to time;
<i>Board</i>	the Directors for the time being;

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<i>Business Day</i>	a day, other than a Saturday or a Sunday, on which banks are open for business in the City of London;
<i>Committee</i>	a committee or other body to which the Directors delegate any of their powers;
<i>Conversion A Ratio</i>	the ratio determined in accordance with Article 5.3.5;
<i>Conversion B Ratio</i>	the ratio determined in accordance with Article 6.3.5;
<i>Conversion C Ratio</i>	the ratio determined in accordance with Article 7.3.5;
<i>Conversion MIS Ratio</i>	the ratio determined in accordance with Article 8.3.4;
<i>Director</i>	any director of the Company from time to time (including, where applicable, an alternate director);
<i>Distributable Amount</i>	as defined in Article 9.2;
<i>Distribution</i>	dividends or distributions paid or made by the Company in respect of Shares other than in connection with a Realisation Event;
<i>Dragged Sellers</i>	as defined in Article 14.2;
<i>Excess Offered Shares</i>	as defined in Article 12.6;
<i>Fair Value</i>	as defined in Article 12.9;
<i>Founder Trust</i>	a Trust of which the only beneficiaries (and the only people capable of being beneficiaries) are an individual Founder and/or his spouse and/or his lineal descendants by blood or adoption (including, to avoid doubt, trusts which hold Shares at the date of adoption of these Articles);
<i>Founders</i>	Christopher Barton of 864 Ashbury St #4, San Francisco, CA 94117 USA, Avery Wang of 2925 Ross Road, Palo Alto, California 94303-3935, USA, Dheeraj Mukherjee of The Garden Flat, 2 The Chase, London, SW4 0NH, United Kingdom, and Philip Inghelbrecht of 19 Edgarley Terrace, London SW6 6QE



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*Group*

in relation to a company, that company and all its Subsidiary Undertakings, every Person which is a Parent Company of that company or any of its Subsidiary Undertakings and any Person which is a Subsidiary Undertaking of any such Parent Company, and in respect of each Investor any partner, Subsidiary Undertaking, holding company, affiliated private equity fund and venture capital fund, limited partnership, member or co-investment fund of any Investor or any company, affiliated private equity fund, venture capital fund or co-investment fund in which any Investor is interested or holds a partnership interest or of which any Investor is a member, and for the avoidance of doubt International Data Group Inc shall for all purposes be deemed to be part of the same Group as IDGVE;

*IDGVE*

IDG Ventures Europe, LLP having its principal place of business at 2 Cavendish Square, London W1G 0PD, England;

*Incentive Payment*

the amount payable to holders of Management Incentive Shares in accordance with Article 9.2.1 (or, if there is a Sale, an amount equal to the amount which would have been payable in respect of the Management Incentive Shares pursuant to Article 9.2.1 had the Company been put into liquidation at the time of the Sale assuming that the Distributable Amount was equal to the amount payable to all Shareholders on the basis that all the Shares in the Company were converted into Ordinary Shares and subject to a Sale at the same time extrapolated, if necessary, from the amount actually paid in respect of the Shares actually sold);

*Incentivised Staff Members*

means each employee of the Company, not being a Key Incentivised Manager and or a Founder, who holds Management Incentive Shares (or options over Management Incentive Shares);

*Investor Director*

a director appointed in accordance with Article 18.3;

*Key Incentivised Manager*

each employee of the Company (other than Founders) who holds

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(or holds options over) more than 5% of the Management Incentive Shares which have been issued or which are the subject of options;

*Listing*

the unconditional granting of permission for any of the Ordinary Shares (including those arising on any conversion of Preferred Ordinary Shares) to be traded on any recognised investment exchange (as defined in section 285 of the Financial Services and Markets Act 2000);

*Management Incentive Shares*

the shares designated as "Management Incentive Shares" in the capital of the Company;

*Management Incentive Shareholders*

the holders from time to time of all the Management Incentive Shares (and a *Management Incentive Shareholder* is a Person who holds a Management Incentive Share);

*Management Incentive Value*

means:

- (a) if the Distributable Amount is equal to or less than the Series C Investment, then zero;
- (b) if the Distributable Amount is greater than the Series C Investment but less than of the Series C Investment divided by 90%, the difference between the Series C Investment and the Distributable Amount, and
- (c) if the Distributable Amount is greater than or equal to the Series C Investment divided by 90% but less than or equal to the Maximum Liquidation Preference divided by 90%, an amount equal to 10% of the Distributable Amount, and
- (d) if the Distributable Amount is greater than the Maximum Liquidation Preference divided by 90%, an amount equal to 10% of the Distributable Amount minus any amount payable in respect of options granted under an Approved Option Scheme which (if exercised) would result in the holder of the relevant option realising a gain if the



Shares in respect of which the option is exercised were to be valued at the same price as the price at which Shares of the same class are valued at the time of the Realisation Event;

*Maximum Liquidation Preference*

is the amount equal to the sum of:

- (a) 300% of the Series C Investment;
- (b) the Subscription Price for Preferred Ordinary 'B' Shares multiplied by the number of Preferred Ordinary 'B' Shares in issues; and
- (c) the Subscription Price for Preferred Ordinary 'A' Shares multiplied by the number of Preferred Ordinary 'A' Shares in issue;

*Offer Notice*

as defined in Article 12.3;

*Offer Price*

as defined in Article 12.2.2;

*Offered Shares*

as defined in Article 12.2.1;

*Ordinary Shareholders*

the holders from time to time of all the Ordinary Shares (and an *Ordinary Shareholder* is a Person who holds an Ordinary Share);

*Ordinary Shares*

Ordinary shares of £0.000004 each in the capital of the Company;

*Par Offering*

as defined in Article 9.7;

*Placing Price*

means the placing, or offer for sale or subscription price of the relevant Shares in connection with a Listing;

*Parent Company and Subsidiary Undertaking*

a parent company or subsidiary undertaking for the purposes of section 258 Companies Act 1985;

*Person*

includes an individual, legal entity, a trust, corporation, firm or other body of persons;

<i>Preference Approval</i>	approval given in writing by holders of not less than 60% of the issued Preferred Ordinary 'C' Shares, or if there are no Preferred Ordinary 'C' Shares are in issue, approval by holders of a majority of the then issued Shares (on the basis that all the then issued Preferred Ordinary Shares had been converted into Ordinary Shares at the Relevant Conversion Ratio);
<i>Preferred Ordinary 'A' Shares</i>	the shares designated as "Preferred Ordinary 'A' Shares" in the capital of the Company;
<i>Preferred Ordinary 'B' Shares</i>	the shares designated as "Preferred Ordinary 'B' Shares" in the capital of the Company;
<i>Preferred Ordinary 'C' Shareholders</i>	the holders from time to time of all the Preferred Ordinary 'C' Shares (and a <i>Preferred Ordinary 'C' Shareholder</i> is a Person who holds a Preferred Ordinary 'C' Share);
<i>Preferred Ordinary 'C' Shares</i>	the shares designated as "Preferred Ordinary 'C' Shares" in the capital of the Company;
<i>Preferred Ordinary Shares</i>	the Preferred Ordinary 'A' Shares, the Preferred Ordinary 'B' Shares and the Preferred Ordinary 'C' Shares;
<i>Preferred Recipient</i>	as defined in Article 12.4;
<i>Proposing Transferor</i>	as defined in Article 12.1;
<i>Qualifying Recipient</i>	as defined in Article 12.5.4;
<i>Realisation Event</i>	means any of (i) any liquidation, dissolution or winding up of the Company; (ii) a trade sale, merger or a comparable transaction in which the Company is not the surviving entity; (iii) a Sale; (iv) any return of capital by the Company to any holders of Shares; (v) a disposal of all or substantially all of the undertaking and/or assets of the Company and its subsidiaries; or (vii) a Listing, in each case on an unconditional and fully effective basis, including any such completion following the satisfaction or waiver of all of the conditions to a conditional event or transaction, (but, for the avoidance of doubt, excluding the conversion of any Preferred

	Ordinary Shares in accordance with the terms of these Articles);
<i>Recipient</i>	as defined in Article 12.3;
<i>Relevant Conversion Ratio</i>	in respect of the Preferred Ordinary 'A' Share the Conversion 'A' Ratio, in respect of the Preferred Ordinary 'B' Shares the Conversion 'B' Ratio, in respect of each Preferred Ordinary 'C' Shares the Conversion 'C' Ratio and in respect of each of the Management Incentive Shares the Conversion 'MIS Ratio';
<i>Regulation</i>	the regulation of the corresponding number in Table A;
<i>Sale</i>	means: <ul style="list-style-type: none"> <li>(a) the transfer (whether through a single transaction or a series of transactions) of Shares as a result of which any person (or persons connected with each other, or persons acting in concert with each other) would hold or acquire beneficial ownership of or over that number of shares in the Company which in aggregate confers 90 per cent. or more of the voting rights normally exercisable at general meetings of the Company; or</li> <li>(b) a merger or comparable transaction in which the Company is not the surviving entity; or</li> <li>(c) the disposal by the Company of all or substantially all of its undertaking and assets</li> </ul> <p><b>PROVIDED THAT</b> no transfer pursuant to a Listing shall constitute a Sale;</p>
<i>Series C Investment</i>	the Subscription Price multiplied by the number of Preferred Ordinary C Shares in issue at the time the amount is calculated;
<i>Shareholders</i>	the Ordinary Shareholders and the Preferred Ordinary Shareholders together (and the expression "Shareholder" shall be construed accordingly);
<i>Shareholders'</i>	means any agreement which is made between holders of Shares

<i>Agreement</i>	after the date of adoption of these Articles regulating their conduct as shareholders which is, by Preference Approval, designated to be a Shareholders' Agreement;
<i>Shares</i>	any issued shares of any class in the capital of the Company;
<i>Subscription Price</i>	in respect of each Preferred Ordinary 'A' Share £0.30, in respect of each Preferred Ordinary 'B' Share £0.03226, in respect of each Preferred Ordinary 'C' Share £0.00253, and in respect of each Management Incentive Share £0.000001;
<i>Subsidiary</i>	the same meaning as in section 736 of the Companies Act 1985;
<i>Table A</i>	Table A in the schedule to the Companies (Tables A to F) Regulations 1985;
<i>Tag Number</i>	as defined in Article 13.2; and
<i>Transfer Notice</i>	as defined in Article 12.1.

1.2 The Regulations contained in Table A, apart from Regulations 17, 24, 25, 26, 39, 40, 41, 50, 54, 64, 65, 73-80, 81(e), 86, 88-91 and 94-98, apply to the Company except insofar as they are inconsistent with these Articles.

1.3 Definitions adopted for Table A apply in these Articles.

1.4 Reference to any gender includes reference to each other gender (masculine, feminine and neuter).

1.5 Reference to "written" shall include electronic mail provided that the addressee confirms receipt.

## 2 **Share capital**

2.1 The authorised share capital at the date of adoption of these Articles is £7,277,933 divided into:

- 1,500,000,000 Ordinary Shares of £0.000004 each;
- 25,000,000 Preferred Ordinary 'A' Shares of £0.20 each;

*AL*  
*EL*

- 215,168,319 Preferred Ordinary 'B' Shares of £0.01 each;
- 1,200,000,000 Preferred Ordinary 'C' Shares of £0.0001 each;  
and
- 250,000,000 Management Incentive Shares of £0.000001 each.

