Full name: Share purchase agreement: international acquisitions.

DATED

SHARE PURCHASE AGREEMENT

between

[PARTY 1]

and

[PARTY 2]

CONTENTS

CLAUSE

SCHEDULE

THIS AGREEMENT is dated [DATE]

PARTIES

(1) [FULL COMPANY NAME] incorporated and registered in [COUNTRY OF INCORPORATION] with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Seller**).

(2) [FULL COMPANY NAME] incorporated and registered in [COUNTRY OF INCORPORATION] with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Buyer**).

BACKGROUND

(A) The Company has an issued share capital of [AMOUNT] [divided into [NUMBER] [CLASS OF SHARES] of [NOMINAL VALUE] each].

(B) Further particulars of the Company and its Subsidiaries at the date of this agreement are set out in Schedule 1.

(C) The Seller has agreed to sell and the Buyer has agreed to buy the Sale Shares subject to the terms and conditions of this agreement.

AGREED TERMS

1. INTERPRETATION

The definitions and rules of interpretation in this clause apply in this agreement.

1.1 Definitions:

Accounts: the audited financial statements of the Company and each of its Subsidiaries as at and to the Accounts Date comprising the individual accounts of the Company and its Subsidiaries, and in the case of the Company, the consolidated group accounts of the Company and its Subsidiaries, including in each case the balance sheet, profit and loss account [together with the notes on them, the cash flow statement and the auditor's and directors' reports **OR** [SPECIFY IF DIFFERENT]] (copies of which are attached to the Disclosure Schedule).

Accounts Date: [DATE].

Business: the business of the Company and its Subsidiaries, namely [DESCRIPTION OF THE BUSINESS CARRIED ON BY THE COMPANY AND ITS SUBSIDIARIES].

Business Day: a day other than a Saturday, Sunday or public holiday in [COUNTRY] when banks in [NAME OF CITY] are open for business.

Buyer's Lawyers: [NAME] of [ADDRESS].

Claim: a claim for breach of any of the Warranties.

Closing: the closing of the sale and purchase of the Sale Shares in accordance with this agreement.

Closing Accounts: has the meaning set out in paragraph 1 of Schedule 4.

Closing Agenda: a document, in agreed form, identifying the documents to be delivered by the Buyer and Seller at Closing and the business to be conducted at board meetings of the Company and each of its Subsidiaries held at Closing.

Closing Date: has the meaning given in clause 5.2.

Closing Payment: [AMOUNT].

Company: [FULL NAME OF TARGET COMPANY], a company incorporated and registered in [COUNTRY OF INCORPORATION] with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS], further details of which are set out in Part 1 of Schedule 1.

Conditions: the conditions to Closing, being the matters set out in Schedule 2.

Connected: in relation to a person, means [ADD DEFINITION OF CONNECTED PERSON APPROPRIATE FOR JURISDICTION].

Control: in relation to a body corporate, the power of a person to secure that the affairs of the body corporate are conducted in accordance with the wishes of that person either:

(a) by means of the holding of shares, or the possession of voting power, in or in relation to that or any other body corporate; or

(b) by virtue of any powers conferred by the constitutional or corporate documents, or any other document, regulating that or any other body corporate;

and a **Change of Control** occurs if a person who controls any body corporate ceases to do so or if another person acquires control of it.

Director: each person who is a director of the Company or any of its Subsidiaries, as set out in Schedule 1.

Disclosed: fairly[, fully, clearly and accurately] disclosed (with sufficient details to identify the nature and scope of the matter disclosed) in or under the Disclosure Schedule.

Disclosure Schedule: Schedule 9 to this agreement.

Encumbrance: any interest or equity of any person (including any right to acquire, option or right of pre-emption) or any mortgage, charge, pledge, lien, assignment, hypothecaton, security interest, title retention or any other security agreement or arrangement.

Group: in relation to a company (wherever incorporated), that company, any company of which it is a Subsidiary from time to time (its holding company) and any other Subsidiaries from time to time of that company or its holding company. Each company in a Group is a **member of the Group**.

Intellectual Property Rights: has the meaning given in paragraph 20.1 of Part 1 of Schedule 5.

Interim Period: the period from (and including) the date of this agreement up to (and including) the Closing Date or, if earlier, the termination of this agreement in accordance with its terms.

Longstop Date: [TIME on] [DATE] or such later [time and] date as may be agreed in writing by the Buyer and the Seller.

Management Accounts: the unaudited consolidated balance sheet and the unaudited consolidated profit and loss account of the Company and its Subsidiaries [(including, in each case, any notes on them)] for the period of [NUMBER] months ended [DATE] (a copy of which is attached to the Disclosure Schedule).

Material Contract: has the meaning given in paragraph 13.1 of Part 1 of Schedule 5.

Properties: has the meaning given in paragraph 24.1 of Part 1 of Schedule 5.

Previously-owned Land and Buildings: has the meaning given in paragraph 24.1 of Part 1 of Schedule 5

Purchase Price: the purchase price for the Sale Shares to be paid by the Buyer to the Seller in accordance with clause 4.

Sale Shares: the [NUMBER] [CLASS OF SHARES] of [NOMINAL VALUE] each in the Company, all of which are fully paid.

Seller's Lawyers: [NAME] of [ADDRESS].

Subsidiary: in relation to a company wherever incorporated (a **holding company**), any company in which the holding company (or persons acting on its behalf) directly or indirectly holds or controls either:

(a) a majority of the voting rights exercisable at shareholder meetings of that company; or

(b) the right to appoint or remove a majority of its board of directors,

and any company which is a Subsidiary of another company is also a Subsidiary of that company's holding company. Unless the context otherwise requires, the application of the definition of Subsidiary to any company at any time shall apply to the company as it is at that time.

Substantiated Claim: a Claim that has been:

(a) agreed in writing by the parties to the Claim, both as to liability and quantum; or

(b) finally adjudicated by a court of competent jurisdiction and no right of appeal lies in respect of such adjudication, or the parties are debarred by passage of time or otherwise from making an appeal.

Tax or Taxation: has the meaning set out in [paragraph 1.1] of Schedule 10.

Tax Covenant: the tax covenant set out in Schedule 10.

Tax Warranties: the warranties set out in Part 2 of Schedule 5.

Transaction: the transaction contemplated by this agreement or any part of that transaction.

Warranties: the [representations and] warranties given pursuant to clause 7 and set out in Schedule 5.

1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.

1.3 References to clauses and Schedules are to the clauses of and Schedules to this agreement and references to paragraphs are to paragraphs of the relevant Schedule.

1.4 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.

1.5 [A reference to **this agreement** or to **any other agreement or document referred to in this agreement** is a reference to this agreement or such other agreement or document as varied or novated in accordance with its terms from time to time.]

1.6 A reference in this agreement to **other documents referred to in this agreement** or any similar expression is a reference to the following documents:

(a) [SPECIFY ANY RELEVANT DOCUMENTS REFERRED TO].

1.7 Unless the context otherwise requires, words in the singular shall include the plural and the plural shall include the singular

1.8 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.9 A **person** includes a natural person, a corporate or unincorporated body (whether or not having separate legal personality) and that person's [personal representatives,] successors and permitted assigns.

1.10 A reference to a **party** shall include that party's [personal representatives,] successors and permitted assigns.

1.11 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.12 A reference to **writing** or **written** includes fax but not email [(unless otherwise expressly provided in this agreement)].

1.13 Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.14 References to a document in **agreed form** are to that document in the form agreed by the parties and initialled by them or on their behalf for identification.

1.15 Unless otherwise provided, a reference to a law is a reference to it as [amended, extended or re-enacted from time to time **OR** it is in force at the date of this agreement] [provided that, as between the parties, no such amendment, extension or re-enactment made after the date of this agreement shall apply for the purposes of this agreement to the extent that it would impose any new or extended obligation, liability or restriction on, or otherwise adversely affect the rights of, any party].

1.16 A reference to a law shall include all subordinate legislation made [from time to time **OR** as at the date of this agreement] under that law.

1.17 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

1.18 [References to times of day are, unless the context otherwise requires, to [NAME OF CITY] time and references to a day are to a period of twenty four hours running from midnight on the previous day.]

1.19 [Any amount expressed to be in [CURRENCY] shall, to the extent that it requires, in whole or in part, to be expressed in any other currency in order to give full effect to this agreement, be deemed for that purpose to have been converted into the relevant currency immediately before the close of business on the date of this agreement (or, if that is not a Business Day, the Business Day immediately following it). Subject to any applicable legal requirements governing conversions into that currency, the rate of exchange shall be [BANK] plc's spot rate for the purchase of that currency with Sterling at the time of the deemed conversion.]

2. CONDITIONS

2.1 Closing is subject to and conditional upon:

(a) the Condition[s] in paragraph[s] [NUMBER(s)] of Schedule 2 being satisfied (or waived by the Buyer in accordance with clause 2.6) by the Longstop Date; and

(b) the Condition[s] in paragraph[s] [NUMBER] [and [NUMBER]] of Schedule 2 being satisfied on each day of the Interim Period (or waived by the Buyer in accordance with clause 2.6).

2.2 If any of the Conditions are not satisfied in accordance with clause 2.1, then unless each unfulfilled Condition is waived by the Buyer pursuant to clause 2.6, this agreement shall terminate and cease to have effect on the Longstop Date except for:

(a) the provisions referred to in clause 2.3; and

(b) any rights, remedies, obligations or liabilities of the parties that have accrued under this agreement up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination.

2.3 Following termination of this agreement in accordance with clause 2.2 [or the termination [or recission] of this agreement pursuant to clause 5.6 or clause 7.7], the following clauses shall continue to have effect:

(a) Clause 1 (Interpretation);

(b) Clause 2 (Conditions);

(c) Clause 12 (Confidentiality and announcements);

(d) Clause 15 (Entire agreement);

(e) Clause 16 (Variation and waiver);

(f) Clause 17 (Costs);

(g) Clause 18 (Notices);

(h) Clause 27 (Language); and

(i) Clause 28 (Governing law and jurisdiction).

2.4 The Seller and the Buyer shall use all reasonable endeavours (so far as lies within their respective powers so to do) to procure that the Conditions are satisfied as soon as practicable and in any event no later than the Longstop Date.

2.5 The Buyer and the Seller shall cooperate fully in all actions necessary to procure the satisfaction of the Conditions, including (but not limited to) the provision by the parties of all information reasonably necessary to make any application for consent, notification or filing [that the Buyer deems to be necessary or] as requested by any relevant authority, keeping the other party informed of the progress of any notification or filing and providing such assistance as may reasonably be required.

2.6 The Buyer may, to such extent as it thinks fit (in its absolute discretion) and is legally entitled to do so, waive in whole or in part any of the Condition[s] in [paragraph[s] [NUMBER(S)] of] Schedule 2 by written notice to the Seller.

3. **SALE AND PURCHASE**

3.1 On the terms of this agreement and subject to the Conditions, the Seller shall sell and the Buyer shall buy, with effect from Closing, the Sale Shares free from all Encumbrances and together with all rights that attach (or may in the future attach) to the Sale Shares including, in particular, the right to receive all dividends and distributions declared, made or paid on or after the [date of this agreement **OR** Closing Date].

3.2 The Seller covenants with the Buyer that it:

(a) has the right to sell the Sale Shares on the terms set out in this agreement;

(b) shall do all it can, at its own cost, to give the Buyer the full legal and beneficial title to the Sale Shares;

(c) sells the Sale Shares free from all Encumbrances;

(d) there is no right to require the Company to issue any share capital or create an Encumbrance affecting any unissued shares or debentures or other unissued securities of the Company; and

(e) no commitment has been given to create an Encumbrance affecting the Sale Shares (or any unissued shares or debentures or other unissued securities of the Company), or for the Company to issue any share capital and no person has claimed any rights in connection with any of those things.

3.3 The Buyer is not obliged to complete the purchase of any of the Sale Shares unless the purchase of all the Sale Shares is completed simultaneously.

4. **PURCHASE PRICE**

4.1 The Purchase Price is the Closing Payment, as adjusted in accordance with clause 6 and Schedule 4.

4.2 The Closing Payment shall be paid by the Buyer to the Seller in cash at Closing in accordance with clause 4.4.

4.3 The Purchase Price shall be deemed to be reduced by the amount of any payment made to the Buyer for each and any:

(a) Claim; [or]

(b) [claim under clause 10; or]

(c) claim under the Tax Covenant.

4.4 All payments to be made to the Seller under this agreement shall be made in [CURRENCY] by electronic transfer of immediately available funds to the Seller's

Lawyers (who are irrevocably authorised by the Seller to receive the same). Payment to the Seller's Lawyers in accordance with this clause shall be a good and valid discharge of the obligations of the Buyer to pay the sum in question, and the Buyer shall not be concerned to see the application of the monies so paid.

5. CLOSING

5.1 Closing shall take place on the Closing Date at the offices of [the Buyer's Lawyers] (or any other place or time as agreed in writing by the Seller and the Buyer).

5.2 In this agreement, **Closing Date** means [DATE] unless:

(a) the Conditions have not been satisfied (or waived in accordance with clause 2.6) on or before that date, in which event the Closing Date shall be:

(i) the second Business Day after all the Conditions have been satisfied or waived; or

(ii) any other date agreed in writing by the Seller and the Buyer; or

(b) Closing is deferred in accordance with clause 5.6(b), in which event the Closing Date shall be the date to which Closing is so deferred.

5.3 The Seller:

(a) undertakes to the Buyer that at all times during the Interim Period the business of the Company and of each of its Subsidiaries shall be conducted in the manner provided in Schedule 3; and

(b) gives the Buyer the undertakings set out in Schedule 3.

