

1661935

TRAVERS SMITH



DATED 8<sup>th</sup> JULY 2008

- (1) PORVAIR PLC
- (2) THE SELLERS

SHARE PURCHASE AGREEMENT  
RELATING TO  
SEAL ANALYTICAL LIMITED



10 SNOW HILL, LONDON EC1A 3AL  
TRAVERS SMITH LLP  
SOLUTIONS  
ORIGINAL  
A TRUE COPY OF THE  
WE CERTIFY THIS TO BE

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THIS AGREEMENT is made on 8<sup>th</sup> July 2008

**BETWEEN:**

- (1) **THE SEVERAL PERSONS** whose names and addresses are set out in Schedule 1A (together the "Sellers"), and
- (2) **PORVAIR PLC**, a company incorporated in England and Wales with registered number 01661935 and whose registered office is at Brampton House, 50 Bergen Way, North Lynn Industrial Estate, King's Lynn, PE30 2JG (the "Buyer")

**INTRODUCTION**

The Sellers have agreed to sell and the Buyer has agreed to buy the Shares on the terms and conditions of this Agreement

**IT IS AGREED** as follows

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 The following words and expressions where used in this Agreement have the meanings given to them below

**2006 Act** means The Companies Act 2006

**A Ordinary Shares** means the 100,000 A ordinary shares of £1 each in the capital of the Company

**Accounts** means the audited financial statements of the Company, prepared in accordance with the Act for the accounting reference period ended on the Accounts Date and the financial statements of each Target Group Company, true copies of which comprise Annexure 1

**Accounts Date** means 30 June 2007

**Act** means the Companies Act 1985

**Adjustment Consideration Shares** means those Buyer Shares (if any) to be allotted and issued to the Sellers at the Mid Market Price pursuant to clauses 3.8 and 3.9 as part of the Consideration

**Agreed Claim** means any claim against any Seller under this Agreement (including a claim under the Warranties) and/or under the Tax Deed which is

- (i) agreed in writing between the relevant parties, or
- (ii) finally determined either by a court of competent jurisdiction or a duly appointed

arbitrator or expert (as the case may be)

**B Ordinary Shares** means the 26,259 B ordinary shares of £1 each in the capital of the Company

**BLKK** means Bran + Luebbe KK, a corporation formerly organised and existing under the laws of Japan with a business address of oShawa Daichi Kayabacho Building 3F, 4-2 Nihobashi Kayabacho 2-Chrome, Chuo-Ku, Tokyo 103-0025 Japan and acquired by the Target Group pursuant to an acquisition agreement dated 27 November 2006 between, inter alia, the Company, Bran + Luebbe GmbH and SPX Corporation

**Business** means the business carried on by the Company or any other Target Group Company

**Business Day** means any day other than a Saturday, Sunday or English bank or public holiday

**Business Information** means all material information which relates to

- (i) the financial affairs of the Business, or
- (ii) the sales or marketing of any of the products manufactured and/or sold or services provided by the Business, including all customer names and lists, sales and marketing information

**Business IPR** means all Intellectual Property Rights used for any purpose in connection with the Business including the Registered IPR, the Licensed IPR and the Business Names

**Business Name(s)** means Seal Analytical and any part or abbreviation thereof or combination of any of them and any logo, device, format or style in or with which any such name or part or abbreviation of it is or has been used by the Company

**Buyer's Accountants** means PricewaterhouseCoopers LLP of Abacus House, Castle Park, Cambridge CB3 0AN

**Buyer Group** means the Buyer, any holding company of the Buyer and any subsidiary of the Buyer or such holding company (including, for these purposes, the Company and every Target Group Company) from time to time and references to "**Buyer Group Company**" and to "**any member of the Buyer Group**" shall be construed accordingly

**Buyer's Solicitors** means Travers Smith LLP of 10 Snow Hill, London EC1A 2AL

**Buyer's Solicitors' Account** means the client bank account in the name of the Buyer's Solicitors with National Westminster Bank plc of 1 Princes Street, London EC2R 8PA with sort code 60-00-01 and account number 00859184

**Buyer Shares** means ordinary shares of 2p each in the capital of the Buyer

**Cash for Shares Retention** has the meaning given to it in clause 3.2.3

**Chinese Debts** has the meaning given to it in clause 3.2.2

**Company** means Seal Analytical Limited, details of which are set out in Part I of Schedule 2

**C Ordinary Shares** means the 7,000 C ordinary shares of £1 each in the capital of the Company

**Completion** means completion of the sale and purchase of the Shares under this Agreement

**Completion Accounts** means the unaudited consolidated balance sheet of the Target Group as at the Completion Date and the unaudited consolidated profit and loss account of the Target Group for the period from the Accounts Date to the Completion Date, prepared in accordance with clause 3 and which shall include the Completion Net Assets Certificate

**Completion Date** means the date on which Completion occurs

**Completion Net Assets** means the value of the Net Tangible Assets of the Target Group as shown in the Completion Accounts and agreed, deemed agreed or determined (as the case may be) pursuant to clause 3

**Completion Net Assets Certificate** means the certificate stating the value of the Completion Net Assets, which shall form part of the Completion Accounts

**Confidential Information** means all information (whether oral or recorded in any medium) relating to the business, financial or other affairs (including future plans) of the Company or any other Target Group Company or of the Buyer, which is treated by the Company or that Target Group Company, the Sellers or the Buyer (as the case may be) as confidential, or is marked or is by its nature confidential, together with the contents of this Agreement (including all Schedules and Annexures)

**Consideration** means the consideration for the sale of the Shares, calculated in accordance with clause 3, comprising

- (i) the Initial Cash Consideration,
- (ii) the Consideration Shares,
- (iii) the Positive Adjustment Consideration,
- (iv) the Preference Share Consideration, and
- (v) the NIR Consideration

**Consideration Shares** means the Initial Consideration Shares and the Adjustment Consideration Shares each of which shall be issued at the Mid Market Price

**Contracts** means all contracts, agreements, licences, and other contractual arrangements which may have been entered into or undertaken by or on behalf of the Company or any other Target Group Company

**Copyright** means copyright, which includes all rights in computer software and in databases and all rights or forms of protection which have equivalent or similar effect to the foregoing and which subsist anywhere in the world

**Covenantors** means each of Timothy Brittain, Stuart Smith, Stephen Coverly, James Brathwaite, Martin Rowland, Peter Finch, Craig Ranger and Synermed Europe Limited

**D Ordinary Shares** means the 3,325 D ordinary shares of £1 each in the capital of the Company

**Disclosure Letter** means the letter dated with the date of this Agreement from the Sellers to the Buyer containing disclosures against the Warranties

**Hardware** the computer and data processing systems used by the Company (or any Group Company) excluding the Software, but including all plant and equipment which may include embedded software or similar processing systems

**ICTA 1988** means the Income and Corporation Taxes Act 1988

**Individual Optionholders** means Arthur Kay, Stephen Coverly and the US Optionholders, together being all those individual Sellers who exercised options in the capital of the Company on the Completion Date

**Initial Cash Consideration** means the sum of £2,294,515

**Initial Consideration Shares** means the 1,375,225 Buyer Shares to be issued and allotted to the Sellers at Completion as part of the Consideration each of which shall be issued at the Mid Market Price

**Intellectual Property Rights** patents, trade marks, trade names, service marks, domain names, design rights, copyright, Know-How, utility models, rights in databases and other intellectual property rights, in each case whether registered or unregistered and including applications for the grant of any such rights and all rights or forms of protection having equivalent effect anywhere in the world

**IPR Agreements** the agreements pursuant to which the Company grants rights to use the Business IPR or pursuant to which any other Target Group Company is granted rights to use the Business IPR

**IT Systems** means the Hardware and the Software

**KBC Debt** means £2,180,555 56, being all amounts (not including interest) outstanding (whether or not due for repayment) from the Target Group to KBC Bank NV at the Completion Date

**KBC Interest** means all outstanding interest on the KBC Debt as at the Completion Date

**Know-How** means inventions, discoveries, improvements, processes, formulae, techniques, specifications, technical information, methods, tests, reports, component lists, manuals, instructions, drawings and information relating to customers and suppliers in each case used by the Company and relating to the Business

**Licensed IPR** means Intellectual Property Rights owned by third parties which any Target Group Company is permitted to use

**London Stock Exchange** means the London Stock Exchange plc

**Management Accounts** means the unaudited consolidated management accounts of the Target Group and the unaudited management accounts of each Target Group Company for the nine month period to 31 March 2008, a true copy of which comprises Annexure 1

**Mid Market Price** means 93 5p, being the average mid-market price of a Buyer Share calculated by reference to the daily Official List of the London Stock Exchange for the five Business Days immediately preceding Completion

**month** means a calendar month

**Net Tangible Assets** means all assets less (i) all liabilities and (ii) all those assets which are intangible (which, for these purposes, shall include goodwill and acquisition expenses, intangible assets arising on acquisition (including, but not limited to, customer lists and Intellectual Property Rights), deferred tax assets and all internally generated intangibles (including, but not limited to, research and development and Intellectual Property Rights)

**NIR Certificate** has the meaning given to it in clause 3 15

**NIR Consideration** has the meaning given to it in clause 3 14

**NIR Sale** has the meaning given to it in clause 3 14

**NIR Technology** has the meaning given to it in clause 3 14

**Ordinary Shares** means the 93,531 ordinary shares of £1 each in the capital of the Company

**Positive Adjustment** has the meaning given to it in clause 3 8 1(d)



**Positive Adjustment Consideration** means the cash consideration (if any) of up to £150,000 to be paid to the Sellers pursuant to clause 3.8

**Preference Shares** means the 400,000 cumulative redeemable preference shares of £1 each in the capital of the Company

**Preference Share Consideration** means the £400,000 to be paid to South East Growth Fund Managers Limited as consideration for the Preference Shares

**Products** means any product which is (or has been) marketed and/or supplied by any Target Group Company or any product in the course of development by or on behalf of any Target Group Company

**Pro-forma Balance Sheet** means the pro-forma consolidated balance sheet of the Target Group in the form set out in Part I of Schedule 7

**Properties** means the properties, details of which are set out in Schedule 6

**Registered IPR** means any Intellectual Property Rights which are the subject of registration (or application for registration) in any jurisdiction

**Retention** has the meaning given to it in clause 3.2.2

**Retention Account** means a designated interest-bearing deposit account with National Westminster Bank plc in the name of the Buyer's Solicitors

**Retention Letter** means the letter in the approved terms from the Sellers and the Buyer to the Buyer's Solicitors in relation to the Retention Account

**Retention Release Date** means the second Business Day after the date on which the value of the Completion Net Assets is agreed or deemed agreed under clause 3.5 or 3.6 or finally determined under clause 3.7 (as the case may be)

**Security Interest** means any mortgage, charge (whether fixed or floating), lien, option, pledge, assignment, trust arrangement or other security interest of any kind and any agreement, whether conditional or otherwise, to create any of the foregoing anywhere in the world

**Sellers' Representative** means Timothy Brittain acting on behalf of the Sellers

**Sellers' Solicitors** means Adams & Remers, Trinity House, School Hill, Lewes, Sussex, BN7 2NN

**Sellers' Solicitor's Account** means the bank account in the name of the Sellers' Solicitors

with Barclays Bank plc of The Old Bank, High Street, Lewes, East Sussex BN7 2JP, with sort code 20-49-76 and account number 30103160

**Service Agreements** means the service agreements in the approved terms to be entered into at Completion

**Shares** means the entire issued share capital of the Company at Completion, comprising the Ordinary Shares, the A Ordinary Shares, the B Ordinary Shares, the C Ordinary Shares, the D Ordinary Shares and the Preference Shares

**Software** means all computer software used in the Business

**Subsidiaries** means the subsidiary undertakings of the Company, details of which are set out in Part II of Schedule 2

**Target Group** means the Company and the Subsidiaries and references to "**Target Group Company**" and to "**any member of the Target Group**" shall be construed accordingly