2.2 The Ordinary Shares and the Preferred Ordinary Shares constitute different classes of shares but, except as expressly provided in these Articles, rank equally with one another in all respects.

2.3 Subject as provided in Articles 2.4 and 2.5, the Company may issue Shares only with Preference Approval.

2.4 Ordinary Shares and Management Incentive Shares may be issued to employees in accordance with the terms of any Approved Option Scheme (approved in accordance with Article 22.4.6).

2.5 Ordinary Shares may be issued on conversion of Preferred Ordinary Shares and Management Incentive Shares in accordance with these Articles.

2.6 The Company does not have power to issue share warrants to bearer (but may, with Preference Approval, issue warrants to subscribe for shares).

### 3 **Private company status and issues of new Shares**

3.1 The Company is a private company and accordingly any invitation to the public to subscribe for any Shares or debentures of the Company is prohibited.

3.2 In accordance with section 91(1) of the Act, sections 89(1), 90(1) to (5) and sections 90(6) of the Act do not apply to the Company.

3.3 Except as provided in Articles 2.4 and 2.5, all new Shares shall be offered for subscription to the Shareholders (other than Management Incentive Shareholders in their capacity as holders of Management Incentive Shares) in the proportions that the number of Shares held respectively by each Shareholder (on the basis that all Preferred Ordinary Shares had been converted into Ordinary Shares at the Relevant Conversion Ratio) bears to the total number of Shares in issue.

3.4 Such offer shall be made by the Company giving a notice to each relevant Shareholder:

- 3.4.1 specifying the number of Shares to which each relevant Shareholder is entitled;
- 3.4.2 limiting a time period of 14 days within which the offer, if not accepted, will be deemed to be declined; and
- 3.4.3 specifying that after the expiration of such time period (or on the receipt within such time period of confirmation from the Shareholder to whom such notice is given that he declines to accept all or any part of the Shares so offered) the Directors may dispose of such shares in such manner as they may think most beneficial to the Company.

If, owing to the inequality in the number of new Shares to be issued and the number of Shares held by Shareholders entitled to receive the offer of new Shares, any difficulty shall arise in the apportionment of any such new Shares amongst the Shareholders such difficulties shall, in the absence of direction by the Shareholders in general meeting, be determined by the Board.

3.5 The provisions of Articles 3.3 and 3.4 above shall not apply in the case of:

- 3.5.1 the exercise of options in existence at the time of adoption of these Articles; or
- 3.5.2 the issue of options in favour of bona fide officers or employees with the approval of the Board and for which Preference Approval has been obtained in accordance with Article 22.4.6; or
- 3.5.3 the issue of Ordinary Shares and Preferred Ordinary 'C' Shares pursuant to any agreement subsisting at the date of adoption of these Articles or any Shareholders' Agreement;
- 3.5.4 the issue of Ordinary Shares pursuant to a conversion of Preferred Ordinary Shares in accordance with these Articles.

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#### 4 **Ordinary Shares**

##### 4.1 *Voting*

Each Ordinary Share confers on its holder the right to attend and speak at general meetings of the Company and to vote on a resolution proposed to holders of Ordinary Shares in accordance with Article 17.3.

##### 4.2 *Dividends*

Subject to Articles 5.2, 6.2 and 7.2, each Ordinary Share in issue from time to time shall share equally in any Distribution declared, paid or made in respect of Ordinary Shares.

#### 5 **Preferred Ordinary 'A' Shares**

##### 5.1 *Voting*

Subject to Article 17.3, each Preferred Ordinary 'A' Share confers on its holder the rights (including the rights to attend, speak and vote) at general meetings of the Company to which the holder would be entitled had the Preferred Ordinary 'A' Share been converted into Ordinary Shares (at the Conversion 'A' Ratio) immediately before the relevant right is exercised.

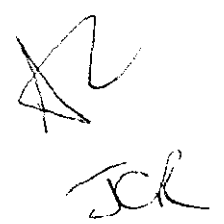
##### 5.2 *Dividends*

Each Preferred Ordinary 'A' Share in issue from time to time confers on its holder the right to participate in any Distribution declared in respect of Ordinary Shares as if the Preferred Ordinary 'A' Share (together with all other Preferred Ordinary 'A' Shares held by the same Person) had been converted into Ordinary Shares (at the Conversion 'A' Ratio) immediately before the Distribution was declared.

##### 5.3 *Conversion*

5.3.1 Preferred Ordinary 'A' Shares may convert into Ordinary Shares on the terms of this Article 5.3.

5.3.2 Each Preferred Ordinary 'A' Share confers on its holder the right to elect by notice in writing given to the Board that the Preferred Ordinary 'A' Share shall convert into Ordinary Shares.

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- 5.3.3 All the Preferred Ordinary 'A' Shares shall automatically convert into fully paid Ordinary Shares:
- 5.3.3.1 upon written notice signed by holders of not less than 75% of the Preferred Ordinary 'A' Shares then in issue being given to the Board and to each holder of Preferred Ordinary 'A' Shares;
  - 5.3.3.2 immediately prior to completion of an underwritten Listing as described in Article 7.3.3.1 (subject always to the holders of the Preferred Ordinary 'A' Shares having first participated in any Par Offering pursuant to Article 9.7.4).
- 5.3.4 The Preferred Ordinary 'A' Shares held by a Shareholder which are being converted shall convert into the nearest whole number of Ordinary Shares (fractional entitlements being rounded down to the nearest whole number) determined by multiplying the number of Preferred Ordinary 'A' Shares then being converted by the Conversion 'A' Ratio.
- 5.3.5 The Conversion 'A' Ratio shall, subject to Article 5.3.6, be 2.0391 Ordinary Shares for each Preferred Ordinary "A" Share.
- 5.3.6 If there is a reorganisation of the Company's share capital (whether by way of split, combination or otherwise) or there is an bonus issue after the later of the date of adoption of these Articles or the subscription of Preferred Ordinary 'C' Shares under a Shareholders Agreement, the Board or a holder of the Preferred Ordinary 'A' Shares may request the Auditors to adjust the Conversion 'A' Ratio (to take account of the reorganisation) and to certify the then current Conversion 'A' Ratio (the intention being that upon conversion the holders of the Preferred Ordinary 'A' Shares shall hold the same proportion of the issued Ordinary Shares as they would have held had the reorganisation, bonus issue or subscription for Preferred Ordinary 'C' Shares not occurred). The Auditors' costs shall be borne by the Company. The Auditors' certificate shall, except in the case of manifest error, be binding on the Company and holders of Shares.

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## 6 Preferred Ordinary 'B' Shares

### 6.1 *Voting*

Subject to Article 17.3, each Preferred Ordinary 'B' Share confers on its holder the rights (including the rights to attend, speak and vote) at general meetings of the Company to which the holder would be entitled had the Preferred Ordinary 'B' Share been converted into Ordinary Shares (at the Conversion 'B' Ratio) immediately before the relevant right is exercised.

### 6.2 *Dividends*

Each Preferred Ordinary 'B' Share in issue from time to time confers on its holder the right to participate in any Distribution declared in respect of Ordinary Shares as if the Preferred Ordinary 'B' Share (together with all other Preferred Ordinary 'B' Shares held by the same Person) had been converted into Ordinary Shares (at the Conversion 'B' Ratio) immediately before the Distribution was declared.

### 6.3 *Conversion*

6.3.1 Preferred Ordinary 'B' Shares may convert into Ordinary Shares on the terms of this Article 6.3.

6.3.2 Each Preferred Ordinary 'B' Share confers on its holder the right to elect by notice in writing given to the Board that the Preferred Ordinary 'B' Share shall convert into Ordinary Shares.

6.3.3 All the Preferred Ordinary 'B' Shares shall automatically convert into fully paid Ordinary Shares:

6.3.3.1 upon written notice signed by holders of not less than 75% of the Preferred Ordinary 'B' Shares then in issue being given to the Board and to each holder of Preferred Ordinary 'B' Shares;

6.3.3.2 immediately prior to completion of an underwritten Listing as described in Article 7.3.3.1 (subject always to the holders of the Preferred Ordinary 'B' Shares having first participated in any Par Offering pursuant to Article 9.7.4).

- 6.3.4 The Preferred Ordinary 'B' Shares held by a Shareholder which are being converted shall convert into the nearest whole number of Ordinary Shares (fractional entitlements being rounded down to the nearest whole number) determined by multiplying the number of Preferred Ordinary 'B' Shares then being converted by the Conversion 'B' Ratio.
- 6.3.5 The Conversion 'B' Ratio shall, subject to Article 6.3.6, be 1 Ordinary Share for each Preferred Ordinary "B" Share.
- 6.3.6 If there is a reorganisation of the Company's share capital (whether by way of split, combination or otherwise) or there is an bonus issue after the later of the date of adoption of these Articles or the subscription of Preferred Ordinary 'C' Shares under a Shareholders Agreement the Board or a holder of the Preferred Ordinary 'B' Shares may request the Auditors to adjust the Conversion 'B' Ratio (to take account of the reorganisation) and to certify the then current Conversion 'B' Ratio (the intention being that upon conversion the holders of the Preferred Ordinary 'B' Shares shall hold the same proportion of the issued Ordinary Shares as they would have held had the reorganisation, bonus issue or subscription for Preferred Ordinary 'C' Shares not occurred). The Auditors' costs shall be borne by the Company. The Auditors' certificate shall, except in the case of manifest error, be binding on the Company and holders of Shares.

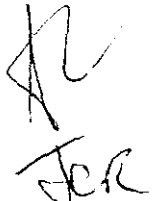
## **7 Preferred Ordinary 'C' Shares**

### **7.1 *Voting***

Subject to Article 17.3, each Preferred Ordinary 'C' Share confers on its holder the rights (including the rights to attend, speak and vote) at general meetings of the Company to which the holder would be entitled had the Preferred Ordinary 'C' Share been converted into Ordinary Shares (at the Conversion C Ratio) immediately before the relevant right is exercised.

### **7.2 *Dividends***

Each Preferred Ordinary 'C' Share in issue from time to time confers on its holder the right to participate in any Distribution declared in respect of Ordinary Shares as



if the Preferred Ordinary 'C' Share (together with all other Preferred Ordinary 'C' Shares held by the same Person) had been converted into Ordinary Shares (at the Conversion C Ratio) immediately before the Distribution was declared.

### 7.3 *Conversion*

7.3.1 Preferred Ordinary 'C' Shares may convert into Ordinary Shares on the terms of this Article 7.3.

7.3.2 Each Preferred Ordinary 'C' Share confers on its holder the right to elect by notice in writing given to the Board that the Preferred Ordinary 'C' Share shall convert into Ordinary Shares at the Conversion 'C' Ratio.

7.3.3 All the Preferred Ordinary 'C' Shares shall automatically convert into fully paid Ordinary Shares:

7.3.3.1 upon written notice signed by holders of not less than 75% of the Preferred Ordinary 'C' Shares then in issue being given to the Board and to each holder of Preferred Ordinary 'C' Shares;

7.3.3.2 (subject always to the holders of the Preferred Ordinary 'C' Shares having first participated in any Par Offering pursuant to Article 9.7.4) immediately prior to completion of an underwritten Listing which:

(i) values each Ordinary Share (assuming the Preferred Ordinary Shares had been converted into Ordinary Shares at the Relevant Conversion Ratio) at not less than 300% of the Subscription Price for Preferred Ordinary 'C' Shares; and

(ii) raises for the Company in aggregate not less than £10,000,000 (net of underwriters' commissions and expenses); and

7.3.3.3 subject as provided in that Article, in accordance with automatic conversion provisions set out in Article 9.2.5.