5.4 At Closing, the Seller shall:

(a) transfer the Sale Shares in such form as is necessary for the Buyer to acquire legal ownership of the Sale Shares in accordance with the laws of [JURISDICTION OF INCORPORATION OF TARGET];

(b) deliver a certified copy of the resolution adopted by the board of directors of the Seller authorising the Transaction and the execution and delivery by the officers specified in the resolution of this agreement, any documents necessary to transfer the Sale Shares in accordance with clause 5.4(a) and any other documents referred to in this agreement as being required to be delivered by the Seller;

(c) deliver an opinion of the Seller's Lawyers, in agreed form, confirming that the Seller is validly incorporated under the laws of [JURISDICTION], has the capacity to enter into this agreement and that the agreement is legal, valid and enforceable;

(d) deliver (or cause to be delivered) all other documents identified in the Closing Agenda as documents to be delivered by the Seller at Closing; and

(e) procure that a meeting of the Company and each of its Subsidiaries is held at which the business identified for that meeting in the Closing Agenda is conducted.

5.5 At Closing, the Buyer shall:

(a) pay the Closing Payment in accordance with clause 4;

(b) deliver a certified copy of the resolution adopted by the board of directors of the Buyer authorising the Transaction and the execution and delivery by the officers specified in the resolution of this agreement, and any other documents referred to in this agreement as being required to be delivered by the Buyer;

(c) deliver an opinion of the Buyer's Lawyers, in agreed form, confirming the Buyer is validly incorporated under the laws of [JURISDICTION], has the capacity to enter into this agreement and that the agreement is legal, valid and enforceable; and

(d) deliver (or cause to be delivered) all other documents identified in the Closing Agenda as documents to be delivered by the Buyer at Closing.

5.6 If the Seller does not comply with its obligations in clause 5.4 in any material respect the Buyer may (without prejudice to any other rights or remedies it may have):

(a) proceed to Closing;

(b) defer Closing to a date no more than [twenty eight] days after the date on which Closing would otherwise have taken place; or

(c) terminate [or rescind] this agreement by notice in writing to the Seller.

5.7 The Buyer may defer Closing under clause 5.6 only once, but otherwise this clause 5 applies to a Closing deferred under that clause as it applies to a Closing that has not been deferred.

5.8 [As soon as possible after Closing, the Seller shall send to the Buyer (at [the Buyer's registered office for the time being **OR** [PLACE OF DELIVERY]]) all records, correspondence, documents, files, memoranda and other papers relating to the Company and its Subsidiaries, not otherwise required to be delivered at Closing under this agreement and which are not kept at any of the Properties.]

6. ADJUSTMENT OF PURCHASE PRICE

6.1 In this agreement [Closing Net Assets] and [Closing Profit], have the meanings given in paragraph 1 of Schedule 4.

6.2 The Purchase Price shall be adjusted as follows:

(a) [there shall be added thereto the amount, if any, by which the Closing Net Assets are greater than [AMOUNT]]; and

(b) there shall be deducted therefrom an amount, if any, by which the Closing Net Assets are less than [AMOUNT]; [and **OR** or]

(c) [there shall be added thereto the sum calculated as equal to [AMOUNT] multiplied by the amount, if any, by which the Closing Profit is greater than [AMOUNT]; and]

(d) [there shall be deducted therefrom the sum calculated as equal to [AMOUNT] multiplied by the amount, if any, by which the Closing Profit is less than [AMOUNT].]

6.3 Within [seven] days, starting on the day after agreement or determination of the Closing Accounts in accordance with the provisions of Schedule 4, if the Purchase Price as adjusted in accordance with clause 6.2:

(a) exceeds the Closing Payment, then (subject always to clause 6.5) the Buyer shall pay to the Seller an amount equal to the excess; or

(b) is less than the Closing Payment, the Seller shall repay to the Buyer an amount equal to the shortfall.

6.4 Any repayment due to the Buyer under clause 6.3 shall be made in [CURRENCY] by electronic transfer to such account of the Buyer [or the Buyer's Lawyers] as is notified to the Seller by or on behalf of the Buyer [no later than [two] Business Days following the date on which the Closing Accounts are agreed or determined.

6.5 The Buyer may set-off against any payment due under clause 6.3(a) any amount that is outstanding for payment by the Seller to the Buyer in respect of a Claim[, a claim under clause 10] or a claim under the Tax Covenant.

7. WARRANTIES

7.1 The Buyer enters into this agreement on the basis of, and in reliance on, the Warranties.

7.2 The Seller warrants [and represents] to the Buyer that each Warranty is true and not misleading on the date of this agreement, except as Disclosed.

7.3 The Warranties are deemed to be repeated on each day up to and including the Closing Date and any reference made to the date of this agreement (whether express or implied) in relation to any Warranty shall be construed, in relation to any such repetition, as a reference to each such day.

7.4 The Seller shall not (and shall procure that neither the Company nor any of its Subsidiaries shall) do or omit to do anything which would, at any time before or at Closing, be [materially] inconsistent with any of the Warranties, breach any Warranty or make any Warranty untrue or misleading.

7.5 Without prejudice to the Buyer's right to claim on any other basis or take advantage of any other remedies available to it (but subject always to clause 8), if any Warranty is breached or proves to be untrue or misleading, the Seller undertakes to pay to the Buyer on demand:

(a) the amount necessary to put the Company and each of its Subsidiaries into the position they would have been in if the Warranty had not been breached and had not been untrue or misleading; and

(b) all costs and expenses (including, without limitation, damages, legal and other professional fees and costs, penalties, expenses and consequential losses whether directly or indirectly arising) incurred by the Buyer, the Company or any of its Subsidiaries as a result of the breach or of the Warranty not being true or being misleading (including a reasonable amount in respect of management time).

A payment made in accordance with this clause 7.5 shall include any amount necessary to ensure that, after Taxation of the payment, the Buyer is left with the same amount it would have had if the payment was not subject to Taxation.

7.6 If at any time during the Interim Period the Seller becomes aware that a Warranty has been breached, is untrue or is misleading, or has a reasonable expectation that any of those things might occur, it must immediately:

(a) notify the Buyer in writing of the occurrence and in sufficient detail to enable the Buyer to make an accurate assessment of the situation; and

(b) if requested by the Buyer, use its best endeavours to prevent or remedy the notified occurrence.

7.7 If at any time during the Interim Period it becomes apparent that a Warranty has been breached, is untrue or misleading, or that the Seller has breached any other term of this agreement [that in either case is material to the sale of the Sale Shares], the Buyer may (without prejudice to any other rights it may have in relation to the breach):

(a) terminate [or rescind] this agreement by notice in writing to the Seller; or

(b) proceed to Closing.

7.8 Warranties qualified by the expression **so far as the Seller is aware** (or any similar expression) are deemed to be given to the best of the knowledge, information and belief of the Seller after it has made [all reasonable and careful enquiries **OR** all reasonable and careful enquiries of [NAMED PERSONS]].

7.9 Each of the Warranties is separate and, unless specifically provided, is not limited by reference to any other Warranty or any other provision of this agreement.

7.10 With the exception of matters Disclosed, no information of which the Buyer or its agents or advisors has knowledge (actual, constructive or imputed) or which could have been discovered (whether by investigation made by the Buyer or made on its behalf) shall prejudice or prevent any Claim or reduce any amount recoverable in respect of a Claim.

7.11 The Seller agrees that any information supplied by or on behalf of the Company or any of its Subsidiaries or by any of the employees, directors, agents or officers of the Company or any of its Subsidiaries to the Seller or its advisers in connection with the Warranties, the information Disclosed in the Disclosure Schedule or otherwise shall not constitute a warranty, representation or guarantee as to the accuracy of such information in favour of the Seller, and the Seller hereby undertakes to the Buyer [(for itself and as agent for the Company, its Subsidiaries and each Officer)] that it waives any and all claims which it might otherwise have against any of them in respect of the information supplied.

8. LIMITATIONS ON CLAIMS

8.1 This clause limits the liability of the Seller in relation to any Claim [and where specifically provided any claim under the Tax Covenant].

8.2 The liability of the Seller for all Substantiated Claims [and claims under the Tax Covenant] when taken together shall not exceed [[AMOUNT] **OR** an amount equal to the Purchase Price].

8.3 The Seller shall not be liable for a Claim unless:

(a) the Seller's liability in respect the Claim, or of a series of connected Claims of which that Claim is one, exceeds [AMOUNT]; and

(b) the amount of the Seller's liability in respect of all Claims that are not excluded under clause 8.3(a) [and any claims under the Tax Covenant], when taken together, exceeds [AMOUNT], in which case the whole amount (and not just the amount by which the limit in this clause 8.3(b) is exceeded) is recoverable by the Buyer.

8.4 The Seller is not liable for any Claim to the extent that the Claim:

(a) relates to matters Disclosed; or

(b) relates to any matter specifically and fully provided for in the Accounts [or the Closing Accounts].

8.5 The Seller is not liable for a Claim [or a claim under the Tax Covenant] unless the Buyer has given the Seller notice in writing of the Claim [or claim under the Tax Covenant], summarising the nature of the Claim [or claim under the Tax Covenant] as far as it is known to the Buyer and the amount claimed, within:

(a) in the case of a Claim made in connection with the Tax Warranties [or a claim under the Tax Covenant], the period of [NUMBER] years beginning with the Closing Date; and

(b) in any other case,] the period of [NUMBER] years beginning with the Closing Date.

8.6 Where notice of a Claim is given under clause 8.5, but legal proceedings have not been issued and served within the period of [six] months (beginning with the day on which the notice is deemed to be received), the Claim shall be deemed to be withdrawn.

8.7 The Buyer is not entitled to recover damages or otherwise obtain restitution more than once in respect of the same loss.

8.8 Nothing in this clause 8 applies to a Claim [or a claim under the Tax Covenant] that arises or is delayed as a result of dishonesty, fraud, wilful misconduct or wilful concealment by the Seller, its agents or advisers.

9. TAX COVENANT

The provisions of Schedule 10 apply in this agreement in relation to Taxation.

10. INDEMNITIES

10.1 The Seller undertakes to indemnify, and to keep indemnified, the Buyer, the Company and the Company's Subsidiaries against all losses or liabilities (including, without limitation, any direct or indirect consequential losses, loss of profit, loss of reputation, damages, claims, demands, proceedings, costs, expenses, penalties and legal and other professional fees and costs) which may be suffered or incurred by any of them and which arise directly or indirectly in connection with the following matters:

(a) [DESCRIPTION OF MATTER IN RESPECT OF WHICH INDEMNITY IS TO BE GIVEN]; and

(b) [DESCRIPTION OF MATTER IN RESPECT OF WHICH INDEMNITY IS TO BE GIVEN].

10.2 Any payment made by the Seller in respect of a claim under clause 10.1 shall include:

(a) an amount in respect of all costs and expenses incurred by the Buyer or the Company or any of its Subsidiaries (as the case may be) in bringing the claim (including a reasonable amount in respect of management time); and

(b) any amount necessary to ensure that, after any Taxation of the payment, the Buyer, the Company or any of its Subsidiaries (as the case may be) is left with the same amount it would have had if the payment was not subject to Taxation.

11. RESTRICTIONS ON THE SELLER

11.1 The Seller undertakes to the Buyer [(for itself as agent for the Company and its Subsidiaries)] that it shall not (and shall procure that no other member of the Seller's Group (as such Group is constituted after Closing) shall):

(a) at any time during the period of [NUMBER] [months **OR** years] beginning with the Closing Date, in [any geographic areas in which any business of the Company or any of its Subsidiaries was carried on at the Closing Date **OR** [SPECIFY LOCATION]], carry on or be employed, engaged or interested in any business which would be in competition with any part of the Business as carried on at the Closing Date;

(b) at any time during the period of [NUMBER] [months **OR** years] beginning with the Closing Date, deal with any person who is at the Closing Date, or who has been at any time during the period of [twelve] months immediately preceding that date, a client or customer of the Company or any of its Subsidiaries;

(c) at any time during the period of [NUMBER] [months **OR** years] beginning with the Closing Date, canvass, solicit or otherwise seek the custom of any person who is at the Closing Date, or who has been at any time during the period of [twelve] months immediately preceding that date, a client or customer or the Company or any of its Subsidiaries;

(d) at any time during the period of [NUMBER] [months **OR** years] beginning with the Closing Date:

(i) offer employment to, enter into a contract for the services of, or attempt to entice away from the Company or any of its Subsidiaries, any individual who is at the time of the offer or attempt, and was at the Closing Date, employed or directly engaged in an executive or managerial position with the Company or any of its Subsidiaries; or

(ii) procure or facilitate the making of any such offer or attempt by any other person;

(e) at any time during the period of [NUMBER] [months **OR** years] beginning with the Closing Date, solicit or entice away from the Company or any of its Subsidiaries any person who had supplied goods and/or services to the Company or any of its Subsidiaries at any time during the [NUMBER] months immediately preceding the Closing Date, if that solicitation or enticement causes or would cause such supplier to cease supplying or materially reduce its supply of, those goods and/or services to the Company or any of its Subsidiaries; or

(f) at any time after Closing, use in the course of any business:

(i) the words "[PROHIBITED WORDS]";

(ii) any trade or service mark, business or domain name, design or logo which, at Closing, was or had been used by the Company or any of its Subsidiaries; or

(iii) anything which is, in the reasonable opinion of the Buyer, capable of confusion with such words, mark, name, design or logo.

11.2 The Seller's undertakings in this clause 11 [are intended for the benefit of the Buyer, the Company and each of its Subsidiaries and] apply to actions carried out by the Seller (or any member of the Seller's Group as such Group is constituted after Closing) in any capacity and whether directly or indirectly, on behalf of the Seller (or any other member of its Group) or on behalf of any other person or jointly with any other person.