**Taxation** shall have the meaning attributed to "Taxation" in the Tax Deed and the expression "**for taxation purposes**" shall also have the meaning attributed to it in the Tax Deed

**Tax Deed** means the deed in the approved terms to be entered into at Completion

**TCGA 1992** means the Taxation of Chargeable Gains Act 1992

**US** means the United States of America

**US Optionholders** means Craig Ranger, Jeff Te Ronde, Stuart Smith and Jessica Ammerman

**Warranties** means the warranties set out in Schedule 4

**Warrantors** means the Sellers other than South East Growth Fund Managers Limited and Arthur Kay

1.2 Unless the context requires otherwise, words and expressions defined in or having a meaning provided by the Act at the date of this Agreement, shall have the same meaning in this Agreement The term "**connected with**" shall have the meaning attributed to it at the date of this Agreement by section 839 ICTA 1988

1.3 Unless the context requires otherwise, references in this Agreement to

1.3.1 any of the masculine, feminine and neuter genders shall include other genders,

1.3.2 the singular shall include the plural and vice versa,

- 1.3.3 a **"person"** shall include a reference to any natural person, body corporate, unincorporated association, partnership and trust,
- 1.3.4 **"employees"** shall be deemed to include workers and consultants, and references to **"contracts of employment"**, **"terms and conditions of employment"**, **"employment arrangements"** and to **"commencement or cessation of employment"** shall be deemed to include workers' contracts, contracts for consultancy and commencement or cessation of workers' contracts or consultancy,
- 1.3.5 any statute or statutory provision shall be deemed to include any instrument, order, regulation or direction made or issued under it and shall be construed so as to include a reference to the same as it may have been, or may from time to time be, amended, modified, consolidated, re-enacted or replaced except to the extent that any amendment or modification made after the date of this Agreement would increase any liability or impose any additional obligation under this Agreement,
- 1.3.6 any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than that of England, be deemed to include what most nearly approximates in that jurisdiction to the English legal term,
- 1.3.7 any time or date shall be construed as a reference to the time or date prevailing in England, and
- 1.3.8 a particular government or statutory authority shall include any entity which is a successor to that authority
- 1.4 The headings in this Agreement are for convenience only and shall not affect its meaning. References to a **"clause"**, **"Schedule"** or **"paragraph"** are (unless otherwise stated) to a clause of and Schedule to this Agreement and to a paragraph of the relevant Schedule. The Schedules form part of this Agreement and shall have the same force and effect as if expressly set out in the body of this Agreement.
- 1.5 A document expressed to be **"in the approved terms"** means a document, the terms of which have been approved by the parties and a copy of which has been identified as such and initialled by the Sellers' Representative and the Buyer.
- 1.6 A document expressed to be an **"Annexure"** means a document a copy of which has been identified as such and initialled by the Sellers' Representative and the Buyer/each party.
- 1.7 In construing this Agreement, general words introduced by the word **"other"** shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating

a particular class of acts, matters or things and general words shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words

## **2. SALE OF SHARES**

- 2.1** Each of the Sellers shall sell (or procure to be sold) and the Buyer shall buy the Shares set opposite his name in Schedule 1A on the terms and conditions of this Agreement
- 2.2** Each of the Sellers shall procure that the Buyer acquires good title to the Shares set opposite his name in Schedule 1A, free from all Security Interests and any other third party rights of any other nature
- 2.3** The Buyer shall buy the Shares with effect from and including the Completion Date to the intent that as from that date all rights and advantages accruing to the Shares, including any dividends or distributions declared, made or paid on the Shares on or after that date, shall belong to the Buyer
- 2.4** The Buyer shall not be obliged to complete the purchase of any of the Shares unless the sale of all the Shares is completed simultaneously
- 2.5** Each Seller waives (or agrees to procure the waiver of) any rights or restrictions conferred on him or on any other person which may exist in relation to the Shares under the articles of association of the Company or otherwise

## **3. CONSIDERATION**

- 3.1** The consideration for the sale of Shares shall comprise
  - 3.1.1** the Initial Cash Consideration,
  - 3.1.2** the Consideration Shares (which shall be allotted credited as fully paid and ranking pari passu in all respects with the then existing issued Buyer Shares),
  - 3.1.3** the Positive Adjustment Consideration (if any) which shall be apportioned between the Sellers as shown in column (2) of Schedule 1B (and the Buyer shall not be concerned with the arrangement between the Sellers in relation to the apportionment of such consideration),
  - 3.1.4** the Preference Share Consideration which shall be apportioned between the Sellers as shown in column (7) of Schedule 1A (and the Buyer shall not be concerned with the arrangement between the Sellers in relation to the apportionment of such consideration), and
  - 3.1.5** the NIR Consideration (if any) which shall be apportioned between the Sellers

as shown in column (2) of Schedule 1B (and the Buyer shall not be concerned with the arrangement between the Sellers in relation to the apportionment of such consideration)

**3.2 At Completion, the Buyer shall**

- 3.2.1** pay £1,626,541 of the Initial Cash Consideration to the Sellers' Solicitors' Account (which shall be apportioned between the Sellers as set out opposite their respective names in column (12) of Schedule 1A),
- 3.2.2** pay £250,000 of the Initial Cash Consideration (the "**Retention**") to the Buyer's Solicitors' Account,
- 3.2.3** pay £45,474 of the Initial Cash Consideration (the "**Cash for Shares Retention**") to the Buyer's Solicitors' Account,
- 3.2.4** pay £372,500 of the Initial Cash Consideration to the Company in satisfaction of the exercise price payable by the Individual Optionholders of options in the Company prior to Completion,
- 3.2.5** pay the Preference Share Consideration to the Sellers' Solicitors' Account, and
- 3.2.6** issue the Initial Consideration Shares on the following terms
  - (a) the Initial Consideration Shares shall be apportioned between the Sellers in the amounts set opposite their respective names in column (13) of Schedule 1A, and
  - (b) the Initial Consideration Shares shall be allotted credited as fully paid and ranking pari passu in all respects with the then existing issued Buyer Shares. The Buyer shall use reasonable endeavours to procure that the Initial Consideration Shares shall be admitted to the Official List and to trading on the London Stock Exchange's market for listed securities as soon as practicable and in any event within 5 Business Days following Completion

**Net asset adjustment**

- 3.3** As soon as practicable following 31 August 2008 but in any event within 5 Business Days after 31 August 2008, the Seller's Representative shall procure the preparation of draft Completion Accounts on the basis of the requirements, accounting policies and accounting methods set out in Parts II and III of Schedule 9, and in the same (or substantially the same) format as the Pro-forma Balance Sheet
- 3.4** When the draft Completion Accounts have been prepared, the Seller's Representative shall

forthwith deliver a copy thereof to the Buyer. The Buyer and its accountants shall then have a period of 20 Business Days after the date on which the Seller's Representative delivered the draft Completion Accounts to the Buyer (the "**Review Period**") within which to review the draft Completion Accounts and to satisfy itself that they have been duly prepared in accordance with this Agreement and that the value of the Completion Net Assets has been correctly certified. The Buyer shall, before the expiry of the Review Period, either

3.4.1 confirm in writing to the Seller's Representative that it agrees that the draft Completion Accounts have been duly prepared and that the value of the Completion Net Assets has been correctly certified, or

3.4.2 give notice in writing to the Seller's Representative explaining, in reasonable detail, why it is unable so to confirm and setting out details of its proposed amendments to the draft Completion Accounts and to the value of the Completion Net Assets (if any)

3.5 If the Buyer fails so to confirm or to give notice in accordance with clause 3.4, the draft Completion Accounts and the Completion Net Assets Certificate shall, upon the expiry of the Review Period, be deemed to have been finally accepted and agreed by the parties

3.6 If the Buyer serves a valid notice in accordance with clause 3.4.2

3.6.1 the parties shall endeavour to resolve all matters in dispute as soon as practicable. If they fail to resolve such matters within 20 Business Days of the date on which the Seller's Representative received such notice from the Buyer (or such longer period as the parties shall agree) (the "**Resolution Period**"), the Buyer or the Sellers' Representative may refer any matter in dispute to an independent chartered accountant for a resolution. The identity of such accountant shall be agreed between the parties and he shall be appointed within 10 Business Days of the expiry of the Resolution Period (the "**Appointment Period**"). If the parties fail to make such appointment within the Appointment Period, the appointment shall be made by the President for the time being of the Institute of Chartered Accountants in England and Wales within five Business Days of the expiry of the Appointment Period, on the application of either the Buyer or the Sellers' Representative. Such accountant shall be instructed to determine the dispute in accordance with the provisions of this clause 3 and to make such determination as soon as practicable and in any event within 30 Business Days of his being instructed. In making such determination, such accountant shall act as an expert and not as an arbitrator and his decision shall (in the absence of manifest error) be final and binding on the parties. The costs of such accountant shall be borne by the parties in such proportions as he may direct or, in the absence of any such direction, as to one half by the Buyer and as to the other half by the Sellers, and

3.6.2 the parties shall bear their own costs in connection with the resolution of the

matters in dispute

3.7 The Buyer and its accountants shall be entitled to examine the working papers relating to the draft Completion Accounts for the purposes of their review under clause 3.4, subject to the Buyer complying with any hold harmless or similar requirements of the Seller's Representative or his accountants in connection with the release of such working papers to the Buyer. Subject thereto, the parties agree that they will promptly provide each other and their respective advisers with all information in their respective possession or control relating to the operations of the Target Group as may be relevant for the purposes of the Completion Accounts, and with all co-operation and assistance as may reasonably be required to facilitate the production, review and agreement of the Completion Accounts.

3.8 On the Retention Release Date and subject to and in accordance with the provisions of clause 16, if the value of the Completion Net Assets is

3.8.1 equal to or greater than -£1,250,000, then

- (a) the Retention (plus accrued interest on that sum) shall be released to the Sellers' Solicitors (such payment being apportioned between the Sellers as set out opposite their respective names in column (2) of Schedule 1B),
- (b) the Buyer shall pay the Cash for Shares Retention to the Sellers' Solicitors (such payment being apportioned between the US Optionholders as set out opposite their respective names in column (5) of Schedule 1B),
- (c) issue to the Sellers such number of Adjustment Consideration Shares as is set out opposite their respective names in column (3) of Schedule 1B, and
- (d) the Buyer shall pay to the Sellers' Solicitors a cash amount equal to the amount (if any) by which the Completion Net Assets is greater than -£1,250,000, subject to a maximum payment of £150,000 (the "**Positive Adjustment**") (such payment being apportioned between the Sellers as set out opposite their respective names in column (2) of Schedule 1B) save that if the value of the Positive Adjustment is less than £50,000 then the Buyer shall be under no obligation to pay the Positive Adjustment,

and the receipt of any payments due under clause 3.8.1 by the Sellers' Solicitors shall be an absolute discharge of the Buyer's obligations to make such payments under clause 3.8.1,

3.8.2 less than -£1,250,000 but equal to or greater than -£1,500,000, then

- (a) the Retention (plus accrued interest on that sum) shall be released to the Sellers' Solicitors (such payment being apportioned between the Sellers as set out opposite their respective names in column (2) of Schedule 1B), receipt of which payment being an absolute discharge of the Buyer's obligations to make such payment under clause 3.8.2(a), and
- (b) the Buyer shall
  - (i) where the value of the Completion Net Assets is greater than or equal to -£1,300,000, issue the number of Adjustment Consideration Shares to the Sellers and release the Cash for Shares Retention in accordance with clause 3.9, or
  - (ii) where the value of the Completion Net Assets is less than -£1,300,000, issue the number of Adjustment Consideration Shares to the Sellers and release the Cash for Shares Retention in accordance with clause 3.10,