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- 7.3.4 The Preferred Ordinary 'C' Shares held by a Shareholder that are being converted shall convert into the nearest whole number of Ordinary Shares (fractional entitlements being rounded down to the nearest whole number) determined by multiplying the number of Preferred Ordinary 'C' Shares then being converted by the Conversion C Ratio.
- 7.3.5 The Conversion C Ratio shall, subject to Article 7.3.6, be 1 Ordinary Share for each Preferred Ordinary 'C' Share.
- 7.3.6 If there is a reorganisation of the Company's share capital (whether by way of split, combination or otherwise) or there is an bonus issue after the later of the date of adoption of these Articles or the subscription for Preferred Ordinary 'C' Shares under a Shareholders Agreement, the Board or a holder of Preferred Ordinary 'C' Shares may request the Auditors to adjust the Conversion C Ratio (to take account of the reorganisation) and to certify the then current Conversion C Ratio (the intention being that upon conversion the holders of the Preferred Ordinary 'C' Shares shall hold the same proportion of the issued Ordinary Shares as they would have held had the reorganisation, bonus issue or subscription for Preferred Ordinary 'C' Shares not occurred). The Auditors' costs shall be borne by the Company. The Auditors' certificate shall, except in the case of manifest error, be binding on the Company and holders of Shares.

## 8 **Management Incentive Shares**

### 8.1 *Voting*

Management Incentive Shares confer on their holders no rights (whether in relation to attendance, speaking or voting) at general meetings of the Company.


### 8.2 *Dividends*

The Management Incentive Shares in issue from time to time confer on their holders no right to participate in any Distribution declared in respect of Ordinary Shares.

### 8.3 *Conversion*

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- 8.3.1 Management Incentive Shares may convert into Ordinary Shares on the terms of this Article 8.3.2.
- 8.3.2 The Management Incentive Shares shall automatically convert into fully paid Ordinary Shares upon a Sale, payment of the Incentive Payment or on an event which would, were a sufficient price paid, result in the making of Incentive Payment even though no Incentive Payment then falls due for payment.
- 8.3.3 The Management Incentive Shares held by a Shareholder that are being converted shall convert into the nearest whole number of Ordinary Shares determined by multiplying the number of Management Incentive Shares then being converted by the Conversion MIS Ratio (fractional entitlements being rounded down to the nearest whole number, or if that would result in no shares being issued, to one Ordinary Share).
- 8.3.4 The Conversion MIS Ratio shall, subject to Article 8.3.5, be 0.00000001 Ordinary Share for each Management Incentive Share.
- 8.3.5 If there is a reorganisation of the Company's share capital (whether by way of split, combination or otherwise) or there is an bonus issue after the later of the date of adoption of these Articles or the subscription for Preferred Ordinary 'C' Shares under a Shareholders Agreement the Board or a holder of Management Incentive Shares may request the Auditors to adjust the Conversion MIS Ratio (to take account of the reorganisation) and to certify the then current Conversion MIS Ratio (the intention being that upon conversion the holders of the Management Incentive Shares shall hold the same proportion of the issued Ordinary Shares as they would have held had the reorganisation, bonus issue or subscription for Preferred Ordinary 'C' Shares not occurred). The Auditors' costs shall be borne by the Company. The Auditors' certificate shall, except in the case of manifest error, be binding on the Company and holders of Shares.

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9        **Realisation Event, Sale and Listing**

9.1        If there is a dispute or uncertainty as to the calculation of the Management Incentive Value or the amount to be paid in respect of any class of Shares on a Realisation Event, Sale or Listing the matter shall be resolved by the Board in accordance with Article 26 (and determination pursuant to that Article shall prevail over the provisions of this Article 9).

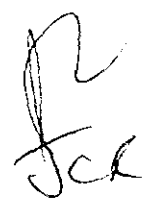
9.2        On a Realisation Event (but excluding the conversion of the Preferred Ordinary Shares in accordance with these articles and excluding a Sale involving the sale of shares in the Company), the assets of the Company remaining after the payment of its liabilities or (as the case may be) the proceeds of the Realisation Event (the "*Distributable Amount*") shall be applied in the following order of priority (each of the following sub-paragraphs constituting a separate category for the purposes of Article 9.2.3, payments in each case being made in proportion to the number of Shares of the relevant class held):

9.2.1        first, if the Management Incentive Value is greater than zero, the Management Incentive Value shall be paid to MIS Shareholders in accordance with Article 9.6;

9.2.2        secondly, in paying to Preferred Ordinary 'C' Shareholders the balance of the Distributable Amount up to the aggregate of 300% of the Series C Investment (the "*C Liquidation Amount*") save that if the Management Incentive Value is greater than zero then:

9.2.2.1        if the Distributable Amount is less than or equal to the Maximum Liquidation Preference and greater than the C Liquidation Amount, the balance of the Distributable Amount payable to the Preferred Ordinary 'C' Shareholders shall be 90% of the C Liquidation Amount; or

9.2.2.2        if the Distributable Amount is greater than the Maximum Liquidation Preference but less than the Maximum Liquidation Preference divided by 90%, then the balance of the Distributable Amount payable to the Preferred Ordinary 'C' Shareholders shall be (the Distribution

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Amount minus the Management Incentive Value)  
multiplied by (the C Liquidation Amount divided by the  
Maximum Liquidation Preference).

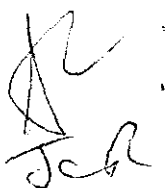
but so that in each case if the number of Preferred Ordinary 'C'  
Shares held by any person would, but for this provision, result in that  
Shareholder becoming entitled a fraction of a penny, the entitlement  
shall be rounded up to the nearest whole penny;

9.2.3 thirdly, in paying the balance of the Distributable Amount up to  
aggregate of the Subscription Price for each Preferred Ordinary 'B'  
Shares multiplied by the number of Preferred Ordinary 'B' Shares then  
in issue (the "*B Liquidation Amount*") save that if the Management  
Incentive Value is greater than zero then:

9.2.3.1 if the Distributable Amount is less than or equal to the  
Maximum Preference Amount and greater than the  
aggregate of the C Liquidation Amount and the B  
Liquidation Amount then the balance of the Distributable  
Amount payable to the Preferred Ordinary 'B'  
Shareholders shall be: 90% the Series B Liquidation  
Amount; or

9.2.3.2 if the Distributable Amount is greater than the Maximum  
Liquidation Preference but less than the Maximum  
Liquidation Preference divided by 90%, then the balance  
of the Distributable Amount payable to the Preferred  
Ordinary 'B' Shareholders shall be (the Distribution  
Amount minus the Management Incentive Value)  
multiplied by (the B Liquidation Amount divided by the  
Maximum Liquidation Preference);

but so that in each case if the number of Preferred Ordinary 'B'  
Shares held by any person would, but for this provision, result in that  
Shareholder becoming entitled a fraction of a penny, the entitlement  
shall be rounded down to the nearest whole penny;

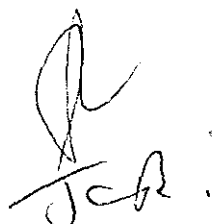
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9.2.4 fourthly, in paying the balance of the Distributable Amount up to aggregate of the Subscription Price for each Preferred Ordinary 'A' Shares multiplied by the number of Preferred Ordinary 'A' Shares then in issue (the "*A Liquidation Amount*") save that if the Management Incentive Value is greater than zero then if the Distributable Amount is greater than the Maximum Liquidation Preference but less than the Maximum Liquidation Preference divided by 90%, then the balance of the Distributable Amount payable to the Preferred Ordinary 'C' Shareholders shall be (the Distribution Amount minus the Management Incentive Value) multiplied by (the C Liquidation Amount divided by the Maximum Liquidation Preference) but so that in each case if the number of Preferred Ordinary 'C' Shares held by any person would, but for this provision, result in that Shareholder becoming entitled a fraction of a penny, the entitlement shall be rounded down to the nearest whole penny; and

9.2.5 finally in paying any balance to the holders of Ordinary Shares (on the basis that following all payments pursuant to Article 9.2.2, each of the Preferred Ordinary 'C' Shares then in issue is (unless the holder of that Preferred Ordinary 'C' Share otherwise elects by written notice given to the Board) automatically and immediately converted into Ordinary Shares in accordance with Article 7.3.4 but on the basis that the Management Incentive Shares, Preferred Ordinary 'A' Shares and Preferred Ordinary 'B' Shares had not so converted, even if they have in fact been converted).

9.3 If the assets of the Company are insufficient to make payment in full of the amount due to each of the holders of Shares of the relevant class constituting the relevant category, such assets as are available for distribution shall be distributed amongst those holders pro rata as nearly as may be to their then holdings of the relevant class of Shares.

9.4 Where the Realisation Event involves or results in the proceeds being received by the Company, the Company and the holders of shares in the Company shall procure that, so far as is lawful, such proceeds shall be distributed forthwith amongst the holders of Preferred Ordinary Shares, Management Incentive Shares and Ordinary Shares in accordance with Article 9.2.

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9.5 On a Realisation Event (other than a Listing) in respect of which, for any reason, the proceeds are wholly or partly otherwise than in cash:

9.5.1 the non-cash proceeds shall be treated for the purposes of Article 9.2 as being in cash at their then market value;

9.5.2 the holders of the Preferred Ordinary Shares and Management Incentive Shares shall be entitled to receive all the cash proceeds of such Realisation Event (if any) in priority to the holders of any other Shares in part-satisfaction of their respective entitlements pursuant to the provisions of Article 9.2 (pro rata to the number of Shares held by them respectively); and

9.5.3 subject to Article 9.5.2, the holders of Preferred Ordinary Shares and Ordinary Shares shall be entitled to the balance of the proceeds of that Realisation Event (whether cash and non-cash or solely non-cash) in accordance with the provisions of Article 9.2 (but taking into account any entitlement of holders of Preferred Ordinary Shares and Management Incentive Shares to cash proceeds pursuant to Article 9.5.2).

9.6 The MIS Incentive shall be allocated as between holders of Management Incentive Shares in the following ways:

9.6.1 the first category, being the Key Incentivised Managers, each key Incentivised Manager shall be paid an amount equal to:

**(MIS HOLDING \* Management Incentive Value) LESS OPTION VALUE**

Where:

**MIS HOLDING** = the number of Management Incentive Shares held by, or under option to, the relevant Key Incentivised Manager expressed as a percentage of all issued Management Incentive Shares and Management Incentive Shares under option; and

**OPTION VALUE** = the aggregate gain (being the difference between sale price and subscription price) that would be realised if the relevant Key Incentivised Manager exercised all options issued under the Approved Option Scheme and sold the resulting Shares

9.6.2 for each Incentivised Staff Member, the balance after payment of the first category shall be paid on the basis that for each Management Incentive Share held: the Management Incentive Value less the total amount of Management Incentive Value paid to Key Incentivised Managers, all divided by the number of Management Incentive Shares held by the Incentivised Staff Member.

9.7 On a Listing:

9.7.1 the entitlements of each Shareholder pursuant to Article 9.2 ("*Deemed Entitlements*") shall be calculated as if:

9.7.1.1 the Listing were a return of capital in cash to all shareholders of an amount equal to the aggregate value (at the Placing Price) of all the issued Ordinary Shares and (on an as-converted into Ordinary Shares basis) all the issued Preferred Ordinary Shares and the Management Incentive Shares, and

9.7.1.2 the provisions of Article 9.2 had operated fully in accordance with its terms.