11.3 [Nothing in this clause 11 prevents the Seller [or any member of the Seller's Group] from holding, for investment purposes only:

(a) any units of any authorised unit trust; or

(b) not more than [PERCENTAGE]% of any class of shares or securities of any company traded on [RELEVANT STOCK EXCHANGES].]

11.4 Each of the Seller's undertakings in this clause 11 is a separate undertaking and shall be enforceable by the Buyer[, the Company and its Subsidiaries] separately and independently of its right to enforce any one or more of the other covenants contained in this clause 11.

11.5 The parties acknowledge that the Seller has confidential information relating to the Company and each of its Subsidiaries, and that the Buyer is entitled to protect the goodwill of the Business as a result of buying the Sale Shares. Accordingly, undertaking in this clause 11 is considered fair and reasonable by the parties.

11.6 [The consideration for the undertakings contained in this clause 11 is included in the Purchase Price.]

12. CONFIDENTIALITY AND ANNOUNCEMENTS

12.1 The Seller undertakes to the Buyer [(for itself and as agent for the Company and its Subsidiaries)] that it shall (and shall procure that each other member of the Seller's Group (as such Group is constituted after Closing) shall):

(a) keep confidential the terms of this agreement and all confidential information or trade secrets in its possession concerning the business, affairs, customers, clients or suppliers of the Company, its Subsidiaries or any member of the Buyer's Group;

(b) not disclose any of the information referred in clause 12.1(a) in whole or in part to any third party, except as expressly permitted by this clause 12; and

(c) not make any use of any of the information referred in clause 12.1(a), other than to the extent necessary for the purpose of exercising or performing its rights and obligations under this agreement.

12.2 The Buyer undertakes to the Seller that it shall:

(a) keep confidential the terms of this agreement and all confidential information or trade secrets in its possession concerning the business, affairs, customers, clients or suppliers of Seller [or any other member of the Seller's Group (as such Group is constituted after Closing)];

(b) not disclose any of the information referred in clause 12.2(a) in whole or in part to any third party, except as expressly permitted by this clause 12; and

(c) not make any use of any of the information referred in clause 12.2(a), other than to the extent necessary for the purpose of exercising or performing its rights and obligations under this agreement.

12.3 Nothing in this agreement shall be construed as imposing on the Buyer an obligation to keep confidential, or restrict its use after Closing, of any information relating to the Company or any of its Subsidiaries.

12.4 Notwithstanding any other provision of this agreement, neither party is required to keep confidential or to restrict its use of any information that:

(a) is or becomes public knowledge or otherwise generally available to the public (other than as a direct or indirect result of the information being disclosed in breach of this agreement);

(b) that the parties agree in writing is not confidential; or

(c) was, is or becomes available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by a confidentiality agreement with the disclosing party or otherwise prohibited from disclosing the information to the receiving party.

12.5 Either party may disclose any information that it is otherwise required to keep confidential under this clause 12:

(a) to those of its employees, officers, consultants, representatives or advisers (or those of any member of its Group) who need to know such information to enable them to advise on this agreement, or to facilitate the Transaction, PROVIDED THAT the party making the disclosure informs the recipient of the confidential nature of the information before disclosure and procures that each recipient shall, in relation to the information disclosed to him, comply with the obligations set out in this clause 12 as if the recipient were that party. The party making a disclosure under this clause shall, at all times, be liable for any failure by its recipients to comply with the obligations set out in this clause;

(b) in the case of the Buyer only, to a proposed transferee of the Sale Shares for the purpose of enabling the proposed transferee to evaluate the proposed transfer;

(c) in the case of the Buyer only, to its funders, potential investors and their respective advisers, employees, officers, representatives or consultants [in connection with the financing of the Transaction];

(d) with the prior consent in writing of the other party;

(e) to confirm either that the Transaction has taken place, or the Closing Date, but without otherwise revealing any other terms of the Transaction or making any other announcement; or

(f) to the extent that the disclosure is required:

    (i) by the laws of any jurisdiction to which the disclosing party is subject;

    (ii) by an order of any court of competent jurisdiction, or any regulatory, judicial, governmental or similar body, or any taxation authority or securities exchange of competent jurisdiction;

    (iii) to make any filing with, or obtain any authorisation from, a regulatory, governmental or similar body, tax authority or securities exchange of competent jurisdiction;

    (iv) under any arrangements in place under which negotiations relating to terms and conditions of employment are conducted; or

    (v) to protect the disclosing party's interest in any legal proceedings,

PROVIDED that in each case (and to the extent it is legally permitted to do so) the party making the disclosure gives the other party as much notice of such disclosure as possible [and, where notice of disclosure is not prohibited and is given in accordance with this clause, it takes into account the reasonable requests of the other party in relation to the content of such disclosure].

12.6 Each party shall supply the other party with such information about itself, its Group or this agreement as the other party may reasonably require for the purposes of satisfying the requirements of any law or any judicial, governmental, regulatory or similar body or any securities exchange of competent jurisdiction to which the requiring party is subject.

12.7 Subject to clause 12.8, clause 12.9 and clause 12.10, neither party shall make, or permit any person to make, any public announcement, communication or circular (an **announcement**) concerning this agreement or the Transaction without the prior written consent of the other party [(such consent not to be unreasonably withheld or delayed)].

12.8 Nothing in clause 12.7 shall prevent either party from making an announcement required by law or any governmental or regulatory authority (including, without limitation, any relevant securities exchange), or by any court or other authority of competent jurisdiction provided that the party required to make the announcement consults with the other party and takes into account the reasonable requests of the other party in relation to the content of such announcement before it is made.

12.9 [The parties shall issue a press release in agreed form immediately after [the date of this agreement **OR** Closing].]

12.10 The Buyer may at any time after Closing announce its acquisition of the Sale Shares to any employees, clients, customers or suppliers of the Company, its Subsidiaries or any other member of the Buyer's Group.

12.11 [This clause shall continue to have effect for the period of [NUMBER] years following the Closing Date.]

13. FURTHER ASSURANCE

The Seller shall (at its own expense) promptly execute and deliver such documents and perform such acts as the Buyer may [reasonably] require from time to time for the purpose of giving full effect to this agreement.

14. ASSIGNMENT

14.1 Subject to the further provisions of this clause 14, neither party shall assign, transfer, mortgage, charge, declare a trust of, or deal in any other manner with any or all of its rights and obligations under this agreement (or any other document referred to in it).

14.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

14.3 The Buyer may assign or transfer its rights (but not its obligations) under this agreement (or any document referred to in this agreement) to:

(a) another member of its Group [for so long as that company remains a member of the Buyer's Group]. [The Buyer shall procure that such assignee assigns any rights assigned to it in accordance with this clause 14.3 back to the Buyer [or another member of the Buyer's Group] immediately before the original assignee ceases to be a member of the Buyer's Group]; or

(b) any person to whom the Sale Shares are sold or transferred by the Buyer following Closing.

14.4 [The Buyer may grant security over, or assign by way of security, any or all of its rights under this agreement for the purposes of, or in connection with, the financing (whether in whole or in part) by the Buyer of [the Transaction **OR** any of its working capital or other requirements]. On the enforcement of any security of a kind referred to in this clause 14.4, the Buyer, or any administrative receiver of the Buyer or any person having the benefit of such security may assign any or all of the relevant rights to any person, but the Seller's liability to any assignee in respect of those rights shall not be greater than if no assignment had taken place.]]

14.5 If there is an assignment or transfer of the Buyer's rights under clause 14.3 or clause 14.4:

(a) the Seller may discharge its obligations under this agreement to the Buyer until it receives notice of the assignment; and

(b) the assignee may enforce this agreement as if it were named in this agreement as the Buyer, but the Buyer shall remain liable for any obligations under the agreement.

15. ENTIRE AGREEMENT

15.1 This agreement [(together with the documents referred to in it **OR** [LIST OTHER DOCUMENTS])], constitute[s] the entire agreement between the parties and supersede[s] and extinguish[es] all previous discussions, correspondence, negotiations, drafts, agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to [its **OR** their] subject matter.

15.2 [Each party acknowledges that in entering into this agreement[, and any documents referred to in it,] it does not rely on, and shall have no rights or remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement [or those other documents].]

15.3 [Each party agrees that it shall not have any claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement or warranty in this agreement.]

15.4 Nothing in this clause 15 operates to limit or exclude any liability for fraud.

16. VARIATION AND WAIVER

16.1 No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

16.2 A waiver of any right or remedy under this agreement or by law is only effective if it is given in writing. Any such waiver shall apply only to the circumstances for which it is given and shall not be deemed a waiver of any subsequent breach or default.

16.3 A failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

17. COSTS

17.1 Except as expressly provided in this agreement, each party shall pay its own costs and expenses incurred in connection with the Transaction, including the negotiation, preparation and execution of this agreement (and any documents referred to in it).

17.2 Without prejudice to any other right or remedy the Buyer may have, the Seller shall indemnify the Buyer against all costs and expenses incurred by the Buyer in investigating the affairs of the Company and its Subsidiaries and in negotiating, preparing, executing[, rescinding] or terminating this agreement (and any of the documents referred to in it) in the event that:

(a) the Buyer [rescinds or] terminates this agreement in accordance with clause 5.6 or clause 7.7; or

(b) this agreement terminates and ceases to have effect in accordance with clause 2.2 [because any of the Conditions in paragraphs [NUMBER] of Schedule 2 have not been satisfied or waived].

18. NOTICES

18.1 [For the purposes of this clause 18 (but subject to clause 18.7), **notice** includes any other communication.]

18.2 A notice given to a party under or in connection with this agreement:

(a) shall be in writing and in [English **OR** [SPECIFY LANGUAGE]] (or be accompanied by an accurate translation into [English **OR** [SPECIFY LANGUAGE]]);

(b) [shall be signed by or on behalf of the party giving it;]

(c) shall be sent to the relevant party for the attention of the person and to the address or fax number specified in clause 18.3, or to such other address, fax number or person as that party may notify to the other in accordance with clause 18.4;

(d) shall be:

(i) delivered by hand;

(ii) sent by fax;

(iii) sent by pre-paid first class post[, recorded delivery or special delivery]; or

(iv) sent by airmail or by reputable international overnight courier (if the notice is to be served by post to an address outside the country from which it is sent); and

(e) [unless proved otherwise]is deemed received as set out in clause 18.5.

18.3 The addresses and fax numbers for service of notices are:

(a) [SELLER]

(i) address: [ADDRESS]

(ii) for the attention of: [NAME]

(iii) fax number: [FAX NUMBER]

(b) [BUYER]

(i) address: [ADDRESS]

(ii) for the attention of: [NAME]

(iii) fax number: [FAX NUMBER]

18.4 A party may change its details for service of notices as specified in clause 18.3 by giving notice in writing to the other party[, provided that the address for service is an address in the [UK **OR** [SPECIFY COUNTRY]] following any change]. Any change notified pursuant to this clause shall take effect at [9.00 am] on the later of:

(a) the date (if any) specified in the notice as the effective date for the change; or

(b) [five] Business Days after deemed receipt of the notice of change.

18.5 Delivery of a notice is deemed to have taken place (provided that all other requirements in this clause 18 have been satisfied):

(a) if delivered by hand, on signature of a delivery receipt [or at the time the notice is left at the address];

(b) if sent by fax, at the time of transmission;

(c) if sent by pre-paid first class post[, recorded delivery or special delivery] to an address in [the UK **OR** [SPECIFY LOCATION]], at 9.00 am on the [second] Business Day after posting;

(d) if sent by pre-paid airmail to an address outside the country from which it is sent, at 9.00 am on the [fifth] Business Days after posting;

(e) if sent by reputable international overnight courier to an address outside the country from which it is sent, on signature of a delivery receipt [or at the time the notice is left at the address; or

(f) if deemed receipt under the previous paragraphs of this clause 18.5 would occur outside business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of deemed receipt), at 9.00 am on the day when business next starts in the place of deemed receipt. For the purposes of this clause, all references to time are to local time in the place of deemed receipt.

18.6 To prove service, it is sufficient to prove that:

(a) if delivered by hand [or by reputable international overnight courier], the notice was delivered to the correct address;

(b) if sent by fax, a transmission report was received confirming that the notice was successfully transmitted to the correct fax number; or

(c) if sent by post [or by airmail], the envelope containing the notice was properly addressed, paid for and posted.

18.7 [This clause 18 does not apply to the service of any proceedings or other documents in any legal action [or, where applicable, any arbitration or other method of dispute resolution].]

18.8 [A notice given under or in connection with this agreement is not valid if sent by email.]

19. INTEREST

If a party fails to make any payment due to the other party under this agreement by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate of [NUMBER]% per annum above [FULL NAME OF BANK]'s base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount.

20. SEVERANCE

If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

21. AGREEMENT SURVIVES CLOSING

This agreement (other than obligations that have already been fully performed) remains in full force after Closing.

22. SUCCESSORS

This agreement (and the documents referred to in it) are made for the benefit of the parties and their successors and permitted assigns, and the rights and obligations of the parties under this agreement shall continue for the benefit of, and shall be binding on, their respective successors and permitted assigns.

23. THIRD PARTY RIGHTS

23.1 [Subject to clause 23.2 **OR** Save as otherwise provided in this agreement,] no one other than a party to this agreement, their [personal representatives,] successors and permitted assignees, shall have any right to enforce any of its terms.

23.2 [The following provisions are intended to benefit future buyers of the Sale Shares and (where they are identified in the relevant clauses as recipients of rights or benefits under that clause), the Company and its Subsidiaries, and shall be enforceable by each of them to the fullest extent permitted by law:

(a) Clause 7 (Warranties), subject to clause 8 (Limitations on claims);

(b) Clause 10 (Indemnities);]

(c) Clause 11 (Restrictions on the Seller); and

(d) Clause 12.1 (Confidentiality and announcements).]