**3.8.3** less than -£1,500,000 but equal to or more than -£1,750,000, then

- (a) an amount by which the Completion Net Assets is less than -£1,500,000 (plus accrued interest on that sum) shall be released to the Buyer's Solicitors from the Retention Account in respect of the Retention,
- (b) the Cash for Shares Retention (plus accrued interest on that sum) shall be released to the Buyer's Solicitors,
- (c) the balance of the Retention, if any (plus accrued interest on that sum) shall be released to the Sellers' Solicitors (such payment being apportioned between the Sellers as set out opposite their respective names in column (2) of Schedule 1B), and
- (d) for the avoidance of doubt, no Adjustment Consideration Shares shall be issued to the Sellers, or

**3.8.4** less than -£1,750,000, then

- (a) the Retention and the Cash for Shares Retention (plus accrued interest on those sums) shall be released to the Buyer's Solicitors,
- (b) the Sellers shall severally pay the amount by which the Completion



Net Assets are less than -£1,750,000 to the Buyer within 14 Business Days (such excess being apportioned between the Sellers as set out opposite their respective names in column (2) of Schedule 1B), and

- (c) for the avoidance of doubt, no Adjustment Consideration Shares shall be issued to the Sellers

3.9 Where the value of the Completion Net Assets is equal to or greater than -£1,300,000, the Buyer shall pay the Cash for Shares Retention to the Sellers' Solicitors (such payment being apportioned between the US Optionholders as set out opposite their respective names in column (5) of Schedule 1B) and issue to the Sellers such number of Adjustment Consideration Shares as is set out opposite their respective names in column (3) of Schedule 1B,

3.10 Where the value of the Completion Net Assets is less than -£1,300,000 but equal to or greater than -£1,500,000

3.10.1 the Buyer shall pay such amount from the Cash for Shares Retention to the Sellers' Solicitors as calculated in accordance with the formula set out below (such payment being apportioned between the US Optionholders as set out opposite their respective names in column (5) of Schedule 1B)

$$\text{amount payable} = Y \times T$$

where

Y = the amount by which the Completion Net Assets are greater than -£1,500,000, and

T = 18.189% (being the aggregate percentage set opposite the names of the US Optionholders and Arthur Kay in column (2) of Schedule 1B),

3.10.2 the balance of the Cash for Shares Retention, if any (plus accrued interest on that sum) shall be released to the Buyer's Solicitors from the Retention Account, and

3.10.3 the Buyer shall issue to the Sellers the number of Adjustment Consideration Shares calculated in accordance with the formula set out below (rounded up or down to the nearest round number to avoid fractional entitlements and to be apportioned between the Sellers in the proportions set out in column (4) of Schedule 1B)

$$\text{number of Adjustment Consideration Shares} = \frac{Y \times R}{P}$$

where

$Y$  = the amount by which the Completion Net Assets are greater than -£1,500,000,

$P = £Z$ ,

$$R = 1 - \left( \frac{T}{100} \right)$$

$T = 18.189\%$  (being the aggregate percentage set opposite the names of the US Optionholders and Arthur Kay in column (2) of Schedule 1B),

and

$Z$  = the Mid Market Price

- 3.11 The Adjustment Consideration Shares to be issued shall be allotted credited as fully paid and ranking *pari passu* in all respects with the then existing issued Buyer Shares. The Buyer shall use all reasonable endeavours to procure that the Adjustment Consideration Shares shall be admitted to the Official List and to trading on the London Stock Exchange's market for listed securities as soon as practicable and in any event within 5 Business Days following the Retention Release Date.
- 3.12 On the Retention Release Date, the Buyer shall procure that a certified copy of a board resolution of the Buyer allotting the Adjustment Consideration Shares pursuant to clause 3.8 is delivered to the Seller's Solicitors and, as soon as reasonably (and in any event within 10 Business Days) procure the delivery of duly executed certificates in respect of the Adjustment Consideration Shares allotted pursuant to clause 3.8 to the Sellers' Solicitors, receipt of which shall be an absolute discharge of the Buyer's obligations to deliver certificates in respect of the Adjustment Consideration Shares.
- 3.13 The Buyer undertakes that up to and including the Retention Release Date, the Buyer shall maintain sufficient authorised but unissued share capital to satisfy in full the maximum number of Adjustment Consideration Shares that may be allotted pursuant to the terms of this Agreement without the need for passing of any resolution of the Buyer.

#### **NIR Consideration**

- 3.14 In the event of a sale of the near infra-red wholegrain analyzer technology (the "**NIR Technology**") to Perten Instruments AB (or to any member of its group) (the "**NIR Sale**"), the Buyer shall pay to the Sellers an amount to be capped at £100,000 (the "**NIR Consideration**") equal to the consideration received on or before 30 November 2008 by the Buyer Group in connection with the NIR Sale (which amount, for the avoidance of doubt, shall exclude the amounts of any royalties received) in accordance with clause 3.19.
- 3.15 As soon as practicable following 30 November 2008 but in any event within 15 Business

Days, the Buyer shall procure (at the Buyer's cost) the delivery to the Sellers' Representative of a certificate (the "**NIR Certificate**") from the Buyer's Accountants confirming

- 3.15.1 the completion (or otherwise) of the NIR Sale,
  - 3.15.2 the consideration (if any) paid to the Buyer Group pursuant to the NIR Sale, and
  - 3.15.3 the amount of the NIR Consideration
- 3.16 Within 10 Business Days of receipt of the NIR Certificate, the Sellers' Representative shall either
- 3.16.1 confirm in writing to the Buyer that he agrees that the NIR Certificate has been accurately prepared and agrees the amount of the NIR Consideration, or
  - 3.16.2 give notice in writing to the Buyer explaining, in reasonable detail, why he is unable so to confirm and setting out details of his proposed amendments to the NIR Certificate (if any)
- 3.17 If the Sellers' Representative fails to confirm or give notice in accordance with clause 3 16, the amount of the NIR Consideration as set out in the NIR Certificate shall be deemed to have finally been agreed between the parties
- 3.18 If the Sellers' Representative serves a valid notice in accordance with clause 3 16 2
- 3.18.1 the parties shall endeavour to resolve all matters in dispute as soon as practicable. If they fail to resolve such matters within 20 Business Days of the date on which the Buyer received such notice from the Sellers' Representative (or such longer period as the parties shall agree) (the "**NIR Resolution Period**"), the Buyer or the Sellers' Representative may refer any matter in dispute to an independent chartered accountant for a resolution. The identity of such accountant shall be agreed between the parties and he shall be appointed within 10 Business Days of the expiry of the NIR Resolution Period (the "**NIR Appointment Period**"). If the parties fail to make such appointment within the NIR Appointment Period, the appointment shall be made by the President for the time being of the Institute of Chartered Accountants in England and Wales within five Business Days of the expiry of the NIR Appointment Period, on the application of either the Buyer or the Sellers' Representative. Such accountant shall be instructed to determine the dispute in accordance with the provisions of this clause 3 and to make such determination as soon as practicable and in any event within 30 Business Days of his being instructed. In making such determination, such accountant shall act as an expert and not as an arbitrator and his decision shall (in the absence of manifest error) be final and binding on the parties. The costs of such accountant shall be borne by the

parties in such proportions as he may direct or, in the absence of any such direction, as to one half by the Buyer and as to the other half by the Sellers, and

3.18.2 the parties shall bear their own costs in connection with the resolution of the matters in dispute

3.19 Within 5 Business Days of either

3.19.1 receipt of confirmation pursuant to clause 3.16.1, or

3.19.2 deemed agreement pursuant to clause 3.17, or

3.19.3 determination pursuant to clause 3.18.1,

the Buyer shall pay the NIR Consideration to the Sellers' Solicitors (such payment being apportioned between the Sellers as set out opposite their names in column (2) of Schedule 1B)) and the receipt of such payment by the Sellers' Solicitors shall be an absolute discharge of the Buyer's obligations to pay the NIR Consideration

3.20 Until such time as the NIR Certificate is agreed between the Buyer and the Sellers' representative, the Buyer shall allow the Sellers' Representative and his duly authorised representatives and professional advisers access to all documents and records relating to the NIR Sale as the Sellers' Representative may reasonably request and allow the Sellers' Representative to take copies of the same

3.21 The Buyer undertakes to the Sellers to

3.21.1 use reasonable and commercially viable endeavours and in good faith towards the Sellers to effect a sale of the NIR Technology to Perten Instruments AB (or to any member of its group) on or before 30 November 2008 for the maximum consideration reasonably obtainable in the circumstances without accepting deferred payment terms and

3.21.2 keep the Sellers' Representative updated as to the progress of any sale of any sale of the NIR Technology

#### **China**

3.22 The Sellers' Representative is hereby authorised to take all reasonable action to obtain payment in respect of the debts due from China at the Completion Date that were uncollected as at 26 November 2006 (being the date of the acquisition by the Target Group of the business and assets of the Bran & Luebbe GmbH relating to the NIR Technology and continuous flow analyser businesses) including, but not limited to, those due from Zhejiang Scientific Instruments (the "**Chinese Debts**")

- 3.23 The Buyer undertakes to promptly provide such assistance to the Sellers' Representative to collect the Chinese Debts as the Sellers' Representative may reasonably request

#### 4. COMPLETION

##### Completion requirements

- 4.1 Completion shall take place at the offices of the Buyer's Solicitors immediately after execution of this Agreement
- 4.2 On Completion, the Sellers and the Buyer shall each perform their respective obligations in relation to the sale and purchase of the Shares in accordance with and as set out in Schedule 3
- 4.3 Without prejudice to any other remedies or accrued rights which the Buyer may have against the Sellers (or any of them), if the Sellers (or any of them) shall not have complied with all their obligations under clause 4.2, the Buyer shall be entitled, at its discretion
- 4.3.1 to defer Completion to any subsequent Business Day falling not more than 20 Business Days after the date of this agreement or any later date set for Completion in accordance with this clause,
- 4.3.2 to waive the requirement to fulfil those obligations in whole or in part and following such waiver to complete the sale and purchase of the Shares, and
- 4.3.3 so far as practicable, to complete the sale and purchase of the Shares in accordance with Schedule 3
- 4.4 On Completion, the Buyer shall procure that
- 4.4.1 each of Timothy Brittain, Keith Tozzi, James Brathwaite and Martin Rowland shall be released as guarantors in respect of any liabilities or obligations of any member of the Target Group owed to KBC Bank NV, and
- 4.4.2 each of Timothy Brittain, Keith Tozzi, James Brathwaite and Martin Rowland shall be released as guarantors in respect of any liabilities or obligations of any member of the Target Group owed to National Westminster Bank plc,
- and pending such releases being given, the Buyer shall indemnify and keep indemnified each of Timothy Brittain, Keith Tozzi, James Brathwaite and Martin Rowland against all actions, claims, losses, damages and expenses incurred by or suffered by them in respect of such liabilities or obligations as guarantors

#### 5. WARRANTIES

5.1 The Warrantors, upon the execution of this Agreement, warrant to the Buyer in the terms of the Warranties. The Warrantors acknowledge that the Buyer has relied on the Warranties in entering into this Agreement.

5.2 Each Warranty is given subject only to matters disclosed in the Disclosure Letter. For this purpose, and for all purposes under this Agreement, the expression "**disclosed**" means fully, fairly and accurately disclosed (in the absence of any fraud, dishonesty or deliberate misstatement on the part of any of the Sellers or the Target Group or any of their respective agents, officers or employees) in such a manner and in such detail as to enable the Buyer to make an informed and accurate assessment of the matter concerned.

5.3 The Buyer confirms that, save for the facts, matters and circumstances disclosed in the Disclosure Letter, as at the Completion Date it is not actually aware (excluding, for the avoidance of doubt, constructive or imputed knowledge) of any facts which would entitle the Buyer to make a successful claim under the Warranties, the Tax Deed or any other provision of this Agreement.