9.7.2 the holders of the Preferred Ordinary Shares and the Management Incentive Shares shall be entitled to receive (pro rata to their *Deemed Entitlements*) all the actual cash proceeds of such Listing (if any) in priority to the holders of any other Shares in part-satisfaction of their respective *Deemed Entitlements* pursuant to the provisions of Article 9.2;

9.7.3 the holders of Preferred Ordinary Shares, Management Incentive Shares and Ordinary Shares shall be entitled to the balance of the actual cash proceeds of that Listing in accordance with the provisions

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of Article 9.2 but on the basis of the Deemed Entitlements and taking into account any entitlement of holders of Preferred Ordinary Shares and Management Incentive Shares to cash proceeds pursuant to Article 9.7.2; and

9.7.4 if, following the application of the provisions of articles 9.7.1 to 9.7.3 (inclusive), the aggregate of (i) the value at the Placing Price of all Preferred Ordinary Shares (on an as-converted into Ordinary Shares basis) to be retained by a Preferred Ordinary Shareholder following the Listing, plus (ii) the aggregate of the proceeds to be received by him pursuant to the provisions of articles 9.7.1 to 9.7.3 (inclusive) (that aggregate being the "*Value Receivable*") is lower than the relevant Shareholders' Deemed Entitlement, that Shareholder shall, before conversion of his Shares in accordance with these Articles, be entitled to subscribe immediately prior to the Listing for that number of additional Preferred Ordinary Shares of the relevant class by way of bonus capitalisation issue (or, to the extent that it would not be lawful for the Company so to do, at par (a "*Par Offering*")) as would, at the Placing Price, when added to the Value Receivable, result in the his Preferred Ordinary Shareholding having a value (on an as-converted basis) equal to his Deemed Entitlement plus the amount paid pursuant to the par offering.

9.8 In the event of a Sale involving the sale of Shares then, notwithstanding anything to the contrary in the terms and conditions governing the Sale (unless all the selling holders of Shares immediately prior to the Sale have agreed to the contrary for the purposes of this Article 9), the selling holders of Shares (immediately prior to the Sale) shall procure that the consideration (whenever received and in whatever form) shall be held by a trustee nominated by the Board and shall be distributed amongst such selling holders in the same order of priority as set out in Article 9.2 as if the date of the Sale were the date of the Realisation Event for the purposes of Article 9.2 and as if the consideration for the Sale represented all of the assets of the Company available for distribution to holders of Shares.

9.9 If more than one Realisation Event occurs, the holders of the Preferred Ordinary Shares and the Management Incentive Shares shall be entitled to receive amounts pursuant to Articles 9.2.1 to 9.2.4 once only (but the amounts shall be paid out on

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the occurrence of each Realisation Event as if all previous Realisation Events and the then current Realisation Event had occurred at the same time and is if amounts previously paid as a result of a Realisation Event were also paid out at that time) and, following payment of those amounts in full (whether pursuant to one or more Realisation Events) Article 9.2.5 shall apply.

10      **Lien**

10.1      The lien conferred by Regulation 8 attaches to all Shares, whether fully paid or not, registered in the name of a person indebted or under liability to the Company, whether he is the sole holder of the Shares or one of two or more joint holders, and to all Distributions and other money and property attributable to them.

10.2      The lien conferred by Regulation 8 shall be for all sums presently payable to the Company by him or his estate and that Regulation is modified accordingly.

11      **Dealings in Shares**

11.1      A Shareholder is not entitled to transfer any interest in any Share unless the transfer is permitted by this Article 11 or it is made in accordance with Articles 11, 12 or 13.

11.2      No Sale may be completed without the consent of holders of at least a majority of the issued Management Incentive Shares unless at the time of, or in consequence of, the Sale the Incentive Payment (if any) is made.

11.3      Subject to Article 11.8, Ordinary Shares may be transferred:

11.3.1      with express Preference Approval (naming the transferee and the price to be paid for the Shares being transferred);

11.3.2      subject to Article 11.4, by a Founder to trustees of a Founder Trust;

11.3.3      by the trustees of a Founder Trust to replacement trustee(s) of the same Founder Trust; and

11.3.4      by the trustees of a Founder Trust to the relevant Founder.

11.4      No transfer is permitted by Articles 11.3.2, 11.3.3 or 11.3.4 unless each relevant transferee has before the transfer is made agreed to deliver to the Company, and

has before or at the same time as the transfer is presented for registration (or, if sooner, within seven Business Days following the date of delivery of the transfer to the transferee) delivered to the Company a deed:

- 11.4.1 confirming that the transferee is a trustee of a Founder Trust or is a Founder, as the case may be;
- 11.4.2 agreeing that the transferee shall adhere to any Shareholders' Agreement as if it were named as a "Founder" in that Agreement; and
- 11.4.3 agreeing not to transfer the relevant Ordinary Shares to any person other than the relevant Founder or Founder Trust, as the case may be, in accordance with these Articles.

11.5 Preferred Ordinary Shares may be transferred:

- 11.5.1 with express Preference Approval (naming the transferee and the price to be paid for the Shares being transferred);
- 11.5.2 subject to Articles 11.6 and 11.8, by a Preference Shareholder (save for the holders of Management Incentive Shares) to a member of the same Group as that Preference Shareholder; and
- 11.5.3 by a person to whom a Preference Shareholder has (directly or indirectly) transferred shares to a member of the same Group as Preference Shareholder in accordance with the undertaking required to be given in accordance with Article 11.6.

11.6 Management Incentive Shares may only be transferred by with express Preference Approval (naming the transferee and the price to be paid for the Shares being transferred).

11.7 No transfer is permitted by Articles 11.5.2 and 11.5.3 unless the relevant transferee has before the transfer is made agreed to deliver to the Company, and has before or at the same time as the transfer is presented for registration (or, if sooner, within seven Business Days following the date of delivery of the transfer to the transferee) delivered to the Company a deed undertaking that if the transferee ceases to be a member of the same Group as the transferor it shall within a

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reasonable period (being not more than ten Business Days after the later of such cessation and the date on which a holder of Ordinary Shares or the Board notify it that they require a transfer to be made in accordance with the relevant undertaking) transfer those of the Preferred Ordinary Shares then held by it to a Person which is a member of the same Group as the transferor.

11.8 Notwithstanding Article 11, no Director who is also an employee of the Company may at any time (and the Founders and Founder Trusts may not before the third anniversary of the date of adoption of these Articles), without (in each case) first obtaining Preference Approval:

11.8.1 dispose of or agree to dispose of or grant any option in respect of the legal or beneficial interest in any Share for the time being held by him; or

11.8.2 enter into any arrangement (including without limitation, any renunciation in favour of a third party of any rights in relation to any rights issue of Shares) as a result of which any benefit or entitlement as derived from a Share held by him is to be held or passed to another person; or

11.8.3 charge, mortgage or in any way encumber the same.

11.9 The provisions of Articles 11.10 and 11.11 shall apply to a (i) Founder and his relevant Founder Trust if the Founder, and (ii) to a holder of Management Incentive Shares, if the holder:

11.9.1 is convicted of fraud, theft, or of a criminal offence punishable by imprisonment;

11.9.2 is found to be guilty of gross misconduct by knowingly distributing Shazam's confidential documents (or any document in respect of which Shazam owes a duty of confidentiality) to third parties; or

11.9.3 joins a direct competitor (as determined by the Board) without prior unanimous approval from the Board.

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11.10 If Article 11.9 applies, the relevant Founder or holder of Management Incentive Shares shall be deemed to have served a Transfer Notice in accordance with Article 12 and:

11.10.1 if this Article applies otherwise than to a Founder as a result of circumstances described in Articles 11.9.1 or 11.9.2 occurring, the Founder or holder of Management Incentive Shares shall be deemed to have specified that the Offer Price is the nominal value of an Ordinary Share or Management Incentive Share (as the case may be);

11.10.2 (in the case of Founders only) if this Article applies only as a result of circumstances described in Article 11.9.3 occurring, the Founder shall be deemed not to have specified an Offer Price (so that the relevant Shares shall be offered at Fair Value in accordance with Article 12.2.2).

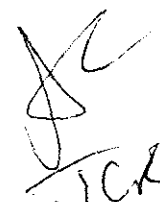
11.11 If Shareholders do not acquire all the Shares that are subject to a Transfer Notice deemed to have been served in accordance with Article 11.10, Shazam may offer the unsold Shares for sale to a third party at the same price at which those Shares were offered to the Shareholders. The sale of those Shares by Shazam may be completed only with Preference Approval and, if Preference Approval is given, each Founder and other holder of Shares shall be deemed to have approved the transfer.

## 12 **First refusal rights on transfer (pre-emption rights)**


12.1 A Shareholder who wishes to transfer Shares in circumstances not expressly permitted under Article 11 (or where Article 11 provides that this Article 12 should apply) (the "*Proposing Transferor*") shall give notice in writing to the Board at the Company's office (a "*Transfer Notice*") complying with the requirements of Article 12.2. A Transfer Notice may only relate to one class of Shares and a Shareholder may not serve more than one Transfer Notice in respect of Ordinary Shares in any three-month period unless the Shareholder has first obtained Preference Approval.

12.2 The Transfer Notice:

12.2.1 shall specify the class and number of Shares offered ("*Offered Shares*");

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- 12.2.2 may specify a price per Offered Share which the Proposing Transferor is willing to accept for the Offered Shares ("*Offer Price*") and, if no Offer Price is stated in the Transfer Notice, the Board shall immediately following receipt of the Transfer Notice instruct the Auditors to determine the fair value of each Offered Share (the "*Fair Value*") in accordance with Article 12.11;
- 12.2.3 shall constitute the Board as the agent of the Proposing Transferor to offer and sell the Offered Shares to other holders of Shares and at the Offer Price per Share or, if no Offer Price is specified, the Fair Value per Share determined in accordance with Article 12.11;
- 12.2.4 shall specify the identity of the proposed transferee (if any); and
- 12.2.5 may not be withdrawn except in accordance with Article 12.18.
- 12.3 Unless the Offered Shares are Management Incentive Shares, the Board (acting as agent of the Proposing Transferor) shall within a reasonable period (not exceeding twenty Business Days) following receipt of the Transfer Notice if it specified an Offer Price (or, in the case of any other Transfer Notice, following receipt of the Auditors' determination of the Fair Value), give written notice complying with the provisions of Article 12.5 to each Person who, on the date of service of the Transfer Notice holds Shares other than the Proposing Transferor (each Person to whom notice is given being a "*Recipient*") conditionally offering the Offered Shares to those Shareholders (the "*Offer Notice*"). If the Offered Shares are Management Incentive Shares the Board shall act in accordance with instructions given by Preference Approval.
- 12.4 Reference in this Article 12 to a "*Preferred Recipient*" is reference to a Recipient who has priority in respect of any of the Offered Shares, determined in accordance with Article 12.5.3.
- 12.5 The Offer Notice shall specify:
- 12.5.1 the information specified in the Transfer Notice in accordance with Article 12.2 and (if, no Offer Price was specified in the Transfer Notice, the Fair Value) and a statement that the Fair Value has been determined by the Auditors;