23.3 The rights of the parties to terminate, rescind, or agree any variation, waiver or settlement under this agreement are not subject to the consent of any other person.

24. COUNTERPARTS

24.1 This agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

24.2 [No counterpart shall be effective until each party has executed at least one counterpart.]

25. RIGHTS AND REMEDIES

Except as expressly provided in this agreement, the rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

26. [INADEQUACY OF DAMAGES

Without prejudice to any other rights or remedies that the Buyer may have, the Seller acknowledges and agrees that damages alone would not be an adequate remedy for any breach of the terms of clause 11 or clause 12 by the Seller. Accordingly, the Buyer shall be entitled to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of the terms of those clauses.]

27. LANGUAGE

If this agreement is translated into any language other than [English **OR** [SPECIFY LANGUAGE]], the [English **OR** [SPECIFY LANGUAGE]] language version shall prevail.

28. GOVERNING LAW AND JURISDICTION

28.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the law of [RELEVANT JURISDICTION].

28.2 Each party irrevocably agrees that the courts of [RELEVANT JURISDICTION] shall have [exclusive **OR** non-exclusive] jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This agreement has been entered into on the date stated at the beginning of it.

Schedule 1 Particulars of the Company and its Subsidiaries

Part 1. The Company

Name:	[NAME OF COMPANY]
Registration number:	[NUMBER]
Registered office:	[ADDRESS]
Issued share capital:	**Amount**: [TOTAL NOMINAL VALUE] **Divided into**: [NUMBER] [CLASS] shares of £[AMOUNT] each: [NUMBER] [CLASS] shares of [AMOUNT] each
Registered shareholder(s) (and number of Sale Shares held):	[NAME OF SELLER] - [NUMBER] [CLASS] shares of [AMOUNT] each
Beneficial owner of Sale Shares (if different) and number of Sale Shares held:	[N/A **OR** [NAME OF OWNER] - [NUMBER] [CLASS] shares of [AMOUNT] each]
Directors:	[NAME OF DIRECTOR] [NAME OF DIRECTOR]
[Secretary:]	[[NAME OF COMPANY SECRETARY] **OR** None]
Auditors:	[NAME OF AUDITORS]
Details of charges:	[DESCRIPTION AND DATE OF CHARGE(S) **OR** None]

Part 2. The Subsidiaries

Name:	[NAME OF SUBSIDIARY]
Registration number:	[NUMBER]
Registered office:	[ADDRESS]
Issued share capital	**Amount**: [TOTAL NOMINAL VALUE] **Divided into**: [NUMBER] [CLASS] shares of £[AMOUNT] each: [NUMBER] [CLASS] shares of [AMOUNT] each
Registered shareholders (and number of shares held):	[The Company **OR** [NAME OF OWNER]] - [NUMBER] [CLASS] shares of [AMOUNT] each]
Beneficial owner of shares (if different) and number of shares beneficially owned:	[N/A **OR** [NAME OF OWNER] - [NUMBER] [CLASS] shares of [AMOUNT] each]
Directors:	[NAME OF DIRECTOR] [NAME OF DIRECTOR]
[Secretary:]	[[NAME OF COMPANY SECRETARY] **OR** None]
Auditors:	[NAME OF AUDITORS]
Details of charges:	[DESCRIPTION AND DATE OF CHARGE(S) **OR** None]

[REPEAT FOR EACH SUBSIDIARY]

Schedule 2 Conditions

1. [SHAREHOLDER CONSENT

1.1 The passing at a duly convened meeting of shareholders of the Buyer of the resolutions in the agreed form.

1.2 The passing at a duly convened meeting of shareholders of the Seller of the resolutions in the agreed form.]

2. [ANTI-TRUST CLEARANCE AND OTHER CONSENTS

2.1 The Buyer receiving confirmation in terms satisfactory to it that the Transaction has been approved and no objections have been raised by:

(a) [LIST ANY RELEVANT NATIONAL COMPETITION AUTHORITIES AND NATIONAL MERGER CONTROL RULES IN ANY COUNTRIES WHERE THE TRANSACTION IS TO BE NOTIFIED FOR CLEARANCE.]

2.2 [The grant, in terms satisfactory to the Buyer, of all consents, authorisations or similar clearances which:

(a) are required by any government, or regulatory body or authority, for Closing; or

(b) are, in the reasonable opinion of the Buyer, necessary or desirable for Closing.]]

3. [OTHER MATTERS

3.1 No person:

(a) having commenced, or threatened to commence, any proceedings or investigation for the purpose of prohibiting or otherwise challenging or interfering with the Transaction;

(b) having taken or threatened to take any action as a result, or in anticipation, of the Transaction that would be materially inconsistent with any of the Warranties; or

(c) having enacted or proposed any legislation (including any subordinate legislation) which would prohibit, materially restrict or materially delay the implementation of the Transaction or the operations of the Company or any of its Subsidiaries.

3.2 [ADD DETAILS OF ANY OTHER SPECIFIC CONDITIONS].]

4. [MATERIAL ADVERSE CHANGE

There not having occurred any material adverse change in the business, operations, assets, position (financial, trading or otherwise), profits [or prospects] of the Company or any of its Subsidiaries [or any event or circumstance that may result in such material adverse change].]

Schedule 3 Conduct between signing and Closing

1. The Seller undertakes to procure that at all times during the Interim Period, the Business shall be conducted in the manner provided in this Schedule.

2. The Company and its Subsidiaries shall carry on the Business in the normal course.

3. Subject to paragraph 4 of this Schedule, the Seller shall procure that the Company and each of its Subsidiaries shall not:

    (a) dispose of any material assets used or required for the operation of the Business, or enter into an agreement to do so;

    (b) allot or issue (or agree to allot or issue) any shares or other securities, or repurchase or redeem (or agree to repurchase or redeem) any of its shares;

    (c) pass any resolution of its members or shareholders; or

    (d) enter into, modify or terminate any Material Contract (as defined in paragraph 13.1 of Part 1 of Schedule 5) or agree to do any of the foregoing;

    (e) incur any capital expenditure on any individual item in excess of [AMOUNT];

    (f) [borrow any sum in excess of [AMOUNT] **OR** the amounts borrowed in the ordinary course of business and available to it at the date of this agreement];

    (g) enter into any lease, lease hire or hire purchase agreement or agreement for payment on deferred terms;

    (h) pay any dividend or make any other distribution of its assets;

    (i) make, or agree to make, any material alteration to the terms and conditions of employment (including benefits) of any of its directors, officers or employees;

    (j) provide or agree to provide any non-contractual benefit to any director, officer, employee or their dependants;

    (k) dismiss any of its employees or employ or engage (or offer to employ or engage) any individual;

    (l) create or agree to create any Encumbrance over any of its assets or its undertaking;

    (m) give or agree to give any financial or performance guarantee, or any similar security or indemnity;

    (n) institute, settle or agree to settle any legal proceedings[, except for debt collection proceedings in the normal course of the Business];

(o) grant, modify, terminate or permit the lapse of any Intellectual Property Rights or enter into any agreement relating to any such rights;

(p) pay any management charge to the Seller;

(q) incur any liabilities to the Seller, other than trading liabilities incurred in the normal course of business;

(r) enter into any agreement with any trade union or any agreement that relates to any works council, or modify any subsisting agreement;

(s) vary the terms on which it holds any of the Properties or settle any rent review; or

(t) make any material changes to the accounting standards, procedures, policies or principles by reference to which its accounts are drawn up.

4. The Company and its Subsidiaries may do anything falling within paragraph[s] [NUMBER] [to [NUMBER]] of this Schedule with the prior written consent of the Buyer.

5. The Company and each of its Subsidiaries shall maintain in force insurance policies:

(a) that have limits of indemnity at least equal to; and

(b) the other terms of which are no less favourable than,

those policies of insurance maintained by the Company or the relevant Subsidiary at the date of this agreement.

6. The Seller shall use its best endeavours to maintain the trade and trade connections of the Company and its Subsidiaries.

7. The Seller shall give to the Buyer as soon as possible full details of any material change in the business, operations, assets, position (financial, trading or otherwise), profits [or prospects] of the Company or any of its Subsidiaries [or any event or circumstance that may result in such material change].

8. The Seller shall not:

(a) induce, or attempt to induce, any of the employees of the Company or of any of its Subsidiaries, whether directly or indirectly, to terminate their employment before the Closing Date; or

(b) incur any liabilities to the Company or any of its Subsidiaries, other than trading liabilities incurred in the normal course of business.

9. No amendment, other than one made solely to comply with legislative requirements, shall be made to any agreements or arrangements for the payment of pensions or other benefits on retirement:

    (a) to present or former directors, officers or employees of the Company or any of its Subsidiaries; or

    (b) to the dependants of any of those people.

10. The Seller shall, at the Buyer's request and the Seller's expense, provide the Buyer with such information or documents as it may reasonably require relating to the terms of employment or any other matter concerning any employee of the Company or any of the Subsidiaries, body of such employees or their representatives in the period prior to the Closing Date.

11. [The Seller shall, at its own expense and subject to its obligations under any applicable data protection legislation, give such assistance as the Buyer may reasonably require to contest any claim by anyone employed or engaged by the Company prior to the Closing Date or their representatives resulting from or in connection with this agreement.]

Schedule 4 Closing Accounts

1. **DEFINITIONS**

The definitions in this paragraph apply in this agreement.

Accounting Policies: the accounting principles, practices, policies and procedures set out in paragraph 5 of this Schedule.

Accounting Standards: [ADD DETAILS OF RELEVANT ACCOUNTING STANDARDS].

Buyer's Accountants: [NAME] of [ADDRESS].

Closing Accounts: the [consolidated] [profit and loss account] [and **OR** or] [consolidated] [balance sheet] of the Company and its Subsidiaries, including the notes thereon [for the Closing Period **OR** as at the Closing Date] and stating the amount of the [Closing Net Assets **OR** Closing Profit] prepared in accordance with and subject to the provisions of this Schedule.

[**Closing Net Assets:** the aggregate of the amount of the issued share capital of the Company and the amount of the consolidated capital and revenue reserves of the Company and its Subsidiaries as shown in the Closing Accounts.]

Closing Period: the period commencing on the day after the Accounts Date up to and including the Closing Date.

[**Closing Profit:** the consolidated profit on ordinary activities before Taxation of the Company and its Subsidiaries for the Closing Period as shown in the Closing Accounts.]

Draft Closing Accounts: a draft of the Closing Accounts prepared in accordance with the requirements of this Schedule.

Expert: a person appointed in accordance with paragraph 3 of this Schedule to resolve any dispute arising in relation to the preparation of the Closing Accounts.

Seller's Accountants: [NAME] of [ADDRESS].

2. **PREPARATION OF CLOSING ACCOUNTS**

2.1 The Buyer shall use its reasonable endeavours to procure that the Buyer's Accountants prepare the Draft Closing Accounts as soon as reasonably practical after the Closing Date and, in any event, not later than [NUMBER] days thereafter.

2.2 The Seller shall provide such assistance and access to information as the Buyer's Accountants may reasonably require to enable them to prepare the Draft Closing Accounts within the period referred to in paragraph 2.1 of this Schedule.

2.3 Subject to the preparation of the Draft Closing Accounts in accordance with paragraph 2.1 above, the Buyer shall deliver a copy of the Draft Closing Accounts to the Seller and the Seller's Accountants no later than [NUMBER] days after the Closing Date.

2.4 The Seller shall ensure that, within [NUMBER] days starting on the day after delivery of the Draft Closing Accounts in accordance with paragraph 2.3 above, the Seller's Accountants submit to the Buyer and the Buyer's Accountants a report stating whether or not they agree with the Closing Accounts (and in the case of disagreement, the areas of dispute). If the Seller's Accountants fail to provide the requisite report within the specified period, the Seller shall be deemed to agree the Draft Closing Accounts and they shall be final and binding on the parties for the purposes of this agreement.

2.5 If the Seller's Accountants agree the Draft Closing Accounts, the parties shall ensure that the Buyer's Accountants and the Seller's Accountants certify the Draft Closing Accounts as being the Closing Accounts within [NUMBER] days of the Buyer's Accountants receiving the report of the Seller's Accountants, and the Closing Accounts shall then become final and binding on the parties for the purpose of this agreement.

2.6 If the Seller's Accountants deliver a report in accordance with paragraph 2.4 above disagreeing with the Draft Closing Accounts, the parties shall use all reasonable endeavours to agree any matter in dispute as soon as practicable. If the matter in dispute is resolved by agreement between the parties, the Buyer's Accountants and the Seller's Accountants shall certify the Draft Closing Accounts (subject to any amendment agreed between the parties) as being the Closing Accounts and they shall become final and binding on the parties for the purpose of this agreement.

2.7 If the parties are unable to resolve any disagreement within [NUMBER] days of the delivery of the report of the Seller's Accountants to the Buyer's Accountants in accordance with paragraph 2.4 above, the disagreement shall be referred to an Expert.

2.8 Save as provided in paragraph 3.11, the Buyer and the Seller shall bear and pay their own costs incurred in connection with the preparation and agreement of the Draft Closing Accounts and Closing Accounts.

3. EXPERT

3.1 An Expert is a person appointed in accordance with this paragraph 3 to resolve a dispute arising in relation to the Closing Accounts.

3.2 The parties shall use all reasonable endeavours to agree on the appointment of the Expert.

3.3 If the parties are unable to agree on an Expert within [seven] days of either party serving details of a suggested Expert on the other, either party may request [NAME OF BODY ENTITLED TO MAKE NOMINATION] to appoint an Expert [PROFESSIONAL QUALIFICATION] of repute with experience in [TYPE OF MATTER] and agree the Expert's terms of appointment.

3.4 The Expert shall be required to prepare a written decision and give notice (including a copy) of the decision to the parties within a maximum of [three] months of the matter being referred to him.