5.4 If there is a breach of any Warranty, the Warrantors shall, without prejudice to any other right or remedy which the Buyer may have in respect of the breach, on demand by the Buyer, pay to the Buyer, at the Buyer's option either

5.4.1 such sum as represents the difference between the consideration paid for the Shares and such amount as a buyer at arm's length with full knowledge at the date the Warranties were given of the fact, matter, event or circumstance giving rise to the breach of Warranty would reasonably have agreed to pay for the Shares, or

5.4.2 such aggregate sum as represents the difference in value between the market value of each asset of each Target Group Company and the market value that each such asset would have had, had matters been as warranted at the date the Warranties were given, and/or

5.4.3 a sum equal to the aggregate of each liability and excess liability of each Target Group Company which has been or will be incurred and which would not have been incurred had matters been as warranted at the date the Warranties were given,

provided that the Buyer shall not be entitled to bring a claim in respect of the same breach of Warranty under both clauses 5.4.1 and 5.4.2 or under both clauses 5.4.1 and 5.4.3.

5.5 The Warrantors unconditionally and irrevocably agree, as a continuing obligation, to indemnify the Buyer against, and to pay on demand an amount equal to, any costs and expenses (including legal fees) and other liabilities (together with any applicable VAT thereon which is not recoverable by the Buyer) which the Buyer may reasonably and

properly incur at any time and from time to time, either before or after the commencement of any action, in connection with

5.5.1 the settlement of any claim by the Buyer in respect of a breach of Warranty,

5.5.2 any legal or arbitration proceedings in which the Buyer claims that there has been a breach of Warranty and in which judgment is given for the Buyer, or

5.5.3 the enforcement of any such settlement or judgment

5.6 The Warranties shall continue in full force and effect notwithstanding Completion

5.7 Each Warranty shall be separate and independent and, save as expressly provided, shall not be limited by reference to any other Warranty or any other provision in this Agreement

5.8 Where any statement in the Warranties is qualified by the expression "**to the best of the knowledge, information and belief of the Warrantors**" or "**so far as the Warrantors are aware**" or any similar expression, the Warrantors shall (except where specifically indicated to the contrary) be deemed to have knowledge of

5.8.1 anything of which the other Warrantors have actual knowledge, or are deemed to have knowledge by clauses 5.8.2 or 5.8.3,

5.8.2 anything of which Peter Fry had actual knowledge at any stage up to and including 30 June 2008 and which Tim Coomber has actual knowledge, and

5.8.3 anything of which such person would have had knowledge had he made such due and careful enquiry as would be reasonable in the circumstances before giving the Warranties

5.9 Any claim under the Warranties shall be limited in accordance with Schedule 5 provided that none of the provisions in Schedule 5 shall apply in the case of any fraud, dishonesty or deliberate misstatement or concealment on the part of any Seller or the Target Group or any of their respective agents, officers or employees

5.10 Each Warrantor agrees with the Buyer

5.10.1 that the giving by any Target Group Company and/or any of their respective officers, employees, agents or advisers (past or present) to the Sellers (or any of them) or their agents or advisers (past or present) of any information or opinion in connection with the Warranties, the Tax Deed or the Disclosure Letter or otherwise in relation to the business or affairs of any Target Group Company or in connection with the negotiation and preparation of this Agreement, the Tax Deed or the Disclosure Letter shall not be deemed to be a representation, warranty or guarantee to the Warrantors of the accuracy of such information or

opinion save that this sub-clause 5.10.1 shall not apply to any advisers of any Target Group Company which has provided advice to the Sellers or any of them in their personal capacities,

5.10.2 to waive any right or claim which he may have against any Target Group Company and/or any of their respective officers, employees, agents or advisers for any error, omission or misrepresentation in any such information or opinion, and

5.10.3 that any such right or claim shall not constitute a defence to any claim by the Buyer under or in relation to this Agreement (including the Warranties) or the Tax Deed

5.11 Each Warranty which is expressed to be given in relation to the Company shall also be deemed to be given in relation to each of the other members of the Target Group as if it had been repeated with respect to each such member naming it in place of the Company throughout

## **6. PROTECTION OF GOODWILL**

6.1 Subject to clause 6.7, each of the Covenantors severally undertakes to the Buyer that he will not, directly or indirectly

6.1.1 at any time during the period of 24 months from the Completion Date

(a) engage in, or

(b) be concerned or interested in,

any business which is carried on within the European Union, People's Republic of China, Japan and the US in competition with the Business,

6.1.2 at any time during the period of 24 months from the Completion Date, solicit or endeavour to solicit the custom of, or deal or endeavour to deal with, any person who is at the Completion Date or, at any time during the period of 12 months prior to the Completion Date, was a customer or client of any Target Group Company and who, during such period, had any dealings with any Target Group Company, in each case so as to compete with, or harm the goodwill of, the Company or any other Target Group Company,

6.1.3 at any time during the period of 24 months from the Completion Date, interfere or endeavour to interfere with the continuance of supplies to any Target Group Company (or the terms relating to those supplies) by any person who is or, at any time during the period of 12 month prior to the Completion Date, was a supplier to any Target Group Company for the supply of any goods or services



to any Target Group Company, or

- 6.1.4 at any time during the period of 24 months from the Completion Date, solicit or entice away, or endeavour to solicit or entice away, from the Company or any other Target Group Company any person who is or was at the Completion Date, or who at any time during the period of 12 months prior to the Completion Date had been, an employee of the Company or any other Target Group Company whether or not such person would commit a breach of his employment contract by reason of leaving service, save that this clause shall not apply to any employee employed by the Company or any other Target Group Company in a purely administrative role
- 6.2 Nothing contained in clause 6.1 shall prevent any Covenantor from holding by way of bona fide personal investment any units of any authorised unit trust and from being the holder or beneficial owner of any class of securities in any company if such class of securities is listed, or dealt in, on a recognised investment exchange (within the meaning of Part XVIII of the Financial Services and Markets Act 2000) provided that he neither holds nor is beneficially interested in more than a total of 1% of any single class of the securities in that company
- 6.3 Each of the undertakings contained in clause 6.1 is a separate undertaking by each Covenantor and shall be enforceable by the Buyer (on its own behalf and on behalf of the Company and each Target Group Company and Buyer Group Company) separately and independently of its right to enforce any one or more of the other covenants contained in clause 6.1. Each Covenantor agrees that the undertakings contained in clause 6.1 are reasonable and necessary for the protection of the legitimate interests of the Buyer, the Company and any other Target Group Company or Buyer Group Company and that these restrictions do not work harshly on him. It is nevertheless agreed that, if any such undertaking shall be found to be void but would be valid if some part were deleted, then such undertaking shall apply with such deletions as may be necessary to make it valid and enforceable. The parties further agree that, without prejudice to any other remedy which may be available to the Buyer, the Buyer shall be entitled to seek injunctive or other equitable relief in relation to any breach or prospective breach of the undertakings in clause 6.1, or of those contained in clause 7.1, it being acknowledged that an award of damages may not be an adequate remedy for such a breach
- 6.4 For the purposes of clause 6.1, "directly or indirectly" shall (without limiting the expression) mean any Seller acting either alone or jointly with or on behalf of any other person whether as principal, partner, manager, employee, contractor, director, consultant, investor (subject to clause 6.2) or otherwise
- 6.5 Each corporate Seller agrees with the Buyer to procure that each of their current officers, senior management and agents is aware of and complies with each of the undertakings contained in clause 6.1

6.6 No Seller shall be treated as committing a breach or violation of the provisions of clause 6.1 as a consequence of properly acting as an employee, officer or consultant to any member of the Buyer Group

6.7 For the purposes of clauses 6.1.1 to 6.1.4, the time period applicable to Stuart Smith shall in each case be 12 months and not 24 months

## **7. CONFIDENTIALITY**

7.1 Each Seller shall in all respects to keep confidential and not at any time disclose or make known in any other way to anyone whomsoever or use for its own or any other person's benefit or to the detriment of any Target Group Company any Confidential Information, provided that

7.1.1 such obligation shall not apply to information which becomes generally known (other than through a breach by any Seller of this clause), and

7.1.2 disclosure of Confidential Information to an adviser for the purpose of advising any of the Sellers, but only on terms that clause 7.1 applies to the use or disclosure by the adviser

7.2 The Buyer undertakes to each of the Sellers to keep confidential the terms of this Agreement and all information which it has acquired about the Sellers (other than in relation to the Business) and their affairs and to use the information only for the purposes contemplated by this Agreement

7.3 Each party shall be entitled at all times to disclose such information as may be required by law or by any competent judicial or regulatory authority or by any recognised investment exchange (provided that, so far as practicable, the relevant Seller(s) shall notify the Buyer prior to making such disclosure)

7.4 Each Seller's liability in respect of this clause 7 shall be several

## **8. ANNOUNCEMENTS**

8.1 The Sellers shall not (without the consent of the Buyer, such consent not to be unreasonably withheld or delayed) issue any press release or publish any circular to shareholders or any other document or make any public statement or otherwise make any disclosure to any person who is not a party to this Agreement, before or after Completion, relating to any of the matters provided for or referred to in this Agreement or any ancillary matter. This clause shall not prohibit any announcement or disclosure required by law or by any competent judicial or regulatory authority or by any recognised investment exchange (in which case the parties shall co-operate, in good faith, in order to agree the content of any such announcement so far as practicable prior to it being made)

- 8.2 Notwithstanding clause 8.1, South East Growth Fund Managers Limited and South East Growth Fund Limited Partnership may issue a press release disclosing the sale of its interest in the Shares provided that the release is approved in advance by the Buyer, such approval not to be unreasonably withheld or delayed

9. **COSTS**

- 9.1 Each party shall pay its own costs and expenses incurred in connection with the preparation, negotiation and completion or termination of this Agreement
- 9.2 The Sellers represent and agree that none of such costs and expenses have been borne by any Target Group Company

10 **POST-COMPLETION ARRANGEMENTS**

**Records**

- 10.1 Following Completion, each Seller shall procure that all records, papers, documents and data (in whatever form they may exist) in the possession, custody or control of, or kept or made by or on behalf of, the Sellers or any of them (or any of their connected persons or advisers) relating to any matters which include the business or affairs of any Target Group Company and all rights in such records, papers, documents and data shall

10.1.1 to the extent that such records, papers, documents and data do not relate to any Seller, be deemed to be the property of, and shall be held on trust for, the relevant Target Group Company and any such items shall be delivered or made available to the relevant Target Group Company immediately upon request by the Buyer, and/or

10.1.2 to the extent that such records, papers, documents and data also relate to any Seller, be properly maintained and preserved and the information in such records, papers, documents and data relating to the business or affairs of any Target Group Company shall be made available (at reasonable times and on reasonable notice) to the Buyer or any of its officers, employees, agents or advisers

**Assignment of benefits**

- 10.2 Following Completion, each Seller shall procure that the benefit of the whole or any part of any agreement or arrangement (including any licences, consents or Intellectual Property Rights) which relates exclusively to the Business but which is owned by any Seller or any of their connected persons is assigned to the appropriate Target Group Company immediately upon request by the Buyer and, pending any such assignment (or in any case where the benefit of any such agreement or arrangement cannot lawfully be assigned to, or (for whatever reason) enforced by, the relevant Target Group Company), any such benefit shall

be deemed to be the property of the relevant Target Group Company and shall be held on trust by the relevant Sellers

#### **Sellers' covenants**

**10.3** Except as otherwise provided in clause 10.8 and Schedule 5, each Seller severally undertakes to the Buyer that he will not, and will use his reasonable endeavours to procure that no person who is a connected person will, without the prior written consent of the Buyer, directly or indirectly transfer, sell, mortgage, charge, or otherwise dispose of from the date of this Agreement until the Buyer announces its results for the six months ending 31 May 2009 (the "**Lock-in Period**") the legal and/or beneficial ownership of, or other interest in, any of the Consideration Shares which are owned by him or such a connected person following Completion or any Buyer Shares which may accrue to him or such a person as a result of his or their holding of such shares (the "**Restricted Shares**") except