12.5.2 if it is the case, that the offer made in the Offer Notice is conditional on the Transfer Notice not being withdrawn in accordance with the Article 12.18;

12.5.3 the number of Offered Shares (if any) in respect of which the Recipient has priority being:

12.5.3.1 if the Offered Shares are Preferred Ordinary Shares, that proportion of the Offered Shares which the Recipient's holding of Preferred Ordinary Shares of the same class bears to the total number of Preferred Ordinary Shares of that class (excluding the Offered Shares) in issue as at the date of service of the Transfer Notice (if the proportionate number of Shares results in a fractional entitlement, the entitlement to priority shall be rounded down to the nearest whole number); and

12.5.3.2 if the Offered Shares are Ordinary Shares, that proportion of the Offered Shares which the Recipient's aggregate holding of:

- (a) Ordinary Shares, and
- (b) Ordinary Shares to which the holder would be entitled had all the Preferred Ordinary 'C' Shares held by the Recipient been converted into Ordinary Shares (at the Conversion C Ratio) immediately before the date of service of the Transfer Notice

bears to the total number of:

- (i) Ordinary Shares held by Recipients, and
- (ii) Ordinary Shares to which Recipients would be entitled had all the Preferred Ordinary 'C' Shares held by them been converted into Ordinary Shares (at the Conversion C Ratio) immediately before the date of service of the Transfer Notice

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but so that, if the proportionate number of Shares results in a fractional entitlement, the entitlement to priority shall be rounded down to the nearest whole number of Shares;

12.5.4 if the Recipient holds Preferred Ordinary Shares, the fact that the Recipient is a "*Qualifying Recipient*" and has the participatory rights on transfer described in Articles 13.1 and 13.2; and

12.5.5 the date on which the Offer Notice will lapse and no longer be capable of acceptance (being the Business Day falling twenty Business Days after the date on which the Offer Notice is despatched to the Recipient unless the Recipient has by then applied for Offered Shares).

12.6 Each Recipient who accepts the conditional offer made under Article 12.2 (an "*Applicant*") may state in his reply whether or not he accepts the Offer Price (if any). An Applicant may offer to acquire more Offered Shares than the number of Offered Shares in respect of which he has priority (if any) (such an offer being an offer to acquire "*Excess Offered Shares*").

12.7 If:

12.7.1 a Preferred Recipient does not apply for all of the Offered Shares in respect of which that recipient has priority (determined in accordance with Article 12.5.3); and

12.7.2 an Applicant applies for Excess Offered Shares,

then those unclaimed Offered Shares referred to in Article 12.7.1 above shall be used in or towards satisfying those applications for Excess Offered Shares made by Preferred Recipients in the proportion that the number of unclaimed Offered Shares bears to the total number of Offered Shares applied for by each of those Preferred Recipients, respectively and, if any unclaimed Offered Shares then remain unallocated, these unclaimed Offered Shares shall be used in or towards satisfying those applications for Excess Offered Shares made by the Applicants who are not Preferred Recipients in the proportion that the number of unclaimed Offered Shares then remaining unallocated bears to the total number of Offered Shares applied for by each of those Applicants, respectively. If Applicants do not apply for all of the

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Offered Shares the Board may, if the Company is then lawfully able to purchase Offered Shares, resolve that the Company shall purchase any or all (or so many as it may lawfully acquire) of those of the Offered Shares which are not taken up by Applicants. If the Board resolves that the Company shall purchase any such Shares, the Company shall be deemed to be an Applicant in respect of those Shares. If the Company is an Applicant it shall be deemed to have served a reply stating that it does not accept the Offer Price if there is one.

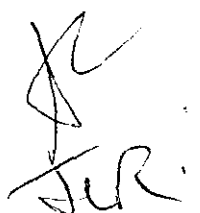
- 12.8 Shares representing fractional entitlements shall be allocated by the Directors by the drawing of lots.
- 12.9 If a holder of Preferred Ordinary 'C' Shares entitled to participate in the giving of Preference Approval states in its reply that it accepts Offered Shares, but that it does not accept the Offer Price then, immediately on the expiry of the period of twenty Business Days referred to in Article 12.5.5 or (if earlier) upon all recipients of Offer Notices having replied, the Board shall instruct the Auditors to determine the fair value of each Offered Share (the "*Fair Value*") in accordance with Article 12.11.
- 12.10 The costs of the Auditors in determining the Fair Value shall be borne as to half by the Proposing Transferor (up to a maximum amount of £10,000) and as to the balance by the Company if the Fair Value is less than the Offer Price but shall otherwise be borne by the Company or those holders of Preferred Ordinary 'C' Shares entitled to participate in the giving of Preference Approval who do not accept the Offer Price in such proportions as the Auditors, in their absolute discretion, determine as being fair in all the circumstances (provided that the Auditors shall not require any Applicant to pay more than £10,000).
- 12.11 In determining the Fair Value of the Offered Shares, the Auditors shall (subject always to Article 12.12) value the Offered Shares using the following principles, assumptions and bases:
- 12.11.1 valuing the Offered Shares as on an arms' length sale between a willing seller and a willing buyer (on the basis that the buyer holds no Shares) and taking into account the price per Offered Share specified in any offer to purchase the Offered Shares received by the Proposing Transferor (provided that the Auditors are satisfied that that offer is bona fide and is from a party unconnected with the Proposing Transferor);

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- 12.11.2 if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so;
  - 12.11.3 on the assumption that the Offered Shares are capable of being transferred without restriction (whether or not they are capable of being so transferred);
  - 12.11.4 on the basis that no reduced or additional value is attached to any holding of Shares by virtue only of the holding comprising on or after purchase a majority or minority of the total issued share capital; and
  - 12.11.5 the application in all other respects of principles and practices consistent with those customarily applied by the Auditors in assessing valuations (and, where appropriate, adopting policies and principles adopted in the previous audited accounts of the Company).
- 12.12 If any difficulty arises in applying any of the assumptions or bases applicable to the determination of the Fair Value the Auditors shall (subject to the provisions of any Shareholders' Agreement) resolve the difficulty in such manner as they, in their absolute discretion, think fit.
- 12.13 In determining the Fair Value, the Auditors shall be deemed to be acting as experts and not as arbitrators and (save for bad faith or manifest error) their decision shall be final and binding.
- 12.14 Upon receiving the Auditors' determination of the Fair Value in writing, the Board shall deliver a copy of the Auditors' determination to the Proposing Transferor and (if there are any at that time) each relevant holder of Preferred Ordinary 'C' Shares and any other person affected by the determination.
- 12.15 If the Proposing Transferor is not entitled to withdraw the Transfer Notice or has not withdrawn the Transfer Notice pursuant to Article 12.18 within the five Business Day period referred to in that Article, the Board shall as soon as practicable notify all the Applicants and the Proposing Transferor of:
- 12.15.1 the number of Offered Shares allocated to each Applicant;



- 12.15.2 the price to be paid for each of the Offered Shares being the lower of the Offer Price (if there is one) and the Fair Price (if there is one); and
- 12.15.3 the place and time (being not earlier than ten and not later than twenty Business Days after the date of the notification) at which:
- 12.15.3.1 the price is to be paid by the Applicants to the Proposing Transferor; and
- 12.15.3.2 appropriate transfers of the Offered Shares are to be delivered to the Applicants by the Proposing Transferor.
- 12.16 The Proposing Transferor shall be bound to transfer the Offered Shares with full title guarantee and free from all encumbrances against tender of the Transfer Price in accordance with the terms of the notice delivered in accordance with Article 12.15 and each Applicant shall be bound to acquire the Offered Shares specified in the notice served on him in accordance with Article 12.15.
- 12.17 If after having become bound to transfer Offered Shares pursuant to Article 12.16 the Proposing Transferor defaults in transferring Offered Shares, then the following provisions shall apply:
- 12.17.1 the Company may receive the purchase money and the Proposing Transferor shall be deemed to have appointed any director or the secretary as the agent of the Proposing Transferor to execute a transfer of the Offered Shares in favour of the Applicant(s) and to receive the purchase money in trust for the Proposing Transferor;
- 12.17.2 the receipt of the Company for the purchase money shall be a good discharge to the Applicant(s) and after it has been entered in the register of members in purported exercise of the power the validity of the proceedings shall not be questioned by any person; and
- 12.17.3 the Proposing Transferor shall be bound to deliver up the share certificate for the Offered Shares and on its delivery shall be entitled to receive the purchase price without interest. If the certificate comprises any Shares which the Proposing Transferor has not

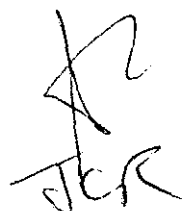
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become bound to transfer the Company shall issue to the Proposing Transferor a share certificate for the balance of those Shares.

- 12.18 The Proposing Transferor may withdraw the Transfer Notice served by him and cancel the Company's authority to sell Offered Shares (other than Offered Shares in respect of which Applicants have accepted the Offer Price) by delivering to the Company written notice of cancellation of authority within five Business Days after notification to the Proposing Transferor by the Company in accordance with Article 12.14 of the Auditors' determination if that determination is that the Fair Price is less than the Offer Price (provided that before, or at the same time as, that notice of cancellation of authority is served the Proposing Transferor has paid his proportion (if any) of the Auditors' costs in relation to the determination of the Fair Value, or has undertaken to pay those costs in a manner satisfactory to the Board).
- 12.19 If there are any Offered Shares which are not sold pursuant to the terms of this Article 12 after a Transfer Notice has been served and the procedure for sale stated in this Article 12 has been exhausted, the Proposing Transferor may at any time before the date falling three months after delivery of the Transfer Notice to the Board sell such unsold Offered Shares (subject always to the participatory rights, if any, exercised by holders of Preferred Ordinary 'C' Shares in accordance with Articles 13.1 and 13.2) to any Person at a price per Offered Share which is no less than the Offer Price or, if no Offer Price was stated, the Fair Value. The Person purchasing the Offered Shares may, with Preference Approval, acquire all the Proposing Transferor's unsold Offered Shares and additional Shares from Recipients to satisfy those Recipients' participatory rights on transfer.
- 12.20 The Directors shall, before registering a transfer permitted by Article 12.19, take reasonable steps to satisfy themselves that the relevant Shares are being sold on *bona fide arms' length terms in accordance with the provisions of this Article* (and shall not register the relevant transfer if they are not so satisfied).

13 **Tag-along rights**

- 13.1 A Qualifying Recipient may express his desire to exercise participatory rights on transfer by giving written notice to the Board before the earlier of:
- (a) the date specified in accordance with Article 12.5.5 for the Offer Notice to lapse, and

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(b) the date on which the Recipient responds to the conditional offer contained in the Offer Notice.

13.2 If a Qualifying Recipient expresses his desire to exercise participatory rights on transfer the Proposing Transferor shall be obliged to procure that the number of Shares sold by the Proposing Transferor is reduced by the number (the "*Tag Number*") determined in accordance with Article 13.3 and that the Person purchasing any of the Offered Shares acquires the Tag Number of Shares from that Qualifying Recipient for the same price per Share as it pays for the Shares acquired from the Proposing Transferor (determined, if necessary on the basis that all relevant Shares are deemed to have been converted into Ordinary Shares), but so that the Qualifying Recipient shall be obliged only to warrant its title to the Shares it transfers (and not to give any other warranty or indemnity). Qualifying Recipients who give such notice shall, where the offered Shares are Ordinary Shares, be bound (subject only to receipt of appropriate payment) to exercise their rights under Articles 5.3.2, 6.3.2 and 7.3.2 to convert the necessary number of Preferred Ordinary 'C' Shares, Preferred Ordinary 'B' Shares or Preferred Ordinary 'A' Shares into Ordinary Shares and to sell the Tag Number of Ordinary Shares to the purchaser of Offered Shares. The Ordinary Shares so sold shall be Ordinary Shares resulting from the conversion of Preferred Ordinary 'C' Shares, Preferred Ordinary 'B' Shares and Preferred Ordinary 'A' Shares under Article 7.3.2, 6.3.2 and 5.3.2 respectively.