3.5 If the Expert dies or becomes unwilling or incapable of acting, or does not deliver the decision within the time required by paragraph 3.4 of this Schedule then:

(a) either party may apply to [NAME OF BODY ENTITLED TO MAKE NOMINATION] to discharge the Expert and to appoint a replacement Expert with the required expertise; and

(b) this paragraph 3 shall apply in relation to the new Expert as if he were the first Expert appointed.

3.6 All matters under this paragraph 3 shall be conducted, and the Expert's decision shall be written, in the [English **OR** [SPECIFY LANGUAGE]] language.

3.7 The parties shall be entitled to make submissions to the Expert [including oral submissions] and shall provide (or procure that others provide) the Expert with such assistance and documents as the Expert reasonably requires for the purpose of reaching a decision.

3.8 To the extent not provided for by this paragraph 3, the Expert may, in his reasonable discretion, determine such other procedures to assist with the conduct of the determination as he considers just or appropriate[, including (to the extent he considers necessary) instructing professional advisers to assist him in reaching his determination].

3.9 Each party shall, with reasonable promptness, supply each other with all information and give each other access to all documentation and personnel as each other reasonably requires to make a submission under this paragraph 3.

3.10 The Expert shall act as an expert and not as an arbitrator. The Expert shall determine any dispute, which may include any issue involving the interpretation of any provision of this agreement, his jurisdiction to determine the matters and issues referred to him or his terms of reference. The Expert's written decision on the matters referred to him shall be final and binding in the absence of manifest error or fraud.

3.11 Each party shall bear its own costs in relation to the Expert. The Expert's fees and any costs properly incurred by him in arriving at his determination (including any fees and costs of any advisers appointed by the Expert) shall be borne by the parties [equally or in such other proportions as the Expert directs].

4. BASIS OF PREPARATION

The Closing Accounts shall be prepared on the following basis, and in the order of priority shown below:

(a) in accordance with the Accounting Policies;

(b) to the extent not provided for by the Accounting Policies, applying the same accounting principles, policies and practices (with consistent classifications, judgements, valuation and estimation techniques) that were applied in the preparation of the Accounts [to the extent that such accounting principles, policies and practices are in accordance with the Accounting Standards]; and

(c) to the extent not provided for by the Accounting Policies or the matters referred to in paragraph 4(b) above, in accordance with the Accounting Standards.

5. ACCOUNTING POLICIES

The Accounting Policies are as follows:

(a) [SPECIFY APPLICABLE POLICIES];

(b) The Closing Accounts shall not take account of:

   (i) any event or transaction that occurs or arises[, or information that comes to the parties' attention,] more than [NUMBER] days after the Closing Date **OR** after the delivery of the Draft Closing Accounts to the Seller;

   (ii) any event or transaction that occurs or arises after the Closing Date as a result of a voluntary act or omission of the Buyer[, the Company or any of its Subsidiaries], except where such act or omission was carried out or effected in the ordinary course of the Business pursuant to a binding obligation of the Company or any of its Subsidiaries in force immediately before Closing; or

   (iii) any matter arising from the Change of Control of the Company effected by the Transaction.

Schedule 5 Warranties

Part 1. General warranties

1. **POWER TO SELL THE COMPANY**

1.1 The Seller has taken all necessary action and has all requisite power and authority to enter into and perform this agreement and the other documents referred to in it in accordance with their respective terms.

1.2 This agreement and the other documents referred to in it constitute (or shall constitute when executed) valid, legal and binding obligations on the Seller in the terms of the agreement and such other documents.

1.3 Compliance with the terms of this agreement and the documents referred to in it shall not breach or constitute a default under any of the following:

(a) any provision of the Seller's constitutional documents; or

(b) any agreement or instrument to which the Seller is a party or by which it is bound; or

(c) any order, judgment, decree or other restriction applicable to the Seller.

2. **SHARES IN THE COMPANY AND SUBSIDIARIES**

2.1 The Sale Shares constitute the whole of the issued share capital of the Company and are fully paid.

2.2 The Seller is the sole legal and beneficial owner of the Sale Shares.

2.3 Part 2 of Schedule 1 lists all the Subsidiaries of the Company at the date of this agreement and sets out particulars of their issued share capital.

2.4 The Company is the sole legal and beneficial owner of the whole issued share capital of each company listed in Part 2 of Schedule 1.

2.5 The issued shares of the Company's Subsidiaries are fully paid up.

2.6 The Sale Shares and the shares of the Company's Subsidiaries are free from all Encumbrances.

2.7 No right has been granted to any person to require the Company or any of its Subsidiaries to issue any share capital and no Encumbrance has been created in favour of any person affecting any unissued shares or debentures or other unissued securities of the Company or any of its Subsidiaries.

2.8 No commitment has been given to create an Encumbrance affecting the Sale Shares or the issued shares of the Company's Subsidiaries (or any unissued shares or debentures or other unissued securities of the Company or any of its Subsidiaries) or for any of them to issue any share capital and no person has claimed any rights in connection with any of those things.

2.9 Neither the Company nor any of its Subsidiaries:

(a) holds or beneficially owns, or has agreed to acquire, any securities of any corporation other than its own Subsidiaries;

(b) is or has agreed to become a member of any partnership or other unincorporated association, joint venture or consortium (other than recognised trade associations);

(c) has, outside its country of incorporation, any branch or permanent establishment; or

(d) has issued any securities that are convertible into shares.

2.10 Neither the Company nor any of its Subsidiaries has at any time:

(a) purchased, redeemed or repaid any of its own share capital; or

(b) [given any financial assistance in contravention of any applicable law or regulation.]

2.11 All dividends or distributions declared, made or paid by the Company or any of its Subsidiaries have been declared, made or paid in accordance with that company's constitutional documents, all applicable legislation and any agreements or arrangements made with any third party regulating the payment of dividends and distributions.

3. CONSTITUTIONAL AND CORPORATE DOCUMENTS

3.1 The copies of the constitutional and corporate documents of the Company and its Subsidiaries that have been Disclosed are true, accurate and complete in all respects and copies of all the resolutions and agreements required to be annexed to or incorporated in those documents by the applicable law are annexed or incorporated.

3.2 All statutory books and registers of the Company and its Subsidiaries have been properly kept and no notice or allegation that any of them is incorrect or should be rectified has been received.

3.3 All returns, particulars, resolutions and other documents which the Company or any of its Subsidiaries is required by law to file with, or deliver to, any authority in any jurisdiction (including, in particular, any authority responsible for maintaining a register of companies) have been correctly made up and filed or, as the case may be, delivered.

4. INFORMATION

4.1 All information contained in the Disclosure Schedule [and all information provided by the Seller and its advisers to the Buyer and its advisers in the course of negotiating the Transaction] is complete, accurate and not misleading.

4.2 The particulars relating to the Company and its Subsidiaries in this agreement are accurate and not misleading.

4.3 There is no information that has not been Disclosed which, if Disclosed, might reasonably affect the willingness of the Buyer to buy the Sale Shares on the terms of this agreement.

5. COMPLIANCE WITH LAWS

The Company and each of its Subsidiaries has at all times conducted its business in accordance with all applicable laws and regulations.

6. LICENCES AND CONSENTS

6.1 The Company and each of its Subsidiaries has all necessary licences, consents, permits and authorities required to carry on its business in the places and in the manner in which such business is carried on at the date of this agreement, all of which are valid and subsisting.

6.2 There is no reason why any of the licences, consents, permits and authorities referred to in paragraph 6.1 above may be suspended, cancelled, revoked or not renewed on the same terms.

7. INSURANCE

7.1 The insurance policies maintained by or on behalf of the Company and its Subsidiaries at the date of this agreement:

(a) provide full indemnity cover against all losses and liabilities including business interruption and other risks that are normally insured against by a person carrying on the same type of business as the Company and its Subsidiaries; and

(b) are in full force and effect, are not void or voidable, nothing has been done or not done which could make any of them void or voidable and Closing will not terminate, or entitle any insurer to terminate, any such policy.

7.2 The particulars of the insurance policies set out in the Disclosure Schedule are accurate and not misleading. There are no material outstanding claims under, or in respect of the validity of, any of those policies and so far as the Seller is aware, there are no circumstances likely to give rise to any claim under those policies.

8. POWER OF ATTORNEY

8.1 There are no powers of attorney in force given by the Company or any of its Subsidiaries.

8.2 No person, as agent or otherwise, is entitled or authorised to bind or commit the Company or any of its Subsidiaries to any obligation outside the ordinary course of the business of the Company or its Subsidiaries.

8.3 The Disclosure Schedule sets out the names of all persons who have authority to bind the Company and its Subsidiaries in the ordinary course of business.

9. DISPUTES AND INVESTIGATIONS

9.1 Neither the Company nor any of its Subsidiaries, nor any person for whom the Company or any of its Subsidiaries is vicariously liable:

(a) is engaged in any litigation, administrative, mediation or arbitration proceedings or other proceedings or hearings before any statutory or government body, department, board or agency (except for debt collection in the normal course of business); or

(b) is the subject of any investigation, inquiry or enforcement proceedings by any government, administrative or regulatory body.

9.2 No director of the Company or any of its Subsidiaries is, to the extent that it relates to the business of the Company or its Subsidiaries, engaged in or subject to any of the matters mentioned in paragraph 9.1 above.

9.3 No proceedings, investigation or inquiry as are mentioned in paragraph 9.1 or paragraph 9.2 above have been threatened or are pending, and there are no circumstances likely to give rise to any such proceedings, investigation or inquiry.

9.4 The Company and its Subsidiaries are not affected by any existing or pending judgments or rulings and have not given any undertakings arising from legal proceedings to any court, governmental agency, regulator or third party.

10. DEFECTIVE PRODUCTS AND SERVICES

10.1 Neither the Company nor any of its Subsidiaries has manufactured or sold any products which were, at the time they were manufactured or sold, faulty or defective or did not comply with:

(a) any warranties or representations expressly or impliedly made by or on behalf of the Company or the relevant Subsidiary; or

(b) all laws, regulations, standards and requirements applicable to the products.

10.2 No proceedings have been started, are pending or have been threatened against the Company or any of its Subsidiaries in which it is claimed that any products manufactured or sold by the Company or the relevant Subsidiary were defective, not appropriate for their intended use or have caused bodily injury or material damage to any person or property when applied or used as intended.

10.3 No proceedings have been started and there are no outstanding liabilities or claims pending or threatened against the Company or any of its Subsidiaries in respect of any services supplied by the Company or any of its Subsidiaries for which the Company or any of its Subsidiaries is or may become liable and no dispute exists between the Company and any of its Subsidiaries and any of their respective customers or clients.

11. CUSTOMERS AND SUPPLIERS

11.1 In the period of [twelve] months ending with the date of this agreement, neither the business of the Company nor of any of its Subsidiaries has been materially affected in an adverse manner as a result of any one or more of the following things happening to the Company or any of its Subsidiaries:

(a) the loss of any of its customers or suppliers;

(b) a reduction in trade with its customers or in the extent to which it is supplied by any of its suppliers; or

(c) a change in the terms on which it trades with or is supplied by any of its customers or suppliers.

11.2 No one or more of the things mentioned in paragraph 11.1 above is likely to happen to the extent that the business of the Company or any of its Subsidiaries will be materially affected in an adverse manner.

12. [ANTI-TRUST

12.1 The definition in this paragraph applies in this agreement:

Anti-trust Law: [the national and directly effective legislation of any jurisdiction which governs the conduct of companies or individuals in relation to restrictive or other anti-competitive agreements or practices (including, but not limited to, cartels, pricing, resale pricing, market sharing, bid rigging, terms of trading, purchase or supply and joint ventures), dominant or monopoly market positions (whether held individually or collectively) and the control of acquisitions or mergers **OR** [INSERT APPROPRIATE DEFINITION].]

12.2 Neither the Company nor any of its Subsidiaries is engaged in any agreement, arrangement, practice or conduct which amounts to an infringement of the Anti-trust Law of any jurisdiction in which the Company or any of its Subsidiaries conducts business and no Director is engaged in any activity which would be an offence or infringement under any such Anti-trust Law.

12.3 Neither the Company nor any of its Subsidiaries is the subject of any investigation, inquiry or proceedings by any relevant government body, agency or authority in connection with any actual or alleged infringement of the Anti-trust Law of any jurisdiction in which the Company or any of its Subsidiaries conducts business. No such investigation, inquiry or proceedings have been threatened or are pending and there are no circumstances likely to give rise to any such investigation, inquiry or proceedings.

12.4 Neither the Company nor any of its Subsidiaries is affected by any existing or pending decisions, judgments, orders or rulings of any relevant government body, agency or authority responsible for enforcing the Anti-trust Law of any jurisdiction and neither the Company nor any of its Subsidiaries have given any undertakings or commitments to such bodies affecting the conduct of the Business.]

13. CONTRACTS

13.1 The definition in this paragraph applies in this agreement.

Material Contract: an agreement or arrangement to which the Company or any of its Subsidiaries is a party and which is of material importance to the business, profits or assets of the Company or the relevant Subsidiary.

13.2 Except for the agreements and arrangements Disclosed, neither the Company nor any of its Subsidiaries is a party to or subject to any agreement or arrangement which:

(a) is a Material Contract;

(b) is of an unusual or exceptional nature;

(c) is not in the ordinary and usual course of business of the Company or its Subsidiaries;

(d) may be terminated as a result of any Change of Control of the Company or any of its Subsidiaries;

(e) restricts the freedom of the Company or any of its Subsidiaries to carry on the whole or any part of the Business in any part of the world in such manner as it thinks fit;

(f) involves agency or distributorship;

(g) involves partnership, joint venture, consortium, joint development, shareholders or similar arrangements;

(h) is incapable of complete performance in accordance with its terms within [six] months after the date on which it was entered into;

(i) cannot be readily fulfilled or performed by the Company or the relevant Subsidiary on time without undue or unusual expenditure of money and effort;

(j) involves or is likely to involve an aggregate consideration payable by or to the Company or any of its Subsidiaries in excess of [AMOUNT];

(k) requires the Company or any of its Subsidiaries to pay any commission, finders' fee, royalty or the like;

(l) is not on arm's length terms; or

(m) is for the supply of goods and/or services by or to the Company or any of its Subsidiaries on terms under which retrospective or future discounts, price reductions or other financial incentives are given.