**10.3.1** in acceptance of a general offer (or by the giving of an irrevocable undertaking to accept such offer) made to shareholders of the Buyer to acquire all the Buyer Shares in issue at the relevant time (other than any shares which are already owned by the person making such offer and any other person acting in concert with him),

**10.3.2** pursuant to any compromise or arrangement under Part 26 of the Companies Act 2006 providing for the acquisition by any person, or group of persons acting in concert, of 50% or more of the equity share capital of the Buyer,

**10.3.3** pursuant to any scheme or reconstruction under section 110 of the Insolvency Act 1986 in relation to the Buyer,

**10.3.4** in the case of any Seller which is a body corporate, a transfer of the legal title to the Restricted Shares to any member of its group (and in this clause 10.4.4, "**group**" means any subsidiary or holding company of the relevant Seller or any subsidiary of such holding company) **PROVIDED THAT**, prior to making any transfer pursuant to this clause 10.4.4, the relevant Seller shall have satisfied the Buyer (acting reasonably) that the transferee shall have agreed by deed to be bound by the provisions of this clause 10.4 as if a party to this Agreement and to give the warranties, indemnities and covenants given by the transferor in its capacity as a Seller pursuant to this Agreement,

**10.3.5** pursuant to a transfer by way of gift

(a) by any Seller (or by his personal representative) to a member of his family (meaning the wife, husband, civil partner or child (including a child by adoption) of the Seller),

(b) by any Seller to any person or persons acting in the capacity of trustee

or trustees of a trust created by the Seller or, upon any change of trustees of a trust so created, to the new trustee or trustees, provided that the trust is established for charitable purposes or there are no persons beneficially interested under the trust other than the Seller and members of the family (within the meaning ascribed in sub-clause 10.3.5(a) above) of the Seller, or

- (c) by the trustee or trustees of a trust to which sub-clause 10.3.5(b) applies to any person beneficially interested under the trust

provided that, prior to the making of any such transfer, the Seller shall have satisfied the Buyer (acting reasonably) that the transferee falls within one of the categories set out in sub-clauses 10.3.5(a) – (c) above (a "Permitted Transferee") and the transferee shall have agreed in terms reasonably acceptable to the Buyer to be bound by the provisions of clause 10.3 as if it were the Seller, and

10.3.6 subject to the Buyer's share dealing code, up to one third (1/3) of the Consideration Shares issued to each Seller may be transferred within 10 Business Days following the publication of the audited accounts for the Buyer for the year ending 30 November 2008

10.4 Subject to the Buyer's share dealing code, the Buyer undertakes to the Sellers that from the date on which the Lock-in Period ends, they will, if instructed to do so by any of the Sellers or their Permitted Transferees, use reasonable endeavours via the Buyer's brokers from time to time, assist such Seller(s) or their Permitted Transferees to sell, transfer or otherwise dispose of any Restricted Shares

10.5 Notwithstanding clause 10.3 and subject always to the Buyer's share dealing code and the requirement of the Buyer's brokers to maintain an orderly market, where a claim under the Warranties or the Tax Deed or any other part of this Agreement becomes an Agreed Claim before the expiry of the Lock-in Period, the Sellers shall be permitted to sell, transfer or otherwise dispose of such number of the Restricted Shares registered in their names or of their Permitted Transferees as is required, (when taken together with the net cash proceeds received pursuant to clause 3.2.1), to meet their liability in respect of the Agreed Claim. For the avoidance of doubt, each Seller shall have the absolute discretion as to whether their liability in respect of an Agreed Claim is satisfied from the cash proceeds of sale received pursuant to clause 3.2.1 or by the sale of Restricted Shares pursuant to this clause 10.5

10.6 Where any of the Sellers or their Permitted Transferees wish to sell, transfer or otherwise dispose of any Restricted Shares pursuant to clause 10.5, the Buyer undertakes (at the relevant Seller's own cost) to use reasonable endeavours via the Buyer's brokers from time to time to assist such Sellers or their Permitted Transferees to sell, transfer or otherwise dispose of such Restricted Shares

10.7 If any of the Sellers or their Permitted Transferees are prevented from selling, transferring or otherwise disposing of any Restricted Shares by reason of either

10.7.1 the Buyer's share dealing code, or

10.7.2 the requirement of the Buyer's brokers to maintain an orderly market,

(in either case, an "**Impediment**") then the liability of such Sellers shall be suspended and the Buyer shall take no action to enforce such liability until such time as the Impediment shall be no longer subsisting and the Buyer has notified the Sellers of the same

10.8 Nothing in clause 10.3 shall prevent or prohibit any of the Consideration Shares registered in the name of South East Growth Fund Managers Limited from being charged in favour of Barclays Bank plc

## 11 CAPACITY AND SHARES

11.1 Each Seller warrants and represents to the Buyer that he has full power and authority and has obtained all necessary consents to enter into and perform the obligations expressed to be assumed by him under this Agreement (and any other agreement or arrangement required to be entered into by him in connection with this Agreement), that such obligations are legal, valid and binding and enforceable against him in accordance with their terms and that the execution, delivery and performance by him of this Agreement and each such other agreement and arrangement will not

11.1.1 result in a breach of, or constitute a default under, any agreement or arrangement to which he is a party or by which he is bound or, in the case of a Seller who is a corporation, under its constitutional documents, or

11.1.2 result in a breach of any law or order, judgment or decree of any court, governmental agency or regulatory body to which he is a party or by which he is bound

11.2 Except as set out in the Disclosure Letter, each Seller warrants and represents to the Buyer that the number of Shares set opposite his name in columns (2), (3), (4), (5), (6) and (7) of Schedule 1A are legally and beneficially owned by him and are free from all liens, charges and encumbrances or interests in favour of or claims made by or which could be made by any other person and such Shares are fully paid

11.3 Each Seller's liability in respect of this clause 11 shall be several

## 12. INDEMNITIES

12.1 The Sellers (other than South East Growth Fund Managers Limited and Arthur Kay), upon

execution of this Agreement, warrant to the Buyer that BLKK has been successfully and effectively wound up under the applicable laws of Japan by the Target Group and there are no outstanding liabilities, contingent or otherwise, attaching to any member of the Target Group in connection with BLKK

- 12.2 Each Seller unconditionally and irrevocably agrees, as a continuing obligation, to indemnify the Buyer against, and to pay on demand an amount equal to, any loss which the Buyer Group Company may incur at any time or from time to time (whether by way of damages, settlement, costs or otherwise) and all reasonable costs and expenses (including legal fees and together with any applicable VAT) in respect of or as a result of

12.2.1 any breach of clauses 11.1 or 11.2, and

12.2.2 any breach of paragraph 2.2 of Part I of Schedule 3

- 12.3 In addition to the indemnities provided by the Sellers pursuant to clause 12.2, each Seller (other than South East Growth Fund Managers Limited and Arthur Kay) unconditionally and irrevocably agrees, as a continuing obligation, to indemnify the Buyer against, and to pay on demand an amount equal to, any loss which the Buyer Group Company may incur at any time or from time to time (whether by way of damages, settlement, costs or otherwise) and all reasonable costs and expenses (including legal fees and together with any applicable VAT) in respect of or as a result of

12.3.1 any breach of clause 12.1, and

12.3.2 any breach of paragraphs 2.1 or 2.3 of Part I of Schedule 3

### 13. APPLICABLE LAW AND JURISDICTION

- 13.1 This Agreement and the rights and obligations of the parties shall be governed by and construed in accordance with the laws of England and Wales

- 13.2 The parties irrevocably submit to the non-exclusive jurisdiction of the courts of England and Wales in respect of any claim, dispute or difference arising out of or in connection with this Agreement, provided that nothing contained in this clause shall be taken to have limited the right of the Buyer to proceed in the courts of any other competent jurisdiction

### 14. GENERAL

#### **Entire agreement**

- 14.1 This Agreement (together with any documents referred to herein or required to be entered into pursuant to this Agreement) contains the entire agreement and understanding of the parties and supersedes all prior agreements, understandings or arrangements (both oral and written) relating to the subject matter of this Agreement and any such document

### **Variations and waivers**

- 14.2 No variation of this Agreement shall be effective unless made in writing signed by or on behalf of all the parties and expressed to be such a variation
- 14.3 No failure or delay by the Buyer or time or indulgence given in exercising any remedy or right under or in relation to this Agreement shall operate as a waiver of the same nor shall any single or partial exercise of any remedy or right preclude any further exercise of the same or the exercise of any other remedy or right
- 14.4 No waiver by any party of any requirement of this Agreement, or of any remedy or right under this Agreement, shall have effect unless given in writing and signed by such party. No waiver of any particular breach of the provisions of this Agreement shall operate as a waiver of any repetition of such breach
- 14.5 Any waiver, release or compromise or any other arrangement of any kind whatsoever which the Buyer gives or enters into with any other party in connection with this Agreement shall not affect any right or remedy of the Buyer as regards any other parties or the liabilities of any other such parties under or in relation to this Agreement

### **Assignment**

- 14.6 Subject to clause 14.7, no party shall be entitled to assign, transfer or create any trust in respect of the benefit or burden of any provision of this Agreement (or any of the documents referred to herein) without the prior written consent of the other parties
- 14.7 All or any of the Buyer's rights under this Agreement (including, without limitation, in respect of the Warranties) or any of the documents which are referred to herein and to which any Seller is a party may (notwithstanding any other provisions contained in this Agreement or such other documents) be assigned or transferred by the Buyer to or in favour of
- 14.7.1 any bank or financial institution, and/or
- 14.7.2 any other member of the Buyer Group (or by any such member to or in favour of any other member of the Buyer Group) provided that if such assignee shall subsequently cease to be a member of the Buyer Group then the Buyer shall procure that prior to such cessation that company will reassign its rights to the Buyer or to another member of the Buyer Group, and/or
- 14.7.3 any person by way of security for borrowings of the Buyer Group or by any liquidator, administrator or receiver of the Buyer or by any other person entitled to enforce such security

### **Effect of Completion**



- 14.8 The provisions of this Agreement, insofar as the same shall not have been fully performed at Completion, shall remain in full force and effect notwithstanding Completion

**Counterparts**

- 14.9 This Agreement may be executed as two or more counterparts and execution by each of the parties of any one of such counterparts will constitute due execution of this Agreement

**Further assurance**

- 14.10 Each party shall, and shall use all reasonable endeavours to procure that any necessary third party shall, do and execute and perform all such further deeds, documents, assurances, acts and things as may reasonably be required to give effect to this Agreement

**Other remedies**

- 14.11 Any remedy or right conferred upon the Buyer for breach of this Agreement shall be in addition to and without prejudice to all other rights and remedies available to it

**No set-off**

- 14.12 All payments to be made by any party arising out of or in connection with this Agreement (or any other agreement or arrangement required to be entered into by him in connection with this Agreement) shall be made in full, without set-off or counterclaim and without any deduction whatsoever except to the extent required by law

**Third party rights**

- 14.13 Without prejudice to clause 14 14, where, in connection with this Agreement (or any other agreement or arrangement to be entered into by the Buyer in connection with this Agreement), any Seller undertakes any obligation in respect of any person (other than, or in addition to, the Buyer) that Seller unconditionally and irrevocably acknowledges and agrees that the Buyer is entering into this Agreement (or any such other agreement or arrangement) and accepting the benefit of such obligations not only for itself but also as agent and trustee for such other person
- 14.14 Subject to clause 14 15, any provision of this Agreement which confers a benefit upon any member of the Buyer Group (the "**Third Parties**") is intended to be enforceable by the Third Parties under the Contracts (Rights of Third Parties) Act 1999 Such provisions may be enforced by the Third Parties or by the Buyer acting on their behalf as agent and trustee pursuant to clause 14 13 For the avoidance of doubt, such provisions shall include clauses 5, 6, 7, 12 and 13 of this Agreement
- 14.15 Save as provided in clause 14 14, no other provisions of this Agreement which confer

benefits upon any third party shall be enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any such third party