13.3 The Tag Number of Shares in respect of which a Qualifying Recipient may exercise participatory rights on transfer is the number (rounded down to the nearest integer) derived from the following formula:

$(\text{NOS divided by PP}) \text{ multiplied by RHP}$

where:

**NOS** = the number of Shares which the purchaser intending to purchase Offered Shares proposes to purchase,

**PP** = is the participating pool being the aggregate of:

- the total number of Ordinary Shares held by the Proposing Transferor,

- the total number of Ordinary Shares to which the Proposing Transferor would be entitled if all the Preferred Ordinary 'C' Shares, Preferred Ordinary 'B' Shares and Preferred Ordinary 'A' Shares held by it were converted into Ordinary Shares (at the Relevant Conversion Ratio) immediately before completion of the sale of the Offered Shares,
- the total number of Ordinary Shares held by each Qualifying Recipient, and
- the total number of Ordinary Shares to which Qualifying Recipients would be entitled if all the Preferred Ordinary Shares held by them were converted into Ordinary Shares (at the Relevant Conversion Ratio) immediately before completion of the sale of the Offered Shares, and

**RHP** = is the Qualifying Recipient's holding of participating Shares, being the aggregate of:

- the total number of Ordinary Shares held by the Qualifying Recipient, and
- the total number of Ordinary Shares to which the Qualifying Recipient would be entitled if all the Preferred Ordinary Shares held by it were converted into Ordinary Shares (at the Relevant Conversion Ratio) immediately before completion of the sale of the Offered Shares.

13.4 If exercise of rights under this Article 13 would result in a Sale, the Sale shall require consent as provided in Article 11.2.

#### 14 **Drag-along rights**

14.1 For the purposes of this Article 14, a reference to Ordinary Shares is deemed to include reference to that number of Ordinary Shares into which the Preferred Ordinary Shares would convert at the Relevant Conversion Ratios.



14.2 If as a result of one or more transfers which are otherwise permitted by these Articles a person (the "*Acquirer*") alone or together with other members of any Group of which it is a member would (following compliance with the procedures in Article 12) acquire:

14.2.1 at any time from the date of adoption of these Articles more than 75% of the Ordinary Shares; or

14.2.2 at any time from the date of adoption of these Articles more than 51% of the Preferred Ordinary 'C' Shares held by Preferred Ordinary 'C' Shareholders

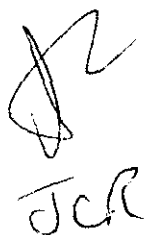
the Acquirer and any proposing transferor may by joint election require each other holder of Shares (the "*Dragged Sellers*") to transfer all their Shares to the Acquirer, on the same terms, save as to price, as offered to the proposing transferor in which case each Dragged Seller shall be bound to transfer the Shares held by him, giving a warranty that he is entitled to sell the relevant Shares (but so that if he, or a member of his Group holds Preferred Ordinary Shares, or Ordinary Shares resulting from the conversion of Preferred Ordinary Shares held by him or a member of his Group he shall not be obliged to give any other warranty or indemnity) at a price equal to the higher of the prices determined in accordance with Article 14.3

14.3 The prices referred to in the last sentence of Article 14.2 are:

14.3.1 the price paid for the Shares acquired by the Acquirer as a result of which this Article 14 entitles the Acquirer to require Shareholders to transfer Shares to it (and the price shall, if necessary, be determined by a deemed conversion of the relevant Shares into Ordinary Shares to ascertain a comparable price);

14.3.2 the average price (and the price shall, if necessary, be determined by a deemed conversion of the relevant Shares into Ordinary Shares to ascertain a comparable price) paid by the Acquirer and each member of the Acquirer's Group for Shares acquired by each of them other than:

(a) Shares for which they subscribed,

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- (b) Shares acquired by them at a price per Share which is below the price at which any member of the Acquirer's Group subscribed for any Shares,
- (c) if it reduces the average price paid, the price paid for the Shares acquired by the Acquirer or as a result of which this Article 14 entitles the Acquirer to require Shareholders to transfer Shares to it, and
- (d) Shares acquired by a member of the Acquirer's Group from another member of that Group to the extent that those acquisitions reduce the average price paid,

14.3.3 in the case of a transfer of Preferred Ordinary Shares under this Article 14 and at the option of each Dragged Seller of Preferred Ordinary Shares, the amount the Dragged Seller would have been entitled to receive in accordance with Article 9 in respect of each relevant Preferred Ordinary Share held by it if the transfer of Shares to the Acquirer constituted a Sale to which Article 9.8 applied.

14.4 If a Dragged Seller defaults on its obligations under Article 14.2 the following provisions shall apply:

14.4.1 the Company may receive the purchase money and the Dragged Seller shall be deemed to have appointed each director and the secretary severally to act as his agent to execute a transfer of the relevant Shares in favour of the Acquirer and to have appointed the Company as his agent to receive the purchase money in trust for him (but not so that the Company shall be liable to account to the transferor for any interest);

14.4.2 the receipt of the Company for the purchase money shall be a good discharge to the Acquirer and, after the transfer has been entered in the register of members in purported exercise of the power of the directors, the validity of the transfer and related proceedings shall not be questioned by any person; and

14.4.3 the Dragged Seller shall be bound to deliver up the share certificate for the relevant Shares and on its delivery shall be entitled to receive the purchase price without interest.

14.5 If the Acquirer defaults on its obligations under this Article 14 each Dragged Seller may either (i) give written notice to the Company (with a copy to the Acquirer) stating that the Dragged Seller wishes to proceed with the sale of the relevant Shares or (ii) give written notice to the Company (with a copy to the Acquirer) stating that the Dragged Seller does not wish to sell the relevant Shares, and in each case the Acquirer shall have five days in which to pay the purchase price, failing which the Acquirer shall have no further right rights or remedies against the Dragged Seller as a result of this Article 14.

14.6 Unless a Dragged Seller gives notice that it does not wish to proceed to sell the relevant Shares (in accordance with Article 14.5) Article 14.5 shall not prejudice the Dragged Seller's rights to sue for specific performance for any default by the Acquirer on its obligations under this Article 14.

## 15 **Registration of transfers**

15.1 The Directors shall refuse to register a transfer of Shares unless:

15.1.1 it is lodged at the office or at such other place as the Directors appoint and is accompanied by the certificate for the Shares to which it relates; and

15.1.2 it is in favour of not more than one Person (or not more than three Persons who have certified to the Company that they are acting as trustees of a single trust); and

15.1.3 it is permitted by these Articles and is:

15.1.3.1 if there is one or more Shareholders' Agreements, in favour of a Person who is bound by the terms of all relevant Shareholders' Agreement(s); or

15.1.3.2 if there is a Shareholders' Agreement, lodged together with a deed in favour of the Company and each Shareholder (other than the transferor) duly executed by

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the transferee by which the transferee agrees to be bound *mutatis mutandis* by the terms of the Shareholder's Agreement as if it were named in that agreement as the original holder of the Shares the subject of the transfer; or

15.1.3.3 in respect of Shares which are transferred pursuant to Article 11.5; and

15.1.4 if it is in respect of Shares which are not fully paid, it is lodged together with a guarantee in such form as the Directors reasonably require in respect of the payment of amounts which remain to be paid in respect of the relevant Shares.

15.2 Unless the Directors are not entitled to register a transfer of Shares properly presented to them at the office, they shall register a transfer so presented.

15.3 If the directors are not entitled to register a transfer of Shares, they shall within fourteen Business Days after the date on which the transfer was lodged with the Company send to the transferee notice of the refusal to register the transfer.

16 **Notice of general meetings**

16.1 Regulation 37 is amended by replacing 'eight weeks' with 'four weeks'.

16.2 The first sentence of Regulation 38 is amended:

16.2.1 by deleting 'or a resolution appointing a person as a director';

16.2.2 by adding after 'a special resolution' the words but not including a written resolution;

16.2.3 by adding at the end 'unless Preference Approval is given for a shorter period of notice save that the notice period shall be no less than 14 days'.

17 **Proceedings at general and class meetings**

17.1 *Quorum*

17.1.1 No business shall be transacted at a general or at a class meeting unless a quorum is present. The quorum at any general meeting shall be IDGVE (for so long as it is a Shareholder) and any other Shareholder, or (if IDGVE is no longer a Shareholder) any two Shareholders. The quorum at class general meeting shall be IDGVE (if it holds Shares of the relevant class) and any other Shareholder, or (if IDGVE does not hold Shares of the relevant class) any two Shareholders who do hold Shares of the relevant class.

17.1.2 If a quorum is not present within half an hour of the time appointed for a meeting or if during the meeting a quorum ceases to be present, the meeting shall be adjourned to the same day in the next week, or if that is not a Business Day to the next following Business Day, at the same time and place or such other time and place as the Directors determine. If no quorum is present within half an hour of the time appointed for the adjourned meeting or if during the adjourned meeting a quorum ceases to be present, the meeting shall be dissolved.

17.2 *Right to demand poll*

17.2.1 Paragraph (b) in Regulation 46 is replaced with 'by any holder of Ordinary Shares having the right to vote at the meeting;'.

17.2.2 Paragraphs (c) and (d) of Regulation 46 are deleted.

17.3 *Voting*

17.3.1 On a show of hands each holder of Shares conferring a right to vote (whether present in person, by proxy or by corporate representative) shall have one vote.

17.3.2 On a poll each holder of Shares conferring a right to vote (whether present in person, by proxy or by corporate representative) shall be entitled to cast one vote for every Ordinary Share held or to which the holder would be entitled had all the Preferred Ordinary Shares held by that Shareholder been converted into Ordinary Shares (at the Relevant Conversion Ratio) immediately before the right is exercised.

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- 17.3.3 Each Preferred Ordinary 'C' Share, Preferred Ordinary 'B' share and Preferred Ordinary 'A' Share confers on its holder a right to demand a poll on any matter in relation to which a vote is taken at a general meeting.

17.4 *Class meetings*

- 17.4.1 Subject as otherwise expressly provided in these Articles, meetings of holders of a class of Share shall be quorate if:

17.4.1.1 a majority (by number) of the holders of that class of Share is present in person or by proxy; or

17.4.1.2 a majority (by number) of the holders of that class of Share has consented to the meeting being held notwithstanding that, but for this Article and such consent, the meeting would not be quorate; or

17.4.1.3 the holder (or holders) of 70% of the issued Shares of the relevant class is (or are) so present in person or by proxy.

- 17.4.2 Subject as otherwise expressly provided in these Articles, at meetings of holders of a class of Shares, each holder shall:

17.4.2.1 on a show of hands have one vote; and

17.4.2.2 on a poll have one vote for each Share of the class which he holds.