13.3 Each Material Contract is in full force and effect and binding on the parties to it. Neither the Company nor any of its Subsidiaries has defaulted under or breached a Material Contract and, so far as the Seller is aware:

(a) no other party to a Material Contract has defaulted under or breached such a contract; and

(b) no such default or breach by the Company, any of its Subsidiaries or any other party is likely or has been threatened.

13.4 No notice of termination of a Material Contract has been received or served by the Company or any of its Subsidiaries and there are no grounds for determination, rescission, avoidance, repudiation or a material change in the terms of any such contract.

13.5 [There are no agreements or arrangements to which the Company or any of its Subsidiaries is subject that involve obligations or liabilities that ought reasonably to be made known to the Buyer.]

14. TRANSACTIONS WITH THE SELLER

14.1 There is no outstanding indebtedness or other liability (actual or contingent) and no outstanding contract, commitment or arrangement between the Company or any of its Subsidiaries of the one part, and any of the following of the other part:

(a) the Seller or any member of the Seller's Group (other than the Company or any of its Subsidiaries) or any person Connected with the Seller or any such member of its Group; or

(b) any director of the Seller or a member of the Seller's Group or any person Connected with such a director.

14.2 Neither the Seller nor any person Connected with the Seller is entitled to a claim of any nature against the Company or any of its Subsidiaries, or has assigned to any person the benefit of a claim against the Company or any of those Subsidiaries to which the Seller or a person Connected with the Seller would otherwise be entitled.

15. FINANCE AND GUARANTEES

15.1 Full particulars of all money borrowed by the Company and each of its Subsidiaries (including full particulars of the terms on which such money has been borrowed) have been Disclosed.

15.2 No guarantee, mortgage, charge, pledge, lien assignment or other security agreement or arrangement has been given by or entered into by the Company or any of its Subsidiaries or any third party in respect of borrowings or other obligations of the Company or its Subsidiaries.

15.3 The total amount borrowed by the Company and its Subsidiaries does not exceed any limitations on the borrowing powers contained:

(a) in the constitutional documents of the Company or the relevant Subsidiary; or

(b) in any debenture or other deed or document binding on the Company or the relevant Subsidiary.

15.4 Neither the Company nor any of its Subsidiaries has any outstanding loan capital or has loaned any money that has not been repaid and there are no debts owing to the Company or its Subsidiaries other than debts that have arisen in the normal course of the Business.

15.5 Neither the Company nor any of its Subsidiaries has:

(a) factored any of its debts or discounted any of its debts or engaged in financing of a type which would not need to be shown or reflected in the Accounts; or

(b) waived any right of set-off it may have against any third party.

15.6 All debts (less any provision for bad and doubtful debts) owing to the Company or any of its Subsidiaries reflected in the Accounts and all debts subsequently recorded in the books of the Company and its Subsidiaries have either been realised prior to the date of this agreement or will, within three months after the date of this agreement, realise in cash their full amount as included in those Accounts or books and none of those debts (nor any part of them) has been outstanding for more than [two] months from its due date for payment.

15.7 No indebtedness of the Company or any of its Subsidiaries is due and payable and no security over any of the assets of the Company or any of its Subsidiaries is now enforceable, whether by virtue of the stated maturity date of the indebtedness having been reached or otherwise.

15.8 Neither the Company nor any of its Subsidiaries has received any notice the terms of which have not been fully complied with and/or carried out from any creditor requiring any payment to be made and/or intimating the enforcement of any security which it may hold over the assets of the Company of its Subsidiaries.

15.9 Neither the Company nor any of its Subsidiaries has given or entered into any guarantee, mortgage, charge, pledge, lien, assignment or other security agreement or arrangement or is responsible for the indebtedness, or for the default in the performance of any obligation, of any other person.

15.10 Neither the Company nor any of its Subsidiaries is subject to any arrangement for receipt or repayment of any grant, subsidy or financial assistance from any government department or other body.

15.11 Particulars of the balances on all the bank accounts of the Company and its Subsidiaries showing the position as at the day immediately preceding the date of this agreement have been Disclosed and the Company and its Subsidiaries have no other bank accounts. Since those particulars were given there have been no payments out of those accounts other than routine payments in the ordinary course of business.

15.12 Having regard to the existing banking and other facilities available to it, the Company and each of its Subsidiaries has sufficient working capital for the purposes of:

(a) continuing to carry on the Business in its present form and at its present level of turnover for the next [twelve] months; and

(b) executing, carrying out and fulfilling in accordance with their respective terms all orders, projects and contractual obligations which have been placed with or undertaken by the Company and each of its Subsidiaries.

15.13 A Change of Control of the Company will not result in:

(a) the termination of, or material adverse effect on, any financial agreement or arrangement to which the Company or any of its Subsidiaries is a party or otherwise subject; or

(b) any indebtedness of the Company or of any of its Subsidiaries becoming due, or capable of being declared due and payable, prior to its stated maturity.

16. INSOLVENCY

16.1 Neither the Company nor any of its Subsidiaries:

(a) is insolvent or unable to pay its debts within the meaning of the insolvency legislation applicable to the company concerned; and

(b) has stopped paying its debts as they fall due.

16.2 No step has been taken in any jurisdiction to initiate any process by or under which:

(a) the ability of the creditors of the Company or of any of its Subsidiaries to take any action to enforce their debts is suspended, restricted or prevented;

(b) some or all of the creditors of the Company or of any of its Subsidiaries accept, by agreement or in pursuance of a court order, an amount less than the sums owing to them in satisfaction of those sums with a view to preventing the dissolution of the Company or any of its Subsidiaries;

(c) a person is appointed to manage the affairs, business and assets of the Company or any of its Subsidiaries on behalf of its creditors; or

(d) the holder of a charge over all or any of the assets of the Company or any of its Subsidiaries is appointed to control the business and/or all or any assets of the Company or any of its Subsidiaries.

16.3 No process has been instituted which could lead to the Company or any of its Subsidiaries being dissolved and its assets being distributed among its creditors, shareholders or other contributors.

17. ASSETS

17.1 Either the Company or one of its Subsidiaries is the full legal and beneficial owner of and has good marketable title to all the assets included in the Accounts and any assets acquired since the Accounts Date, and all other assets used by the Company or its

Subsidiaries except for those disposed of since the Accounts Date in the normal course of business.

17.2 None of the assets shown in the Accounts or acquired by the Company or its Subsidiaries since the Accounts Date or used by the Company or any of its Subsidiaries is the subject of any lease, lease hire agreement, hire purchase agreement or agreement for payment on deferred terms or is the subject of any licence or factoring arrangement.

17.3 Either the Company or one of its Subsidiaries is in possession and control of all the assets included in the Accounts or acquired since the Accounts Date, except for those Disclosed as being in the possession of a third party in the normal course of the Business.

17.4 None of the assets, undertaking or goodwill of the Company or its Subsidiaries is subject to an Encumbrance, or to any agreement or commitment to create an Encumbrance, and no person has claimed to be entitled to create such an Encumbrance.

17.5 The assets of the Company and of each of its Subsidiaries comprise all the assets necessary for the continuation of the Business [in the manner in which it is carried on at the date of this agreement].

18. CONDITION OF PLANT AND EQUIPMENT

18.1 The plant, machinery, equipment and vehicles used in connection with the Business:

(a) are in good working order and have been regularly and properly maintained;

(b) are capable and will continue to be capable of doing the work for which they were designed; and

(c) are not surplus to the current or proposed requirements of the Company and its Subsidiaries.

18.2 The stock-in-trade (including work-in-progress) of the Company and its Subsidiaries is in good condition and is capable of being sold by the Company or relevant Subsidiary in the ordinary course of its business in accordance with its current price list without discount, rebate or allowance to a buyer.

18.3 The stock-in-trade (including work-in-progress) of the Company and its Subsidiaries is not excessive and is adequate in relation to the current trading requirements of the Company and its Subsidiaries and none of the stock is obsolete, slow moving, unusable or unmarketable or includes returned goods.

18.4 [The stock-in-trade of the Company and its Subsidiaries complies fully and will, on sale by the Company or the relevant Subsidiary in the ordinary and usual course of its business, comply fully with all applicable laws, regulations, standards and specifications agreed with customers.]

19. ENVIRONMENT

19.1 The definitions in this paragraph apply in this agreement.

Environment: the natural and man-made environment including all or any of the following media: air (including air within buildings and other natural or man-made structures above or below the ground), water, land, and any ecological systems and living organisms (including man) supported by those media.

EHS Laws: all applicable laws, statutes, regulations, subordinate legislation, bye-laws, common law and other national, international, federal, European Union, state and local laws, judgments, decisions and injunctions of any court or tribunal, and [legally binding] codes of practice and guidance notes to the extent that they relate to or apply to the Environment or to the health and safety of any person.

EHS Matters: all matters relating to:

(a) pollution or contamination of the Environment;

(b) the presence, disposal, release, spillage, deposit, escape, discharge, leak, migration or emission of Hazardous Substances or Waste;

(c) the exposure of any person to any Hazardous Substances or Waste;

(d) the health and safety of any person, including any accidents, injuries, illnesses and diseases;

(e) the creation or existence of any noise, vibration, odour, radiation, common law or statutory nuisance or other adverse impact on the Environment; or

(f) the condition, protection, maintenance, remediation, reinstatement, restoration or replacement of the Environment or any part of it.

EHS Permits: any permits, licences, consents, certificates, registrations, notifications or other authorisations required under any EHS Laws for the operation of the Business or in relation to any of the Properties.

Harm: harm to the Environment, and in the case of man, this includes offence caused to any of his senses or harm to his property.

Hazardous Substances: any material, substances or organism which, alone or in combination with others, is capable of causing Harm, including radioactive substances and materials containing asbestos.

Waste: any waste, including any by-product of an industrial process and anything that is discarded, disposed of, spoiled, abandoned, unwanted or surplus, irrespective of whether it is capable of being recovered or recycled or has any value.

19.2 The Company and each of its Subsidiaries has obtained and complied at all times with all EHS Permits. All EHS Permits are in full force and effect, and there are no facts or circumstances that may lead to the revocation, suspension, variation or non-renewal of or the inability to transfer any EHS Permits.

19.3 The Company and each of its Subsidiaries has at all times operated in compliance with all EHS Laws in force from time to time and there are no facts or circumstances that may lead to any breach of or liability under any EHS Laws or any claim or liability in respect of EHS Matters.

19.4 All information provided by or on behalf of the Company or any of its Subsidiaries to any relevant enforcement authority, and all records and data required to be maintained by the Company or any of its Subsidiaries under the provisions of any EHS Laws, are complete and accurate.

19.5 There are no Hazardous Substances at, on or under, nor have any Hazardous Substances been emitted, escaped or migrated from, any of the Properties.

19.6 There are, and have been, no landfills, underground storage tanks, or uncontained or unlined storage treatment or disposal areas for Hazardous Substances or Waste (whether permitted by EHS Laws or otherwise) present or carried out at, on or under any of the Properties or within 200 metres of any of the Properties, and so far as the Seller is aware no such operations are proposed.

19.7 At no time has the Company or any of its Subsidiaries either been required to hold, or applied for, a Waste disposal licence or Waste management licence under any EHS Laws.

19.8 There have been no claims, investigations, prosecutions or other proceedings brought or threatened against the Seller, the Company or any of its Subsidiaries (or any of their respective directors, officers or employees) in respect of Harm arising from the operation of the Business or occupation of any of the Properties or for any breach or alleged breach of any EHS Permits or EHS Laws, and there are no facts or circumstances that may lead to any such claims, investigations, prosecutions or other proceedings. At no time has the Seller, the Company or any of its Subsidiaries received any notice, communication or information alleging any liability in relation to any EHS Matters or that any remediation works are required.

19.9 Neither the Seller, Company nor any of its Subsidiaries has received any enforcement, prohibition, stop, remediation, improvement or any other notice from, or been subject to any civil sanction imposed by, any enforcement authority with regard to any breach of EHS Laws in respect of the Business, the Company or any of its Subsidiaries or any of the Properties.

19.10 The Company and its Subsidiaries have adequate employers' liability and public liability insurance cover in respect of the Business and the Properties and no claims have been made or are contemplated under any such insurance.

19.11 Copies of all:

(a) current EHS Permits;

(b) environmental and health and safety policy statements;

(c) reports in respect of environmental and health and safety audits, investigations or other assessments;

(d) records of accidents, illnesses and reportable diseases;

(e) assessments of substances hazardous to health;

(f) correspondence on EHS Matters between the Company or any of the Subsidiaries and any relevant enforcement authority; and

(g) copies or details of all Waste disposal contracts,

relating to the Business or any of the Properties have been disclosed to the Buyer and all such statements, reports, records, correspondence and other information are complete and accurate and are not misleading.

19.12 Neither the Company nor any of its Subsidiaries has or is likely to have any actual or potential liability under any EHS Laws by reason of it having owned, occupied or used any Previously-owned Land and Buildings.

19.13 Neither the Company nor any of its Subsidiaries has given or received any warranties or indemnities or any other agreement in respect of any liabilities, duties or obligations that arise under EHS Laws.