- 14.16 Subject to clause 14.2, the terms of this Agreement may be rescinded or varied at any time by the parties to this Agreement without the consent of the Third Parties

**Joint and several liability**

- 14.17 Except where this Agreement provides otherwise, obligations, covenants, warranties, representations and undertakings expressed to be assumed or given by two or more persons shall in each case be construed as if expressed to be given jointly and severally

**Successors**

- 14.18 This Agreement shall be binding on each Seller's assigns, personal representatives and successors in title

**15. NOTICES**

**Form of Notice**

- 15.1 Any notice, consent, request, demand, approval or other communication to be given or made under or in connection with this Agreement (each a "Notice" for the purposes of this clause) shall be in English, in writing and signed by or on behalf of the person giving it

**Method of service**

- 15.2 Service of a Notice must be effected by one of the following methods

15.2.1 by hand to the relevant address set out in clause 15.4 and shall be deemed served upon delivery if delivered during a Business Day, or at the start of the next Business Day if delivered at any other time, or

15.2.2 by prepaid first-class post to the relevant address set out in clause 15.4 and shall be deemed served at the start of the second Business Day after the date of posting, or

15.2.3 by prepaid international airmail to the relevant address set out in clause 15.4 and shall be deemed served at the start of the fourth Business Day after the date of posting, or

15.2.4 by facsimile transmission to the relevant facsimile number set out in clause 16.4 and shall be deemed served on despatch, if despatched during a Business Day, or at the start of the next Business Day if despatched at any other time, provided that in each case a receipt indicating complete transmission of the

Notice is obtained by the sender and that a copy of the Notice is also despatched to the recipient using a method described in clauses 15.2.1 to 15.2.3 (inclusive) no later than the end of the next Business Day

- 15.3 Notwithstanding clause 1.3.7, in clause 15.2 "**during a Business Day**" means any time between 9.30 a.m. and 5.30 p.m. on a Business Day based on the local time where the recipient of the Notice is located. References to "**the start of [a] Business Day**" and "**the end of [a] Business Day**" shall be construed accordingly

**Address for service**

- 15.4 Notices shall be addressed as follows

- 15.4.1 Notices for the Buyer shall be marked for the attention of

Name	Chris Tyler
Address	Brampton House 50 Bergen Way North Lynn Industrial Estate King's Lynn Norfolk PE30 2JG
Fax number	+44 1553 765 599

- 15.4.2 Notices for the Sellers' Representative shall be marked for the attention of

Name	Timothy Brittain
Address	Benfield Golden Lane Ashurst West Sussex BN44 3AU

- 15.4.3 Notices for any Seller shall be addressed to the relevant Seller at the address set out next to his name in Schedule 1A

**Change of details**

- 15.5 A party may change its address for service provided that the new address is within the United Kingdom and that it gives the other party not less than 28 days' prior notice in accordance with this clause 15. Until the end of such notice period, service on either address shall remain effective

**Agent for service/deemed service**

- 15.6 The Sellers irrevocably authorise and appoint the Sellers' Representative as their agent for service of Notices and/or proceedings in relation to any matter arising out of or in connection with this Agreement and service on such agent in accordance with this clause 15 shall be deemed to be effective service on all of the Sellers

**16. RETENTION**

- 16.1 The Retention and the Cash for Shares Retention (together, the "**Cash Retentions**") (together with any accrued interest thereon) shall be applied in accordance with the provisions of clauses 3 8 to 3 10, subject to and in accordance with the provisions of this clause 16
- 16 2 The Cash Retentions shall be deposited for an initial period of one month on terms such that each qualifies as a "**qualifying time deposit**" for the purposes of section 482 ICTA 1988 On the deposits maturing, they (together with accrued interest but less any amounts deductible under the provisions of this clause) shall be re-deposited on similar terms (so far as is possible) for a further period of one month and so on successively for so long as there is any amount left in the Retention Account
- 16.3 The parties shall promptly give to the Sellers' Solicitors and the Buyer's Solicitors all such written instructions as shall be necessary to give effect to the provisions of this clause
- 16.4 Interest which accrues on the Retention Account shall follow the capital and be released to the party or parties entitled thereto contemporaneously with, and proportionately to, the release of the capital

**THIS AGREEMENT** has been duly executed on the date first stated above

SCHEDULE 1A

SHAREHOLDERS AND CONSIDERATION

(1) Name and address	(2) Ordinary Shares	(3) A Ordinary Shares	(4) B Ordinary Shares	(5) C Ordinary Shares	(6) D Ordinary Shares	(7) Preference Shares	(8) Initial Cash Consideration (£)	(9) Retention (£)	(10) Cash for Shares Retention (£)	(11) Individual Optionholders' Exercise Price (£)	(12) Initial Cash Consideration receivable by the Sellers (£)	(13) Initial Consideration Shares
James Brathwaite Church Farm House Rectory Lane Angmering West Sussex BN16 4JU	12,750	-	-	-	-	-	148,945	19,598	-	-	129,347	138,339
Martin Andrew Rowland Saxons New Road Rudgewood Uckfield East Sussex TN22 5TG	12,750	-	-	-	-	-	148,945	19,598	-	-	129,347	138,339
Keith Tozzi and OFA Trustee Services Limited c/o OFA Trustee Services Limited 36 East Stockwell Street Colchester Essex CO1 1ST	1,000	-	-	-	-	-	11,682	1,537	-	-	10,145	10,850
Synermed Europe Limited 67 Victoria Road Burgess Hill West Sussex RH15 9TR	17,000	-	-	-	-	-	198,594	26,131	-	-	172,463	184,452
Arthur Kay Cransford Little London Heathfield East Sussex TN21 0BB	-	-	-	-	3,325	-	62,562	5,111	5,111	21,250	31,090	-

(1) Name and address	(2) Ordinary Shares	(3) A Ordinary Shares	(4) B Ordinary Shares	(5) C Ordinary Shares	(6) D Ordinary Shares	(7) Preference Shares	(8) Initial Cash Consideration (£)	(9) Retention (£)	(10) Cash for Shares Retention (£)	(11) Individual Optionholders' Exercise Price (£)	(12) Initial Cash Consideration receivable by the Sellers (£)	(13) Initial Consideration Shares
Peter Finch c/o SHL Hong Kong Ltd 1202 Caroline Centre 28 Yun Ping Road Causeway Bay Hong Kong	6,240	-	-	-	-	-	72,896	9,591	-	-	63,304	67,705
Craig Ranger 6901 North Rockledge Ave Glendale Wisconsin 53209 USA	-	-	12,759	-	-	-	298,101	19,612	19,612	75,000	183,877	-
Many Oaks Consultancy Ltd 39 Collington Lane West Bexhill-on-Sea East Sussex TN39 3TD	430	-	-	-	-	-	5,023	661	-	-	4,362	4,666
Red Rabbit IT Solutions Ltd Worth Corner Turners Hill Road Crawley West Sussex RH10 7SL	861	-	-	-	-	-	10,058	1,323	-	-	8,735	9,342
South East Growth Fund Managers Limited Wellington House 31-34 Waterloo Street Birmingham West Midlands B2 5TJ	-	100,000	-	-	-	400,000	380,000	50,000	-	-	330,000	352,941

(1) Name and address	(2) Ordinary Shares	(3) A Ordinary Shares	(4) B Ordinary Shares	(5) C Ordinary Shares	(6) D Ordinary Shares	(7) Preference Shares	(8) Initial Cash Consideration (£)	(9) Retention (£)	(10) Cash for Shares Retention (£)	(11) Individual Optionholders' Exercise Price (£)	(12) Initial Cash Consideration receivable by the Sellers (£)	(13) Initial Consideration Shares
Timothy Brittain Benfield Golden Lane Ashurst West Sussex BN44 3AU	29,750	-	-	-	-	-	347,539	45,729	-	-	301,810	322,791
Joan Smith 5 Dunham Close Westhoughton Bolton Manchester BL5 2RP	4,250	-	-	-	-	-	49,648	6,533	-	-	43,115	46,113
Jonathan Gregory Furlong House Cross Street Drinkstone Bury St Edmunds Suffolk IP30 9TP	4,250	-	-	-	-	-	49,648	6,533	-	-	43,116	46,113
Adrian Gregory 4 Webster Road Aylesbury Buckinghamshire HP21 7FJ	4,250	-	-	-	-	-	49,648	6,533	-	-	43,116	46,113
Jeff TeRonde N28 W26595 Lauderdale Drive Pewaukee Wisconsin USA	-	-	2,000	-	-	-	46,728	3,074	3,074	26,250	14,329	-

(1) Name and address	(2) Ordinary Shares	(3) A Ordinary Shares	(4) B Ordinary Shares	(5) C Ordinary Shares	(6) D Ordinary Shares	(7) Preference Shares	(8) Initial Cash Consideration (£)	(9) Retention (£)	(10) Cash for Shares Retention (£)	(11) Individual Optionholders' Exercise Price (£)	(12) Initial Cash Consideration receivable by the Sellers (£)	(13) Initial Consideration Shares
Stuart Smith 4625 N Cramer Street Whitefish Bay Milwaukee WI 53217 USA	-	-	10,500	-	-	-	245,321	16,139	16,140	131,250	81,792	-
Jessica Ammerman 5590 North Diversey Boulevard Apt No 206 Whitefish Bay Wisconsin 53217 USA	-	-	1,000	-	-	-	23,364	1,537	1,537	13,750	6,540	-
Stephen Coverly Heustedter Weg 37 22844 Norderstedt Germany	-	-	-	7,000	-	-	145,813	10,760	-	105,000	30,053	7,460
<b>Total</b>	<b>93,531</b>	<b>100,000</b>	<b>26,259</b>	<b>7,000</b>	<b>3,325</b>	<b>400,000</b>	<b>2,294,515</b>	<b>250,000</b>	<b>45,474</b>	<b>372,500</b>	<b>1,626,541</b>	<b>1,375,224</b>



## SCHEDULE 1B

### RETENTION APPORTIONMENTS

(1) Shareholder	(2) Apportionment of Retention Account and Positive Adjustment (%)	(3) Adjustment Consideration Shares (Completion Net Assets greater than or equal to - £1,300,000)	(4) Adjustment Consideration Shares (Completion Net Assets less than - £1,300,000) <sup>1</sup> (%)	(5) Apportionment of Cash for Shares Retention (%)
James Brathwaite	7 839	20,960	9 582	-
Martin Andrew Rowland	7 839	20,960	9 582	-
Keith Tozzi and OFA Trustee Services Limited	0 615	1,644	0 752	-
Synermed Europe Limited	10 452	27,947	12 776	-
Arthur Kay	2 044	-	-	11 239
Peter Finch	3 837	10,258	4 690	-
Craig Ranger	7 845	-	-	43 128
Many Oaks Consultancy Ltd	0 264	707	0 323	-
Red Rabbit IT Solutions Ltd	0 529	1,415	0 647	-
South East Growth Fund Managers Limited	20 000	53,476	24 447	-
Timothy Brittain	18 292	48,907	22 358	-
Joan Smith	2 613	6,987	3 194	-
Jonathan Gregory	2 613	6,987	3 194	-
Adrian Gregory	2 613	6,987	3 194	-
Jeff TeRonde	1 230	-	-	6 670
Stuart Smith	6 456	-	-	35 492
Jessica Ammerman	0 615	-	-	3 380
Stephen Coverly	4 304	11,508	5 261	-
<b>Total</b>	<b>100</b>	<b>218,745</b>	<b>100</b>	<b>100</b>

<sup>1</sup> Number of Adjustment Consideration Shares to be issued to each Seller will be (rounded to the nearest whole number) the given % figure multiplied by the total number of Adjustment Consideration Shares to be issued