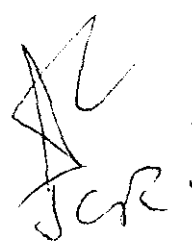
- 17.5 Questions arising at meetings of holders of any class of Share shall (unless these Articles, any Shareholders' Agreement or statute otherwise requires) be decided by a majority of votes cast.

18 **Appointment and removal of Directors**

- 18.1 Unless otherwise determined by special resolution, the minimum number of Directors is two and their number shall not without Preference Approval exceed eight (of whom not more than four shall be executive Directors).

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- 18.2 No Director shall be appointed or removed except in accordance with these Articles.
- 18.3 *Specific Appointments*
- 18.3.1 For so long as it holds Shares IDGVE may from time to time appoint and remove two Directors (each Director appointed in accordance with this Article 18.3 is, for so long as he holds office, an *Investor Director*).
- 18.3.2 Subject to the Townshend/Lamarre Family Trust holding at least 2.5% of the issued Preferred Ordinary C Shares it may from time to time appoint and remove one Director.
- 18.4 Subject to 18.1, the Board may with preference Approval appoint such Directors as it deems necessary from time to time in accordance with Article 18.7.2;
- 18.5 The Chief Executive Officer may also be appointed a Director in accordance with Article 18.7.
- 18.6 An executive Director appointed in accordance with Article 18.4 may be appointed or removed by notice given in accordance with Articles 18.7 and 18.8.
- 18.7 The right to appoint and remove Directors shall be exercised:
- 18.7.1 in the case of appointments and removals in accordance with Article 18.3 by IDGVE and the Townshend/Lamarre Trust, respectively,
- 18.7.2 in the case of all other appointments or removals of Directors in accordance with Articles 18.4 and 18.5 by a majority of the Directors from time to time (provided that the appointment will only be effective if any necessary Preference Approval is given); and
- 18.7.3 in each case by delivering notice to the Company in accordance with Article 18.8
- 18.8 Notices appointing or removing Directors shall be effective upon delivery to the Company's registered office of:

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- 18.8.1 an appropriate notice naming the relevant Person signed by the relevant Shareholder(s) (or their duly authorised representatives); and
- 18.8.2 in the case of appointments only, a notice consenting to act and specifying an address for service of notices of meetings (being the address referred to in Article 21.2.1) signed by the Person being appointed as a Director.
- 18.9 The Directors are not subject to retirement by rotation. The last sentence of Regulation 84 is accordingly deleted.
- 18.10 A person is not disqualified from being a director by having attained any particular age.
- 18.11 Notwithstanding any provision to the contrary in these Articles, any Director may be removed by the decision of a majority of the remainder of the Board if the relevant Director is or may be suffering from mental disorder and either:
- 18.11.1 he is admitted to hospital in pursuance of an application for admission to treatment under the Mental Health Act 1983 (or, in Scotland, an application for admission under the Mental Health (Scotland) Act 1960); or
- 18.11.2 an order is made by a court having jurisdiction (whether in the UK or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to this property or affairs.

19 **Observer and information rights**

- 19.1 Simon Murdoch and Brent Townshend (for so long as they are not Directors of the Company) and Cheetah International Investments Limited shall be entitled to appoint and remove one observer to the Board, the removal or appointment being made by notice signed by the relevant Preference Shareholder served on the Company and shall be effective only if approved by Preference Approval.
- 19.2 The Founders who are Ordinary Shareholders or who are beneficiaries of a Founder Trust that holds Ordinary Shares may collectively appoint one observer (and remove

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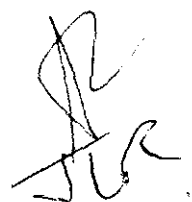


any observer so appointed) provided that the identity of the appointee is approved by Preference Approval.

- 19.3 IDGVE is entitled to appoint and remove an observer to the Board, or any committee of the Board.
- 19.4 Observers appointed under Articles 19.1, 19.2 and 19.3 shall be subject to the same fiduciary and other duties of confidentiality to the Company and have the same rights to receive notice and information, and to attend meetings and speak, as though they were Directors, except that they shall not be entitled to vote.
- 19.5 Lynx Capital Ventures LLP (for so long as it holds 1% of the issued share capital in the Company) and each Person who holds (whether alone or together with others which form part of the same Group) Preferred Ordinary Shares which if converted into Ordinary Shares (at the Relevant Conversion Ratio) would constitute at least 2.5% of the enlarged issued share capital (assuming every issued Preferred Ordinary Share were converted at the Relevant Conversion Ratio) or anybody holding less than 2.5% of the enlarged share capital who has been given observer rights pursuant to any agreement with the Company, shall be entitled (at that Shareholder's own expense in relation to reasonable out of pocket costs properly incurred by the Company) to:
- 19.5.1 request copies of the Company's monthly management accounts to be delivered to it each month (and the Company shall comply with such request);
- 19.5.2 request copies of the latest completed (and draft of the current) audited annual financial statements, budget and business plan (and the Company shall comply with such request); and
- 19.5.3 inspect the premises, books and records of the Company during usual business hours.

## 20 **Alternate Directors**

- 20.1 A Director (other than an alternate director) may appoint as his alternate any person who is approved for that purpose by the holders of a majority of the Shares of the class by the holders of which he was appointed and may terminate the appointment. An alternate director shall be entitled to receive notice of all meetings



of the Directors whether he is present in the United Kingdom or not and the last sentence of Regulation 66 accordingly does not apply. In the absence of the director appointing him, an alternate director shall (in addition to any voting rights to which he is entitled if he is also a Director) be entitled to the same voting rights as his appointer and shall be treated as if he were appointed by the holders of the same class of Shares as the Shares held by the persons who appointed his appointer.

20.2 An alternate director ceases to be an alternate for his appointer when his appointer ceases to be a Director. An alternate director may also be removed by his appointer.

20.3 Regulation 68 is amended by adding after 'by notice to the company signed by the director making or revoking the appointment' the words 'and delivered to the office or tendered at a meeting of the Directors'.

## 21 **Proceedings of Directors**

### 21.1 *Introduction*

21.1.1 Subject to the provisions of these Articles, the Directors may regulate their proceedings as they think fit.

21.1.2 A Director may, and the secretary at the request of a Director shall, call a meeting of the Directors.

### 21.2 *Notice of meetings*

21.2.1 Unless an Investor Director consents to shorter notice, each Director shall be given not less than five Business Days' prior written notice of any meeting of the Board, accompanied (where applicable and reasonably practicable) by a written agenda specifying the business of such meeting and copies of any relevant papers to be discussed at the meeting, provided always that a shorter period of notice may be given either in the case of emergency or where commercial necessity so dictates.

21.2.2 Meetings of the Board shall be convened and held at least once in each calendar month.

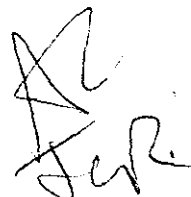
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21.3 *Chairman*

- 21.3.1 For so long as Preferred Ordinary 'C' Shares are in issue the chairman of the Board shall, unless Preference Approval is given to another appointment, be the Investor Director nominated by IDG (or if none, a director nominated by Preference Approval). The chairman of the Board is at the date of adoption of these Articles Ajay Chowdhury.
- 21.3.2 The chairman of the Board shall not be entitled to a second or casting vote.

21.4 *Quorum and attendance at meetings by telephone*

- 21.4.1 The quorum for the transaction of business at any meeting of the Board (other than an adjourned meeting) shall be one Investor Director and one other Director who is not an Investor Director present at the time when the relevant business is transacted. If such a quorum is not present within 30 minutes from the time appointed for the meeting or if during the meeting such a quorum ceases to be present, the meeting shall be adjourned for not more than five Business Days and each Director who is entitled to receive notice of Board meetings shall be given at least two Business Days' notice of the adjourned meeting and at that adjourned meeting any two Directors (including at least one Investor Director) present shall constitute a quorum.
- 21.4.2 Unless otherwise agreed by Preference Approval and subject to clause 21.4.3, the quorum of a Committee must include at least one Investor Director but otherwise no Directors need be appointed to a Committee, and Regulation 72 is amended accordingly.
- 21.4.3 The quorum of the remuneration Committee referred to in Article 21.5.2 shall be two of the Investor Directors.
- 21.4.4 A Person may participate in a meeting of the Directors or of a Committee of which he is a member by conference telephone or similar communications equipment by means of which all the persons participating in the meeting can hear each other at the same time.

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Participation by a Director in a meeting in this manner is treated as presence in person by the Director at the meeting.

21.5 *Business to be transacted at meetings of Directors and Committees*

21.5.1 The business of meetings of Directors and Committees is regulated by the following provisions of this Article 21 and by Article 22.

21.5.2 The Board shall (while there are holders of Preferred Ordinary 'C' Shares) have a remuneration Committee which shall consist of a majority of the Investor Directors. This Committee shall among other things, be responsible for setting and reviewing the salaries of those employees of the Company whose salaries are to exceed to £65,000 per annum.

21.6 *Voting*

21.6.1 At meetings of the Directors and of Committees, each Director present shall have one vote and no other person shall be entitled to vote.

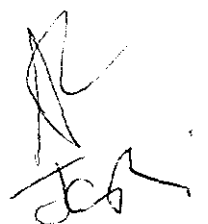
21.6.2 A Director may vote at a meeting of the Directors or of a Committee on a resolution which concerns or relates to a matter in which he has, directly or indirectly, an interest but he remains obliged in any event to declare his interest in accordance with section 317 of the Act.

21.7 *Minutes*

21.7.1 Regulation 100 is amended by replacing paragraphs (a) and (b) with 'of all proceedings of general meetings and meetings of the Directors'.

22 **Limits on authority of Directors and Committees**

22.1 The Directors (both individually and as the Board), Committees and executive officers of the Company (including, without limitation, the chairman and any managing Director) shall not have the power, without Preference Approval, to commit the Company or a Subsidiary Undertaking of the Company to a transaction or arrangement referred to in Article 22.2 (and Regulations 70 and 72 are amended accordingly).