20. INTELLECTUAL PROPERTY

20.1 The definition in this paragraph applies in this agreement.

Intellectual Property Rights: patents, [utility models,] rights to inventions, copyright and [neighbouring and] related rights, [moral rights,] trade marks [and service marks], business names and domain names, rights in get-up [and trade dress], goodwill and the right to sue for passing off [or unfair competition,] rights in designs, [rights in computer software,] database rights, rights to use, and protect the confidentiality of, confidential information (including know-how [and trade secrets]), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

20.2 Complete and accurate particulars are set out in Part 1 and Part 2 of Schedule 6 respectively of all registered Intellectual Property Rights (including applications for such rights) and material unregistered Intellectual Property Rights owned, used or held for use by the Company or any of its Subsidiaries.

20.3 Complete and accurate particulars are set out in Part 3 and Part 4 of Schedule 6 respectively of all licences, agreements, authorisations and permissions (in whatever form and whether express or implied) under which:

(a) the Company or any of its Subsidiaries uses or exploits Intellectual Property Rights owned by any third party; or

(b) the Company or any of its Subsidiaries has licensed or agreed to license Intellectual Property Rights to, or otherwise permitted the use of any Intellectual Property Rights by, any third party.

20.4 Except as set out in Part 3 and Part 4 of Schedule 6, the Company or the relevant specified Subsidiary is the sole legal and beneficial owner of (or applicant for) the Intellectual Property Rights set out in Part 1 and Part 2 of Schedule 6, free from all Encumbrances.

20.5 The Company and its Subsidiaries do not require any Intellectual Property Rights other than those set out in Part 1 and Part 2 of Schedule 6 in order to carry on their respective activities.

20.6 The Intellectual Property Rights set out in Part 1 and Part 2 of Schedule 6 are valid, subsisting and enforceable and nothing has been done or not been done as a result of which any of them has ceased or might cease to be valid, subsisting or enforceable. In particular:

(a) all application and renewal fees and other steps required for the maintenance or protection of such rights have been paid on time or taken;

(b) all confidential information (including know-how and trade secrets) owned or used by the Company or its Subsidiaries has been kept confidential and has not been disclosed to third parties (other than parties who have signed written confidentiality undertakings in respect of such information, details of which are set out in the Disclosure Schedule);

(c) no mark, trade name or domain name identical or similar to any such rights has been registered or is being used by any person in the same or a similar business to that of the Company or any of its Subsidiaries, in any country in which the Company or any Subsidiary has registered or is using that mark, trade name or domain name; and

(d) there are and have been no claims, challenges, disputes or proceedings, pending or threatened, in relation to the ownership, validity or use of such rights.

20.7 Nothing is due to be done within [thirty] days of this agreement the omission of which would jeopardise the maintenance or prosecution of any of the Intellectual Property Rights owned or used by the Company or any of its Subsidiaries which are registered or the subject of an application for registration.

20.8 There has been no infringement by any third party of any Intellectual Property Rights set out in Part 1 or Part 2 of Schedule 6, nor any third party breach of confidence or actionable act of unfair competition in relation to the business or assets of the Company or any of its Subsidiaries, and no such infringement, breach of confidence or actionable act of unfair competition is current or anticipated.

20.9 The agreements and licences set out in Part 3 and Part 4 of Schedule 6:

(a) are valid and binding;

(b) have not been the subject of any breach or default by any party or of any event which, with the giving of notice or lapse of time, would constitute a default;

(c) are not the subject of any claim, dispute or proceeding, pending or threatened; and

(d) have, where required, been duly recorded or registered.

20.10 A Change of Control of the Company or any of its Subsidiaries will not result in the termination of or materially affect any Intellectual Property Rights set out in Schedule 6.

20.11 The activities of the Company and each of its Subsidiaries and of any licensee of Intellectual Property Rights granted by the Company or any of its Subsidiaries:

(a) have not infringed, do not infringe and are not likely to infringe the Intellectual Property Rights of any third party;

(b) have not constituted, do not constitute and are not likely to constitute any breach of confidence, passing off or actionable act of unfair competition; and

(c) have not given and do not give rise to any obligation to pay any royalty, fee, compensation or any other sum whatsoever.

21. INFORMATION TECHNOLOGY

21.1 The definitions in this paragraph apply in this agreement.

IT System: all computer hardware (including network and telecommunications equipment) and software (including associated preparatory materials, user manuals and other related documentation) owned, used, leased or licensed by or to the Company or any of its Subsidiaries.

IT Contracts: all arrangements and agreements under which any third party (including without limitation any member of the Seller's Group (other than the Company and its Subsidiaries) and any source code deposit agents) provides any element of, or services relating to, the IT System, including leasing, hire purchase, licensing, maintenance and services agreements.

21.2 Complete and accurate particulars of the IT System and all IT Contracts are set out in Part 1 and Part 2 of Schedule 7.

21.3 Save to the extent provided in the IT Contracts, the Company and its Subsidiaries are the owners of the IT System free from Encumbrances. The Company and its Subsidiaries have obtained all necessary rights from third parties to enable them to make exclusive and unrestricted use of the IT System.

21.4 The IT Contracts are valid and binding and no act or omission has occurred which would, if necessary with the giving of notice or lapse of time, constitute a breach of any such contract.

21.5 There are and have been no claims, disputes or proceedings arising or threatened under any IT Contracts.

21.6 None of the IT Contracts are liable to be terminated or otherwise materially affected by a Change of Control of the Company or any of its Subsidiaries, and the Seller has no reason to believe that any of the IT Contracts will not be renewed on the same or substantially the same terms when they expire.

21.7 The Company and its Subsidiaries have possession or control of the source code of all software in the IT System, or have the right to gain access to such code under the terms of source code deposit agreements with the owners of the rights in the relevant software and reputable deposit agents (particulars of which are set out in Part 2 of Schedule 7).

21.8 The elements of the IT System:

(a) are functioning properly and in accordance with all applicable specifications and with the service levels set out in the IT Contracts, and are fit for the purposes of the Business;

(b) are not defective in any respect and have not been materially defective or materially failed to function during the last [NUMBER] years;

(c) do not contain any software virus and have not within the last [NUMBER] months been infected by any software virus or accessed by any unauthorised person;

(d) have sufficient capacity, scalability and performance to meet the current and foreseeable [peak volume] requirements of the Business;

(e) include sufficient user information to enable reasonably skilled personnel in the field to use and operate the IT System without the need for further assistance; and

(f) have been satisfactorily and regularly maintained and all versions of the software used by the Business are currently supported by the respective owners of the software and the IT System has the benefit of appropriate maintenance and support agreements, complete and accurate particulars of which are set out in Part 2 of Schedule 7.

21.9 The Company and its Subsidiaries have implemented appropriate procedures (including in relation to off-site working where applicable) for ensuring the security of the IT System and the confidentiality and integrity of all data stored in it.

21.10 The Company and its Subsidiaries have in place a disaster recovery plan which is fully documented and would enable the business of the Company and its Subsidiaries to continue if there were significant damage to or destruction of some or all of the IT System. A copy of the plan is attached to the Disclosure Schedule.

21.11 The performance and functionality of the IT System (and any other equipment and systems owned or used by the Company or its Subsidiaries which depend on date-programmed control devices) has not been affected and will be unaffected by any changes in dates (past, present or future). In particular:

(a) no value for a current date has caused or will cause any interruption in operation;

(b) date-based functionality has behaved and will behave consistently for all dates;

(c) in all interfaces and data storage, the century in any date is and will be specified either explicitly or by unambiguous algorithms or inferencing rules; and

(d) all leap years (that is, a year occurring once in four, with 366 days) will be recognised as such.

21.12 The IT System is capable of:

(a) performing its functions in multiple currencies[, including the euro];

(b) [satisfying all applicable legal requirements relating to the euro, including the conversion and rounding rules in EC Regulation 1103/97;]

(c) displaying and printing the generally accepted symbols for any currency; and

(d) processing the generally accepted codes for any currency.

22. DATA PROTECTION

The Company and its Subsidiaries have fully complied with the requirements of all applicable legislation concerning rights in respect of privacy and personal data.

23. EMPLOYMENT

23.1 The name of each person who is a director of the Company or any of its Subsidiaries is set out in Schedule 1.

23.2 The Disclosure Schedule includes [anonymised] details of all individuals employed by the Company or any of its Subsidiaries and the principal terms of their contract including:

(a) [the individual's name];

(b) the company which employs them;

(c) the individual's date of birth;

(d) the country in which the individual is employed and/or is paid;

(e) the law governing the contract of employment;

(f) the remuneration of each individual (including any benefits and privileges provided, or which the Company or its Subsidiary is bound to provide to them or their dependants whether now or in the future);

(g) the commencement date of each contract, and the length of service of the employee;

(h) the length of notice necessary to terminate the contract of employment or, if a fixed term, the expiry date of the fixed term and details of any previous renewals; and

(i) the type of contract (whether full or part-time or other).

23.3 The Disclosure Schedule includes [anonymised] details of all individuals who are providing services to the Company or any of its Subsidiaries under an agreement which is not a contract of employment with the Company or other relevant Subsidiary (including, in particular, where the individual acts as a consultant or is on secondment from an employer which is not a member of the Seller's Group) and the particulars of the terms on which the individual provides services, including:

(a) [the individual's name];

(b) the company which engages them;

(c) any country in which the individual provides services;

(d) the law governing the agreement;

(e) the remuneration of the individual (including any benefits and privileges provided, or which the Company or any of its Subsidiaries is bound to provide to them or their dependants, whether now or in the future);

(f) the length of notice necessary to terminate the agreement or, if a fixed term, the expiry date of the fixed term and the details of any previous renewals.

23.4 The Disclosure Schedule includes [anonymised] particulars of all the employees of the Company and its Subsidiaries who are on secondment, maternity leave or other statutory leave or absent due to ill-health or for any other reason.

23.5 No notice to terminate the contract of employment of any employee of the Company or any of its Subsidiaries (whether given by the relevant employer or by the employee) is pending, outstanding or threatened and no dispute is otherwise outstanding between:

(a) the Company and any of its current or former employees relating to their employment, its termination or any reference given by the Company regarding them; or

(b) any of the Company's Subsidiaries and any of their current or former employees relating to their employment, its termination or any reference given by any of the Company's Subsidiaries regarding them.

23.6 No offer of employment has been made by the Company or by any of its Subsidiaries to any individual which has not yet been accepted or which has been accepted but where the individual's employment has not yet started.

23.7 The acquisition of the Sale Shares by the Buyer or compliance with the terms of this agreement will not entitle any directors, officers or [senior] employees of the Company or any of its Subsidiaries to terminate their employment or receive any payment or other benefit.

23.8 All contracts of employment between the Company and its employees and between each of its Subsidiaries and its employees are terminable on not more than [NUMBER] months' notice without compensation (except compensation payable under the applicable law).

23.9 Neither the Company nor any of its Subsidiaries is a party to, bound by or proposing to introduce in respect of its directors or employees any redundancy payment scheme in addition to statutory redundancy pay, nor is there any agreed procedure for redundancy selection.

23.10 Neither the Company nor any of its Subsidiaries is a party to, bound by or proposing to introduce in respect of any of its directors or employees any incentive scheme (including, without limitation, any share option arrangement, profit sharing, commission or bonus scheme).

23.11 [There are no incentive schemes or other incentive arrangements (including, without limitation, any share option arrangement, commission, profit sharing or bonus scheme) established by any member of the Seller's Group in which the Company or any of its Subsidiaries or any of their respective directors or employees participates.]

23.12 Neither the Company nor any of its Subsidiaries has incurred any actual or contingent liability in connection with any termination of employment of its employees (including redundancy payments), or for failure to comply with any order for the reinstatement or re-engagement of any employee.

23.13 Neither the Company nor any of its Subsidiaries has incurred any liability for failure to provide information or to consult with employees under any applicable employment legislation.

23.14 Neither the Company nor any of its Subsidiaries has made or agreed to make a payment, or provided or agreed to provide a benefit to a present or former director, officer or employee, or to their dependants in connection with the actual or proposed termination or suspension or variation of an employment contract.

23.15 Neither the Company nor any of its Subsidiaries has in the last [12] months altered and they shall not alter (whether to take effect prior to, on or after the Closing Date) any of the terms of employment or engagement of any of the employees (without the prior written consent of the Buyer).

23.16 Neither the Company nor any of its Subsidiaries has or will transfer or agree to transfer any employee from working for the Company or any of its Subsidiaries or induce any employee to resign their employment with the Company or any of its Subsidiaries without the prior written consent of the Buyer.

23.17 There are no sums owing to or from any employee other than reimbursement of expenses, wages for the current salary period and holiday pay for the current holiday year.

23.18 Neither the Company nor any of its Subsidiaries has offered, promised or agreed to any future variation in the contract of any employee.

23.19 The Disclosure Schedule includes true, complete and accurate:

(a) [anonymised] copies of all contracts, handbooks, policies and other documents which apply to the employees; and

(b) copies of all agreements or arrangements with any trade union, employee representative body or body of employees and their representatives (whether binding or not) and details of any unwritten agreements or arrangements which may effect any employee.

23.20 In respect of each employee, the Company and its Subsidiaries have:

(a) performed all obligations and duties they are required to perform (and settled all outstanding claims), whether or not legally binding and whether arising under contract, applicable legislation or otherwise;

(b) complied with the terms of any relevant agreement or arrangement with any trade union, employee representative or body of employees or their representatives (whether binding or not); and

(c) maintained adequate, suitable and up to date records.

23.21 No employee is subject to a current disciplinary warning or procedure.

23.22 Neither the Company nor any of its Subsidiaries is involved in any material industrial or trade dispute or negotiation regarding a claim with any trade union or other group or organisation representing employees and there is nothing likely to give rise to such a dispute or claim.