## SCHEDULE 2

### THE COMPANY AND THE SUBSIDIARIES

#### PART I - THE COMPANY

<i>Incorporated:</i>	6 June 2000
<i>Registered in England under No.:</i>	04008521
<i>Registered Office:</i>	67 Victoria Road Burgess Hill West Sussex RH15 9TR
<i>Authorised Share Capital:</i>	£1,000,000 Comprising (i) 463,416 ordinary shares of £1 each, (ii) 100,000 'A' ordinary shares of £1 each, (iii) 26,259 B ordinary shares of £1 each, (iv) 7,000 C ordinary shares of £1 each, (v) 3,325 D ordinary shares of £1 each and (vi) 400,000 cumulative redeemable preference shares of £1 each
<i>Issued Share Capital:</i>	£635,865 Comprising (i) 93,531 ordinary shares of £1 each (ii) 100,000 'A' ordinary shares of £1 each (iii) 26,259 B ordinary shares of £1 each, (iv) 7,000 C ordinary shares of £1 each, (v) 3,325 D ordinary shares of £1 each and (vi) 400,000 cumulative redeemable preference shares of £1 each held as set out in columns (2), (3), (4), (5), (6), and (7) of Schedule 1A
<i>Directors:</i>	James Brathwaite Timothy Brittain Stuart Smith Keith Tozzi
<i>Secretary:</i>	None
<i>Auditors:</i>	Baker Tilly UK Audit LLP
<i>Accounting Reference Date:</i>	30 June

***Charges:***

Debenture in favour of KBC Bank NV created on 29 November 2006

Share Pledge Agreement in favour of KBC Bank NV created on 29 November 2006

Pledge and Security Agreement in favour of KBC Bank NV created on 29 November 2006

***Nature of Business:***

The production and sale and servicing of water analysers

## **PART II - THE SUBSIDIARIES**

<b><i>Name:</i></b>	Seal Analytical Inc
<b><i>Incorporated:</i></b>	29 July 2002
<b><i>Registered in Delaware, USA under Employer Identification No:</i></b>	81-0565031
<b><i>Registered Office:</i></b>	Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle, Delaware, USA
<b><i>Authorised Share Capital:</i></b>	US\$300 comprising 3,000 shares of US\$0.01 each
<b><i>Issued Share Capital:</i></b>	US\$100 comprising 100 shares all of which are held by the Company
<b><i>Directors:</i></b>	Timothy Brittain Stuart Smith Jeff Te Ronde James Brathwaite
<b><i>Secretary:</i></b>	None
<b><i>Auditors:</i></b>	Virchow, Krause & Company LLP
<b><i>Accounting Reference Date:</i></b>	30 June
<b><i>Charges:</i></b>	None
<b><i>Nature of Business:</i></b>	The production and sale and servicing of water analysers

<b><i>Name:</i></b>	Seal Analytical GmbH
<b><i>Incorporated:</i></b>	2006
<b><i>Registered in Germany under No.:</i></b>	HRB 77183
<b><i>Registered Office:</i></b>	Norderstedt, Germany
<b><i>Authorised Share Capital:</i></b>	€25,000
<b><i>Issued Share Capital:</i></b>	€25,000 comprising one share of €250 and one share of €24,750 all of which are held by the Company
<b><i>Directors:</i></b>	Timothy Brittain Stephen Coverly
<b><i>Secretary:</i></b>	None
<b><i>Auditors:</i></b>	Rolfs Partners
<b><i>Accounting Reference Date:</i></b>	30 June
<b><i>Charges:</i></b>	(a) Security Transfer and Assignment Agreement in favour of KBC Bank NV dated 27 November 2006,  (b) Agreement on Security Transfer of Trademarks in favour of KBC Bank NV dated 27 November 2006,
<b><i>Nature of Business:</i></b>	The production and sale and servicing of water analysers

<b><i>Name:</i></b>	Seal Analytical International Limited
<b><i>Incorporated:</i></b>	28 June 2006
<b><i>Registered in England under No.:</i></b>	05860251
<b><i>Registered Office:</i></b>	67 Victoria Road, Burgess Hill, West Sussex, RH15 9TR
<b><i>Authorised Share Capital:</i></b>	£1,000 comprising 1,000 ordinary shares of £1 each
<b><i>Issued Share Capital.</i></b>	£100 Comprising 100 ordinary shares of £1 each all of which are held by the Company
<b><i>Director:</i></b>	Timothy Brittain
<b><i>Secretary:</i></b>	None
<b><i>Accountants:</i></b>	Baker Tilly
<b><i>Accounting Reference Date:</i></b>	30 June
<b><i>Charges:</i></b>	None
<b><i>Nature of Business:</i></b>	The production and sale and servicing of water analysers

## **SCHEDULE 3**

### **COMPLETION OBLIGATIONS**

#### **PART I - OBLIGATIONS OF THE SELLERS**

##### **1. Delivery obligations**

The Sellers shall deliver, or (if the Buyer shall so agree) make available, to the Buyer

*Share transfers, statutory books etc*

- 1.1 transfers of the Shares executed by the registered holders in favour of the Buyer (or persons nominated by the Buyer), the share certificates and any additional documentation necessary to establish each transferor's title to the Shares and to allow the transferee(s) (subject to due stamping) to be registered in the register of members of the Company as holder(s) of the Shares,
- 1.2 a certified copy of any power of attorney under which this Agreement or any of the transfers or other documents referred to in this Schedule is executed and evidence (to the Buyer's satisfaction) of the authority of any person signing on behalf of a corporate entity,
- 1.3 the certificate of incorporation and all certificates of incorporation on change of name, the common seal (if any), the statutory books and other record books of each Target Group Company written up to Completion,
- 1.4 the certificates in respect of all issued shares in the Subsidiaries and duly executed transfers in respect of such shares not registered in the name of the Company or another Subsidiary in favour of the Buyer (or persons nominated by the Buyer),
- 1.5 powers of attorney in the approved terms in respect of the rights attaching to the Shares executed by each registered holder of the Shares,

*Resignations*

- 1.6 resignation letters in the approved terms executed as deeds by the directors of each Target Group Company (other than Stuart Smith, Timothy Brittain and Stephen Coverly)
- 1.7 a copy of an unqualified letter of resignation from the auditors of each Target Group Company in the form prescribed by section 519 of the 2006 Act and confirming that such auditors have no claims for loss of office, unpaid fees or expenses or otherwise (the original of such letter to be deposited by the Sellers at the registered office of the relevant company),

*Banking arrangements*

- 1.8 executed releases, in the approved terms
  - 1.8.1 Debenture in favour of KBC Bank NV created on 29 November 2006,
  - 1.8.2 Share Pledge Agreement in favour of KBC Bank NV created on 29 November 2006,
  - 1.8.3 Pledge and Security Agreement in favour of KBC Bank NV created on 29 November 2006,
  - 1.8.4 security transfer and assignment agreement between Seal Analytical GmbH and KBC Bank NV dated 29 November 2006,
  - 1.8.5 agreement on security transfer of trademarks between Seal Analytical GmbH and KBC Bank NV dated 29 November 2006,
- 1.9 certified copies of deeds of release of personal guarantees in the approved terms executed by each party,

*Other documents in the approved terms etc*

- 1.10 the Tax Deed executed by the Covenantors (as defined in the Tax Deed),
- 1.11 the title deeds and all ancillary documents relating to the Properties (except to the extent the same are in the possession of mortgagees pursuant to mortgages disclosed in the Disclosure Letter),
- 1.12 the Service Agreements executed by the relevant member of the Target Group and each of Timothy Brittain and Stephen Coverly,
- 1.13 a letter entered into by Synermed Europe Limited in relation to maintenance obligations in respect of the Property, and

*Miscellaneous*

- 1.14 evidence satisfactory to the Buyer that the Sellers have complied with their obligations under paragraph 2 of this Schedule

**2. Procurement obligations**

Each Seller agrees with the Buyer to procure that at Completion



### *Indebtedness*

- 2.1 all indebtedness (and where relevant, interest, including the KBC Interest) owed by any Target Group Company to any person whatsoever (including, without limitation, any Seller or any of their connected persons) has been repaid (other than (i) indebtedness owed by any Target Group Company to any other Target Group Company, (ii) the KBC Debt, (iii) the loan provided to the Company by Nat West Bank plc pursuant to the "Loan Guarantee Scheme for Small Businesses", and (iv) indebtedness incurred in the ordinary and usual course of trading which is to be repaid in accordance with existing arrangements) whether or not such indebtedness is due for repayment,
- 2.2 all indebtedness (actual or contingent) owing to any Target Group Company by any Seller or any of their connected persons (other than another Target Group Company or the service contracts between the Company and its directors) or by the directors of any other Target Group Company has been repaid whether or not such indebtedness is due for repayment,

### *Guarantees etc*

- 2.3 each Target Group Company is released from any guarantee, security, indemnity, bond, letter of comfort or other similar obligation given or incurred by it which relates in whole or in part to debts or other liabilities or obligations (whether actual or contingent) of any person other than any other Target Group Company,

### *Board resolutions*

- 2.4 (with the co-operation of the Buyer) board resolutions, in the approved terms, of the Company and, as the case may be, each other Target Group Company are passed (prior to the taking effect of the resignations referred to in paragraph 1.6)
- 2.4.1 sanctioning for registration (subject, where necessary, to due stamping) the transfers in respect of the Shares and any shares referred to in paragraph 1.1 above
- 2.4.2 appointing Ben Stocks, Ian Stirling and Chris Tyler to be directors of the Company, Alan Brooks to be the secretary of the Company and Ben Stocks and Tim Kriegel to be directors of Seal Analytical, Inc and accepting the resignations of the directors referred to above,
- 2.4.3 amending all mandates to bankers to reflect the appointments and removals of the directors referred to above,
- 2.4.4 changing the accounting reference date of the Company and each other Target Group Company to 30 November,
- 2.4.5 authorising the Company to enter into the Service Agreements, and

- 2.4.6 appointing PricewaterhouseCoopers LLP as auditors to the Company and each other Target Group Company

*Miscellaneous*

- 2.5 to the extent that the Buyer so requires at Completion, the provisions of clause 11.1 regarding the records, papers, documents and data of the Company and each other Target Group Company are complied with,
- 2.6 to the extent that the Buyer so requires at Completion, the provisions of clause 11.2 regarding the assignment of the benefit of various agreements and arrangements to the Company and other members of the Target Group are complied with, and
- 2.7 the memorandum and articles of association of the Company are amended to the satisfaction of the Buyer

**PART II - OBLIGATIONS OF THE BUYER**

The Buyer shall, conditionally upon the satisfaction of the obligations set out in Part I of this Schedule

1. arrange for the telegraphic transfer by CHAPS to the Sellers' Solicitors' Account of the Preference Share Consideration and that part of the Initial Cash Consideration that shall be payable on Completion pursuant to clause 3.2.1, delivery of which shall discharge the Buyer from its obligation to pay such amount of the Initial Cash Consideration to the Sellers,
2. arrange for the telegraphic transfer by CHAPS of the Retention and the Cash for Shares Retention to the Buyer's Solicitors Account,
3. arrange for the telegraphic transfer by CHAPS to the Company (account number 74544012, sort code 60-09-21 with Nat West Bank plc) of £372,500, delivery of which shall discharge the Buyer from its obligation to pay such amount of the Initial Cash Consideration to the Sellers and also shall discharge the Individual Optionholders from their obligations to pay to the Company such proportion of the exercise price as is set out opposite their names in column (11) of Schedule 1A of those options in the capital of the Company exercised by them on the Completion Date,
4. deliver to the Sellers' Solicitors a counterpart of the Tax Deed executed by the Buyer,
5. deliver to the Sellers' Solicitors a certified copy of a board resolution of the Buyer authorising the execution and performance by the Buyer of its obligations under this Agreement and each of the documents to be executed by the Buyer pursuant to this Agreement and allotting the Consideration Shares pursuant to clause 3.1.2,