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22.2 The transactions and arrangements referred to in Article 22.1 are any transaction or arrangement as a result of which the Company or any Subsidiary Undertaking of the Company:

22.2.1 increases, reduces, consolidates, sub-divides, converts, purchases, redeems or varies its authorised or issued share capital, share premium account, capital redemption reserve fund or other similar reserve or varies the rights or obligation (including liabilities in respect of partly paid shares) attached to any class of its shares or allots (whether conditionally or otherwise) or issues any shares or securities convertible into shares, stock or debentures, or warrants or options in respect of shares, stock or debentures, other than (i) for the purpose of, or to facilitate the grant or exercise of, options under an employee option scheme which has previously been approved in accordance with the provisions of this Article 22.1 or (ii) on a conversion of the Preferred Ordinary Shares in accordance with these Articles;

22.2.2 commences any winding-up, dissolution or other insolvency procedure (other than as required by law) including any application to court for an administration order or any act (or decision to permit any act to be done) as a result of which the relevant company may be wound up (whether voluntarily or compulsorily);

22.2.3 sells, leases, transfer or grants any option over or otherwise disposes of:

(i) the whole, or any significant part, of its business, undertaking or assets (including intellectual property); or

(ii) a member of the same Group or any shares in any member of the same Group;

22.2.4 (for so long as Preferred Ordinary 'C' Shares are in issue) declares makes or pays any Distribution in respect of Ordinary Shares;

22.2.5 approves or undertakes a Listing or appoints any adviser in connection with the undertaking of or making an assessment of a Listing;

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- 22.2.6 agrees to do any of the things or acts referred to in the preceding sub-paragraphs of this Article 22.2.
- 22.3 The Directors (both individually and as the Board), Committees and executive officers of the Company (including, without limitation, the chairman and any managing Director) shall not (unless express Preference Approval has been given in respect of the relevant matter) have the power, without approval of any two Investor Directors to commit the Company or a Subsidiary Undertaking of the Company to a transaction or arrangement referred to in Article 22.4 (and Regulations 70 and 72 are amended accordingly).
- 22.4 The transactions and arrangements referred to in Article 22.3 are transactions or arrangements as a result of which the Company or any Subsidiary Undertaking of the Company:
- 22.4.1 alters its memorandum or articles of association or adopts or passes any further articles of association or resolutions inconsistent with them;
  - 22.4.2 enters into any transaction other than in the ordinary course of trading business;
  - 22.4.3 enters discussions or makes enquiries concerning the refinancing or merger of the Company (or any member of its Group) other than acknowledging approaches from potential financiers or funders, or submits any business plan or proposal to any potential investor or financier or applies for the admission of any shares to dealings on any recognised investment exchange;
  - 22.4.4 enters into any equity joint venture;
  - 22.4.5 forms or incorporates any entity, acquires, purchases or subscribes for shares, debenture, mortgages or securities (or any interest in any of them) in any Person or acquires any business or sells, transfers or disposes of any interest in such assets or business (consent, in each case, being required as to the terms of the acquisition, subscription, sale, transfer or disposal);

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- 22.4.6 adopts any bonus or profit scheme or any employee option or share incentive scheme or employee share trust or other share ownership plan;
- 22.4.7 declares, pays or makes any Distribution of capital or profits, other than as permitted under these Articles;
- 22.4.8 exercises any discretion reserved to directors relating to the transfer of shares;
- 22.4.9 undertakes any obligation which will result in a variance (either way) in the annual budget (if there is one) by more than 20%;
- 22.4.10 enters, terminates or varies a contract to which a Shareholder (or any person who is connected with a Shareholder connection being determined in accordance with section 839 of the Income and Corporation Taxes Act 1988) is party or varies or determines the remuneration or other benefits, waives any breach or issues legal proceedings in respect of such a contract;
- 22.4.11 instigates, settles or compromises any litigation or similar process involving a Founder or an employee of the Company or any of its Subsidiary, or involving an amount claimed in excess of £50,000;
- 22.4.12 approves any annual budget or business plan;
- 22.4.13 decides to allow registration to lapse, transfers or assigns any Intellectual Property Rights;
- 22.4.14 appoints a Committee or authorises the delegation of any powers of the Directors to any body or other Person (other than as agreed in accordance with any Shareholders' Agreement);
- 22.4.15 alters its name; and
- 22.4.16 agrees to do any of the things or acts referred to in the preceding sub-paragraphs of this Article 22.4.
- 22.5 The Directors, Committees and executive officers of the Company (including, without limitation the chairman and any managing director) shall not have the

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power without Board approval, to commit the Company or a Subsidiary Undertaking of the Company to a transaction or a arrangement referred to in Article 22.6 (and Regulations 70 and 72 are amended accordingly).

22.6 The transactions and arrangements referred to in Article 22.5 are any transaction or arrangement as a result of which the Company or a Subsidiary Undertaking of the Company:

22.6.1 appoints or removes any Director (other than pursuant to these Articles) or appoints any person as a director of a Subsidiary (other than a Director, but so that appointment as a director shall terminate if the person ceases to be a Director);

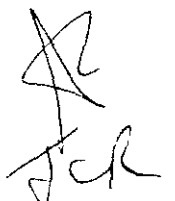
22.6.2 incurs any borrowing, indebtedness or similar liability (including leasing, hire purchase and other analogous financial arrangements) other than in the usual course of the proper trading business of the relevant company and in accordance with the annual budget (if there is one approved by the Board);

22.6.3 enters into any arrangement with any person (i) outside the usual course of the relevant Company's trading business or (ii) which is not on commercial arms' length terms intended to benefit the relevant company's business;

22.6.4 makes or agrees to make any loan or advance or give credit, other than (i) by way of deposit with a bank or other institution or (ii) the grant of normal trade credit or (iii) normal season ticket loans to its employees (not exceeding one month's salary per employee) or (iv) in the proper course of the relevant company's usual business;

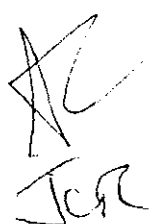
22.6.5 gives any guarantee or indemnity in respect of the liabilities or obligations of any person, other than in respect of wholly owned subsidiaries of the Company or creates any mortgage, charge or encumbrance over any asset;

22.6.6 terminates any material contract the termination of which is likely to be materially prejudicial to the business as carried on by the relevant company;

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- 22.6.7 makes payment to any non-executive Director (in his capacity as such) other than the reimbursement of legitimate business expenses properly incurred;
- 22.6.8 incurs any capital expenditure of an amount per item of expenditure in excess of £10,000 other than expenditure approved in the annual budget (if there is one) approved by the Board;
- 22.6.9 incurs aggregate expenditure in any calendar month exceeding £50,000 or exceeding in any three month period £100,000 other than expenditure approved in the annual budget;
- 22.6.10 enters into any contract or arrangement involving expenditure if the aggregate amount of expenditure by the relevant company would exceed £50,000 either in any 12 month period or in relation to any one project (the aggregate amount payable under an agreement for hire, hire purchase or purchase on credit sale or conditional terms shall be deemed to be capital expenditure incurred when the relevant agreement is entered into);
- 22.6.11 enters or varies any contract of an onerous nature or for a term exceeding 12 months or where the obligations under the contract are not in the budget and exceed a value of £50,000;
- 22.6.12 enters or varies any contract or agreement for the acquisition of freehold or leasehold property;
- 22.6.13 enters or varies any lease, licence, tenancy or other similar obligation involving rental and other payments which exceed £250,000 per annum;
- 22.6.14 delegates any matter to a Committee;
- 22.6.15 appoints any auditors (other than the re-appointment of an existing auditor);
- 22.6.16 alters the accounting reference date;



- 22.6.17 makes any material change to any accounting policy or principle adopted for the preparation of the audited or management accounts of the relevant company; and
- 22.6.18 agrees to do any of the things or acts referred to in the preceding sub-paragraphs of this Article 22.6,
- 22.7 The Directors, executive officers of the Company shall not have the power, without approval of the remuneration Committee, to commit the Company or a Subsidiary Undertaking of the Company to a transaction or arrangement referred to in Article 22.8 (and Regulations 70 and 72 are amended accordingly).
- 22.8 The transactions and arrangement referred to in Article 22.7 are transactions or arrangements as a result of which the Company or any Subsidiary Undertaking of the Company:
- 22.8.1 alters the terms of employment or remuneration of, or any service agreement with, any Founder or Director or increases the total emoluments, pensions or other benefits or payments payable to or for the benefit of a Founder or a past, present or future Director (or, in each case, their respective dependants) or grants consent under any of their service agreements or gives of any notice pursuant to any of those service agreements, outside the parameters set out in the annual business plan (if there is one approved by the Board);
- 22.8.2 employs any person, or varies the terms of employment of any person, with a remuneration in excess of £65,000 per annum (inclusive of bonuses and commission) or engages or varies of the terms of engagement of any person pursuant to any contract for services where the fee payable exceeds £65,000 per annum, outside the parameters set out in the annual business plan and budget approved by the Board;
- 22.8.3 enters any contract of employment where the notice required to be given by the employer to terminate such contract exceeds six months;

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22.9 The Company shall take all actions within its power to procure that the constitution of each of its Subsidiaries includes provisions identical to this Article 22 as if references to the Company were references to the Subsidiary.

23 **Accounts**

23.1 Regulation 109 is amended by replacing 'No member shall (as such) have any right of inspecting any accounting records' with 'A Shareholder shall be entitled, on giving reasonable notice, to inspect during business hours any accounting records'.

24 **Notices**

24.1 A notice required by these Articles to be given by the Company may be given by any visible form on paper, including telex, facsimile or similar communication. A notice given by immediate transmission is deemed to have been given at the time that it is transmitted to the person to whom it is addressed. Regulations 111 and 113 are amended accordingly.

24.2 A member whose registered address is not within the United Kingdom may give to the Company an address either within the United Kingdom or elsewhere at which notice may be given to him and he shall be entitled to have notices given to him at that address. Regulation 112 is amended accordingly.

25 **Indemnity**

25.1 Regulation 118 is amended:

25.1.1 by adding after 'shall be indemnified out of the assets of the Company' the words 'against losses and liabilities which he incurs, otherwise than as a result of his own negligence or default, in connection with the performance of his duties as such and';

25.1.2 by adding after 'in which judgement is given in his favour' the words 'or where the proceedings are withdrawn or settled on terms which do not include a finding or admission of a material breach of duty by him'; and

25.1.3 by adding at the end the following sentences:

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'Subject to the provisions of the Act, the Directors may purchase and maintain insurance at the expense of the Company for the benefit of the Directors or other officers or the Auditors against liability which attaches to them or loss or expenditure which they incur in relation to anything done or omitted or alleged to have been done or omitted as Directors, officers or Auditors.'

26      **Expert determination**

- 26.1      The Shareholders recognise that the calculation of the Management Incentive Value involves an inherently circular calculation (the Management Incentive Value is based on the value of certain options which value is in turn based on the amount of distribution available to holders of Ordinary Shares) and that the principal of the underlying calculations for determination of the Management Incentive Value, the C Liquidation Amount, the B Liquidation Amount, the A Liquidation Amount and amounts payable to holders of Ordinary Shares on a Realisation Event, Sale or Listing at given values of Distributable Amount is illustrated on a spreadsheet which is held by the Board (and a copy of which, in electronic format, may be requested by any Shareholder at any time). The illustrative spreadsheet assumes a Series C Investment of £2,000,000 and that options have been granted over 24% of the Ordinary Shares (calculated on a fully diluted but not fully converted basis).
- 26.2      If a dispute arises in relation to calculation of the Management Incentive Value or the amount to be paid in respect of any class of Shares on a Realisation Event, Sale or Listing or as to the operation of the provisions of Article 9 (including as to the value of any non-cash proceeds of a Realisation Event) the Board may resolve the dispute by referral to the indicative Spreadsheet (completing appropriate variables, including the actual amount of the Series C Investment, the percentage of options granted and the Distributable Amount). The Board may, and shall if so required by a majority of holders of any class of Shares at any time before ten days after the day on which the Board notifies Shareholders of (a) its conclusions in relation to matters in dispute and (b) the rights of Shareholders under this Article 26 to seek expert determination, refer the matter in dispute to the Auditors (or other firm of Chartered Accountants selected by the Board, the "Expert") and the Expert shall act as experts and not arbitrators and its determination of the matter in dispute shall be final and binding on the Company. In making their determination the Expert shall:
- 26.2.1      have regard to the spreadsheet referred to in this Article;



- 26.2.2 be entitled to request and receive submissions from any holder of Shares, member of the Board or adviser to the Company;
  - 26.2.3 have regard to the relevant provisions of any Shareholders' Agreement, terms sheet or other evidence provided to it
- 26.3 The Expert may undertake its deliberations and assessment of evidence on a confidential basis. All the expert's costs shall be borne by the Company. The Auditors' certificate shall, except in the case of manifest error, be binding on the Company and holders of Shares.

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