24. PROPERTY

24.1 The definitions in this paragraph apply in this agreement.

Current Use: the use for each Property as set out in Schedule 8.

Investment Lease: a lease, underlease or occupational licence identified in Schedule 8 as being one to which a Property is subject, and all documents which are supplemental or collateral to such lease, underlease or occupational licence.

Investment Property: a Property identified in Schedule 8 as being subject to an Investment Lease.

Previously-owned Land and Buildings: land and buildings that have, at any time before the date of this agreement, been owned and/or occupied and/or used by the Company or any of its Subsidiaries, but which are either no longer owned, occupied or used by the Company or any of its Subsidiaries, or are owned, occupied or used by one of them but pursuant to a different lease, licence, transfer or conveyance.

Properties: all those properties identified in Schedule 8 and **Property** means any one of them or any part or parts of them.

Tenant: a tenant in whom an Investment Lease is currently vested.

24.2 The particulars of the Properties and other information set out in Schedule 8 is true, complete and accurate and includes all information needed to identify:

(a) the Properties;

(b) all Investment Leases;

(c) all Tenants; and

(d) the Current Use of each of the Properties.

24.3 The Properties are the only land and buildings owned, used or occupied by the Company and its Subsidiaries.

24.4 Neither the Company nor any of its Subsidiaries has any right of ownership, right of use, option, right of first refusal or contractual obligation to purchase, or any other legal or equitable right affecting any land or buildings other than the Properties.

24.5 Neither the Company (nor any company that is or has at any time been a Subsidiary of the Company) has any actual or contingent liability in respect of Previously-owned Land and Buildings.

24.6 Neither the Company (nor any company that is or has at any time been a Subsidiary of the Company) has given any guarantee or indemnity for any liability relating to any of the Properties[, any Investment Lease,], any Previously-owned Land and Buildings or any other land or buildings.

24.7 All the Properties are actively used by the Company or its Subsidiaries in connection with the Business other than the Investment Properties. The Investment Properties are held by the Company or its Subsidiaries as investments.

24.8 The Company or the Subsidiary identified as the owner of each Property in Schedule 8 is solely legally and beneficially entitled and has a good and marketable title, to it.

24.9 The Properties are each exclusively occupied either by the Company or by the Subsidiary identified as the occupier in Schedule 8 or, in the case of any Investment Property, by the Tenant identified as the occupier in Schedule 8.

24.10 Except for the Investment Leases, the Properties are free from claims, liabilities, third party rights, private rights to restrict the use of any Property (other than any right to restrict use in accordance with the terms of any lease under which a Property is held), rights of occupation, options, rights to acquire, rights of first refusal, financial obligations (including public financial obligations), security interests, public rights and public restrictions.

24.11 There are appurtenant to each Property, all rights necessary for their Current Use and enjoyment (without restriction as to time or otherwise). Access to each Property is over public roads maintained at public expense and such roads immediately abut each Property at each point where access is gained.

24.12 Each of the Investment Leases has been validly granted, is subsisting and is not subject to any agreement or right in favour of the Tenant to terminate or renew.

24.13 The terms of the Investment Leases and of any lease under which any Property is held are not unusual or onerous. There is no outstanding breach of any obligation under any such lease. There is no outstanding application for any consent under any such lease. There is no pending rent review under any such lease.

24.14 Neither the Company nor any of its Subsidiaries has received or is aware of any notice, order or proposal, which would adversely affect the value or use or enjoyment of any of the Properties, or access to or from any of them.

24.15 None of the Properties is held on terms that would allow any landlord or other third party to change those terms, or terminate the right of the Company or any of its Subsidiaries to hold the Property, by reason of a Change of Control of the Company.

24.16 There are no disputes relating to or affecting any of the Properties.

24.17 The Current Use of each of the Properties is set out in Schedule 8 and is authorised under the applicable law and regulations and any permissions authorising that use are unconditional, permanent and not personal. Where applicable, the present use is in accordance with the provisions of the relevant Investment Lease or any lease under which the Property is held.

24.18 There has been no breach of any applicable law or regulation in respect of any of the Properties.

24.19 Each of the Properties is in a good state of repair and condition [and is fit for the Current Use].

24.20 There are no development works, redevelopment works or fitting-out works outstanding in respect of any of the Properties.

24.21 None of the Properties has suffered from any of the following:

(a) flooding;

(b) subsidence;

(c) heave;

(d) landslip;

(e) mining activities;

(f) structural defects;

(g) defects in the drains and services from time to time serving the Properties; or

(h) dry rot, wet rot, rising damp and any infestation.

24.22 Neither the Company nor any of its Subsidiaries has received any adverse report from any engineer, surveyor or other professional relating to any of the Properties, and the Seller is not aware of any predecessor in title having done so.

24.23 All replies given in writing by or on behalf of the Seller, the Company or any of its Subsidiaries in response to any enquiries raised in writing by or on behalf of the Buyer in relation to the Properties were complete and accurate at the date they were given and would still be complete and accurate if the replies were instead being given on the Closing Date. [In this paragraph 24.23, the expression **in writing** shall include email.]

25. ACCOUNTS

25.1 The Accounts have been prepared in accordance with the accounting standards, policies, principles and practices generally accepted in [RELEVANT JURISDICTION] and in accordance with the law of that jurisdiction.

25.2 The Accounts have been audited by an auditor of good repute qualified in [RELEVANT JURISDICTION] and the auditor has given an auditor's certificate without qualification.

25.3 The Accounts:

(a) make proper and adequate provision or reserve for all bad and doubtful debts, obsolete or slow-moving stock and for depreciation on fixed assets;

(b) do not overstate the value of current or fixed assets; and

(c) do not understate any liabilities (whether actual or contingent).

25.4 The Accounts give a true and fair view of the state of affairs of the Company and its Subsidiaries (and, in relation to the consolidated accounts, of the Company and its Subsidiaries and of the Company's Group as a whole) as at the Accounts Date and of the profit and loss of the Company and its Subsidiaries and of the Company's Group for the financial year ended on that date.

25.5 The Accounts contain either provision adequate to cover, or full particulars in notes of, all Taxation (including deferred taxation) and other liabilities (whether quantified, contingent, disputed or otherwise) of the Company and its Subsidiaries as at the Accounts Date.

25.6 The Accounts are not affected by any unusual or non-recurring items [or any other factor that would make the financial position and results shown by the Accounts unusual or misleading in any material respect].

25.7 The Accounts have been filed in accordance with the requirements of applicable law.

25.8 The Accounts have been prepared on a basis consistent with the audited accounts of, as the case may be, the Company or its Subsidiaries, or the consolidated accounts of the Company and its Subsidiaries, for the [two] prior accounting periods without any change in accounting policies used.

25.9 The Management Accounts have been prepared on a basis consistent with that employed in preparing the Accounts and fairly represent the [assets and liabilities and the profit and losses **OR** income and expenditure] of the Company and its Subsidiaries as at and to the date for which they have been prepared.

26. FINANCIAL AND OTHER RECORDS

26.1 All financial and other records of the Company and of each of its Subsidiaries:

(a) have been properly prepared and maintained;

(b) constitute an accurate record of all matters that ought to appear in them;

(c) do not contain any material inaccuracies or discrepancies; and

(d) are in the possession of the Company or the Subsidiary to which they relate.

26.2 No notice has been received or allegation made that any of the records referred to in paragraph 26.1 above are incorrect or should be rectified.

26.3 All statutory records, including the accounting records, required to be kept or filed by the Company or any of its Subsidiaries have been properly kept or filed and comply with all requirements of applicable legislation.

26.4 All deeds and documents belonging to the Company or its Subsidiaries are in the possession of the Company or the relevant Subsidiary.

27. CHANGES SINCE ACCOUNTS DATE

Since the Accounts Date:

(a) the Company and each of its Subsidiaries has conducted its business in the normal course and as a going concern;

(b) there has been no material adverse change in the turnover, financial position or prospects of the Company or any of its Subsidiaries;

(c) neither the Company nor any of its Subsidiaries has issued or agreed to issue any share or loan capital;

(d) no dividend or other distribution of profits or assets has been, or agreed to be, declared, made or paid by the Company or any of its Subsidiaries;

(e) neither the Company nor any of its Subsidiaries has borrowed or raised any money or taken any form of financial security, and no capital expenditure has been incurred on any individual item by the Company or any of its Subsidiaries in excess of [AMOUNT] and neither the Company nor any of its Subsidiaries has acquired, invested or disposed of (or agreed to acquire, invest or dispose of) any individual item by the Company or any of its Subsidiaries in excess of [AMOUNT];

(f) [no shareholder resolutions of the Company or any of its Subsidiaries have been passed [other than as routine business at the annual general meeting];]

(g) there has been no abnormal increase or reduction of stock in trade;

(h) none of the stock in trade reflected in the Accounts has realised an amount less than the value placed on it in the Accounts; and

(i) neither the Company nor any of its Subsidiaries has offered price reductions or discounts or allowances on sales of stock in trade or sold stock in trade at less than cost price.

28. EFFECT OF SALE OF THE SALE SHARES

Neither the acquisition of the Sale Shares by the Buyer nor compliance with the terms of this agreement will:

(a) cause the Company or any of its Subsidiaries to lose the benefit of any right or privilege it presently enjoys;

(b) relieve any person of any obligation to the Company or any of its Subsidiaries (whether contractual or otherwise), or enable any person to determine any such obligation or any right or benefit enjoyed by the Company or any of its Subsidiaries, or to exercise any right in respect of, the Company or any of its Subsidiaries;

(c) give rise to or cause to become exercisable any right of pre-emption over the Sale Shares;

(d) entitle any person to receive from the Company or any of its Subsidiaries any finder's fee, brokerage or other commission in connection with the purchase of the Sale Shares by the Buyer;

(e) entitle any person to acquire, or affect the entitlement of any person to acquire, any shares in the Company or any of its Subsidiaries;

(f) result in any customer or supplier being entitled to cease dealing with the Company or any of its Subsidiaries or to reduce substantially its existing level of business or to change the terms on which it deals with the Company or any of its Subsidiaries;

(g) so far as the Seller is aware, result in any officer or senior employee leaving the Company or any of its Subsidiaries;

(h) result in a breach of contract, law, regulation, order, judgment, injunction, undertaking, decree or other like imposition;

(i) result in the loss or impairment of or any default under any licence, authorisation or consent required by the Company or any of its Subsidiaries for the purposes of its business; or

(j) result in the creation, imposition, crystallisation or enforcement of any Encumbrance on any of the assets of the Company or its Subsidiaries.

29. RETIREMENT BENEFITS

[ADD PROVISIONS RELEVANT TO JURISDICTION.]

Part 2. Tax Warranties

Schedule 6 Intellectual Property Rights

Part 1. Registered Intellectual Property Rights

Part 2. Material unregistered Intellectual Property Rights

Part 3. Intellectual Property Rights licensed from third parties

Part 4. Intellectual Property Rights licensed to third parties

Schedule 7 Information technology

Part 1. Particulars of IT System

Part 2. Particulars of IT Contracts

Schedule 8 Particulars of the Properties

Part 1. Freehold Properties

Description of the Property			
Owner			
Registered/unregistered (and title number)			
Occupier			
Use			
Is there an Investment Lease?			
Tenant under an Investment Lease			
Contractual date of termination of Investment Lease			

Part 2. Leasehold Properties

Description of the Property			
Owner			
Registered/unregistered (and title number)			
Contractual date of termination of lease			
Occupier			
Use			
Is there an Investment Lease?			
Tenant under an Investment Lease			
Contractual date of termination of Investment Lease			

Part 3. [Other real property]

Schedule 9 Disclosure Schedule

1. **DISCLOSURES REFERRED TO IN THE AGREEMENT**

The contents of the documents referred to in this paragraph are deemed to be Disclosed and copies of all these documents are annexed to this Schedule and have been initialled by the parties for the purpose of identification:

(a) The following constitutional and corporate documents of the Company and its Subsidiaries:

(i) [ADD DETAILS].

(b) The Accounts [and the Management Accounts].

(c) [DOCUMENT[S] SETTING OUT PARTICULARS OF INSURANCE POLICIES].

(d) The following agreements and arrangements to which the Company or one of its Subsidiaries is a party or to which it is subject:

(i) [ADD DETAILS].

(e) [DOCUMENT[S] CONTAINING PARTICULARS OF ALL MONEY BORROWED BY THE COMPANY AND ITS SUBSIDIARIES].

(f) [DOCUMENT[S] CONTAINING PARTICULARS OF BANK BALANCES].

(g) [EHS PERMITS AND REPORTS ETC].

(h) [DOCUMENT[S] SETTING OUT DETAILS OF EMPLOYEES AND PARTICULARS OF EMPLOYMENT].

(i) [DOCUMENT[S] SETTING OUT DETAILS OF THOSE PROVIDING SERVICES WHO ARE NOT EMPLOYEES OF THE COMPANY OR ITS SUBSIDIARIES].

(j) [LIST OF EMPLOYEES ON SECONDMENT, MATERNITY LEAVE OR LONG-TERM SICK LEAVE ETC].

(k) [EMPLOYEE HANDBOOKS, POLICIES ETC].

(l) [AGREEMENTS WITH TRADE UNIONS ETC].

(m) [DETAILS OF CONFIDENTIALITY UNDERTAKINGS].

(n) [COPY OF DISASTER RECOVERY PLAN].

2. **SPECIFIC DISCLOSURES AGAINST WARRANTIES**

Warranty against which the disclosure is made	**Disclosure**

Schedule 10 Tax Covenant

Signed by [NAME OF DIRECTOR] for and on behalf of [NAME OF SELLER]	.... Director
Signed by [NAME OF DIRECTOR] for and on behalf of [NAME OF BUYER]	.... Director