6. use all reasonable endeavours to procure that the Consideration Shares are admitted to the Official List and to trading on the London Stock Exchange's market for listed securities as soon as practicable and in any event within 5 Business Days following Completion,
7. deliver to the Sellers' Solicitors a copy of the Disclosure Letter duly signed by the Buyer,
8. deliver to the Sellers' Solicitors a counterpart of each of the Service Agreements executed by the relevant employing Target Group Company,
9. deliver to the Sellers' Solicitors the deeds of release of personal guarantees in the approved terms executed by each party, and
10. procure the delivery by the Buyer's registrars to each Seller within 10 Business Days of Completion a duly executed certificate in respect of the relevant amount of the Initial Consideration Shares

## **SCHEDULE 4**

### **WARRANTIES**

I	Disclosed information
II	Constitution
III	Accounts
IV	Assets
V	Liabilities
VI	Trading arrangements
VII	Effect of sale
VIII	Compliance and litigation
IX	Insolvency
X	Intellectual property
XI	Officers and employees
XII	Pensions
XIII	Property
XIV	Environment
XV	Tax

## **PART I - DISCLOSED INFORMATION**

### **1. Schedules**

The facts stated in Schedules 1, 2 and 6 are correct

## **PART II - CONSTITUTION**

### **1. Memorandum and articles of association**

The copy of the memorandum and articles of association of the Company annexed to the Disclosure Letter is true and complete and has embodied in it or annexed to it a copy of every such resolution or agreement as is referred to in section 29 of the Companies Act 2006 and sets out in full the rights and restrictions attaching to the share capital of the Company

### **2. Register of members**

The register of members of the Company has been properly kept and contains true and complete records of the members of the Company and the Company has not received any notice or allegation that the register is incorrect or incomplete or should be rectified

### **3. Statutory books**

The statutory books and minute books of the Company are up to date, in its possession and are true and complete in accordance with the law and the Company has not received any notice or allegation that any of them is incorrect or incomplete or should be rectified

### **4. Filings**

All resolutions, annual returns and other documents required to be delivered to the Registrar of Companies or to any other governmental or regulatory body or to any local authority have been properly prepared and filed and were, when filed true and complete

### **5. Compliance**

The Company and each of the Subsidiaries is validly incorporated, in existence and duly registered under the laws of its jurisdiction of incorporation. Each of the Target Group has full power under its memorandum or articles of association, by-laws or equivalent constitutional documents to conduct its business as conducted at the date of this agreement

### **6. Subsidiaries**

- 6.1** The shares of each Subsidiary are held by the Company free from all liens, charges and encumbrances or interests in favour of, or claims made by or which could be made by, any

other person and are held with all rights now or hereafter attaching to them and such shares are fully paid and have been properly and validly allotted

**6.2** The Subsidiaries are the only subsidiary undertakings of the Company and the Company has never had any other subsidiary undertakings

**6.3** With the exception of the Subsidiaries, the Company does not own (and has never agreed to own) any shares or debentures in the capital of, nor does it have (nor has it ever agreed to have) any beneficial interest in, any other company or business organisation nor does the Company control or take part in (nor has it ever agreed to control or take part in) the management of any other company or business organisation

## **7. Shares**

**7.1** Other than this Agreement, there is no agreement, arrangement or obligation requiring the creation, allotment, issue, sale, transfer, redemption or repayment of, or the grant to a person of the right (conditional or not) to require the allotment, issue, sale, transfer, redemption or repayment of, any share in the capital of the Company or any other Target Group Company (including an option or right of pre-emption or conversion)

**7.2** The Shares have been properly and validly allotted and represent the entire allotted and issued share capital of the Company

**7.3** The entire issued share capital of Seal Analytical GmbH is legally and beneficially owned by the Company and is free from all liens, charges and encumbrances or interests in favour of or claims made by or which could be made by any other person and such shares are fully paid

## **PART III - ACCOUNTS**

### **1. General**

**1.1** The Accounts are complete and accurate in all respects and show a true and fair view of the

**1.1.1** assets and liabilities (whether present or future, actual or contingent) and of the state of affairs and the financial position as at the Accounts Date, and

**1.1.2** profits/losses for the financial year ended on the Accounts Date

of the Company (or of the Target Group to the extent that they are consolidated accounts)

**1.2** The Company qualifies as a small company under Part VII of the Act and in accordance with the Financial Reporting Standard for Smaller Entities (effective June 2002)

- 1.3 The bases and policies of accounting adopted for the purpose of preparing the Accounts are the same as those adopted for the purpose of preparing the audited accounts of the Company for the three preceding accounting periods

**2. Historical trends**

The profits and losses of the Company shown by the Accounts and by the audited accounts of the Company for the three preceding accounting periods and the trend of profits and losses thereby shown have not (except as therein disclosed) been affected to a material extent by any non-recurring, exceptional, extraordinary or short-term item (including, but not limited to, any pension contribution, holiday or any rental or other outgoing at below market rates) or by any other matter which has rendered such profits or losses unusually high or low

**3 Fixed assets**

The value of the fixed assets of the Company as shown in the Accounts is at cost less depreciation. The depreciation of the fixed assets of the Company has been made at a rate sufficient to write down the value of such assets to nil by not later than the end of their useful working lives and no fixed asset has attributed to it a value exceeding its current market value at the Accounts Date and there has been no revaluation of such fixed assets since their acquisition

**4. Stock**

The value attributed to stock and work-in-progress in the Accounts does not exceed the lower of cost and net realisable value at the Accounts Date. For the purpose of ascertaining the net realisable value of stock at the Accounts Date

- 4.1 unsaleable, defective, redundant, obsolete and excessive stock and stock returned or rejected by a customer or which did not comply with the specification relating thereto and all stock which had at the Accounts Date been held for 24 months or longer has been written down to nil and

- 4.2 slow moving stock has been written down appropriately

**5. Provision or reserve**

Proper provision, reserve or note (as appropriate in accordance with generally accepted United Kingdom accounting conventions, policies and principles) has been made in the Accounts for all bad and doubtful debts, all liabilities and obligations (actual, contingent or disputed) and all capital commitments of the Company

**6. Off-balance sheet financing**

The Company is not engaged in any financing (including the incurring of any borrowing or

any indebtedness in the nature of acceptances or acceptance credits) of a type which would not be required to be shown or reflected in the Accounts

**7. Accounting records**

All books of account and other records of the Company (including any which it may be obliged to produce under any contract now in force) have been kept on a consistent basis, are in its possession, are true, complete and up to date and contain the information required by law

**8. Management Accounts**

The Management Accounts have been prepared with due care and attention, on bases consistent with those adopted in the preparation of previous management accounts of the Company, and show with reasonable accuracy the

8.1 assets and liabilities (whether present or future, actual or contingent) and the state of affairs and financial position as at the date to which they have been prepared, and

8.2 profits/losses for the period in respect of which they have been prepared

of the Company (or of the Target Group to the extent that they are consolidated accounts)

**9. Business since the accounts date**

Since the Accounts Date

9.1 the Company has traded at a profit and there has been no material adverse change in the financial or trading position or in the prospects of the Company and as far as the Warrantors are aware, no fact, matter, event or circumstance has occurred which is likely to give rise to any such change,

9.2 the Company has carried on its business in the ordinary and usual course and without any interruption or alteration in its nature, scope or manner,

9.3 the Company has not acquired or agreed to acquire any asset

9.3.1 otherwise than in the ordinary and usual course of trading, or

9.3.2 for a consideration which is higher than open market value at the time of its acquisition,

9.4 the Company has not disposed of or agreed to dispose of any asset

9.4.1 otherwise than in the ordinary and usual course of trading, or



- 9.4.2 for a consideration which is lower than open market value or book value (whichever is the higher) at the time of its disposal,
- 9.5 the Company has not assumed or incurred, or agreed to assume or incur, any liability (actual or contingent), obligation, commitment or expenditure
  - 9.5.1 otherwise than in the ordinary and usual course of trading, or
  - 9.5.2 involving an amount in excess of £20,000,
- 9.6 there have been no unusual increases or decreases in stock levels or prices,
- 9.7 there have been no material increases or decreases in the levels of debtors or creditors or in the average collection or payment periods for debtors and creditors respectively,
- 9.8 no distribution of capital or income has been declared, made or paid by the Company,
- 9.9 the Company has not repaid or redeemed any share or loan capital or agreed to do so,
- 9.10 the Company has not made any loan or agreed to do so, and
- 9.11 the Company has not paid or agreed to pay any service, management or similar charges to any Seller or any of their connected persons

#### **PART IV - ASSETS**

##### **1. Ownership**

- 1.1 Save as specifically disclosed in the Disclosure Letter, all the assets necessary for the operation of the Business, as currently carried on, are legally and beneficially owned by the Company or one of the Subsidiaries
- 1.2 No Security Interest is outstanding over the whole or any part of the undertaking, property or assets of the Company
- 1.3 None of the Sellers or any of their connected persons has any interest in any rights (other than rights as a shareholder in the Company) relating to the business or the assets of the Company
- 1.4 The Company's fixed asset register is annexed to the Disclosure Letter and sets out an accurate record of the plant, machinery, vehicles and equipment owned or used by it
- 1.5 The Company has not acquired or agreed to acquire any asset on terms that the property in such asset does not pass to it until full payment is made

- 1.6 All documents affecting the Company's title to any part of its undertaking, property or assets are in its possession

**2. Possession**

- 2.1 All of the assets owned by the Company or in respect of which the Company has a right of use are in the possession or under the control of the Company or one of the Subsidiaries

- 2.2 Where any assets are used but not owned by the Company or any facilities or services are provided to the Company by a third party, no event of default by the Company has occurred or is subsisting or has been alleged or, so far as the Warrantors are aware, is likely to arise which may entitle any third party to terminate any agreement or licence in respect of the provision of such facilities or services

**3. Adequacy**

- 3.1 The assets of the Company and the facilities and services to which the Company has a contractual right include all rights, properties, assets, facilities and services necessary or desirable for the carrying on of the business of the Company in the manner in which it is currently carried on

**4. Condition**

All plant, machinery, vehicles and equipment used by the Company are in good working order having regard to their age and fair wear and tear and have been adequately maintained (in accordance with appropriate technical specifications, safety regulations and the terms and conditions of any applicable agreements) and as far as the Warrantors are aware none is dangerous, inefficient, obsolete or in need of renewal or replacement

**5 Hire purchase and leased assets**

Copies of any bill of sale or any hiring or leasing agreement, hire purchase agreement, credit or conditional sale agreement, agreement for payment on deferred terms or any other similar agreement to which the Company is a party are annexed to the Disclosure Letter

**6. Stock**

- 6.1 The Company's stock is in good and marketable condition and the Company's level of stock is reasonable having regard to current and anticipated demand

**7. Debts**

- 7.1 The Company has not factored, sold or discounted any of its debts or agreed to do so

7.2 The Disclosure Letter sets out details of the Company's aged and doubtful debts as at [ ] and such details are accurate in all material respects

7.3 No debt owed to the Company (whether included in the Accounts or arising since the Accounts Date) has been realised for less than full face value or has been released (in whole or in part) and no indication has been received from the relevant customer or a credit agency that any debt now owing to the Company is bad or doubtful

7.4 The Company has not granted credit terms exceeding 30 days

## **8. Insurance**

8.1 A list of all current insurance and indemnity policies in respect of which the Company has any continuing interest (whether or not arranged by the Company or any Seller or any of their connected persons) is annexed to the Disclosure Letter. Such list is accurate and indicates any such policy which is written on an occurrence basis.

8.2 The particulars of the insurance policies maintained by the Company are annexed to the Disclosure Letter and are accurate and not misleading. The Company has at all material times been adequately covered against accident, third party liability, injury, damage and other risks normally covered by insurance by such companies. In respect of all such insurances

8.2.1 all premiums have been duly paid to date,

8.2.2 all the policies are in force and as far as the Warrantors are aware are not voidable, and

8.2.3 no claim is outstanding and as far as the Warrantors are aware no circumstances exist which may give rise to any claim or to any increase in premiums (other than as a result of a generally imposed premium increase)

## **PART V - LIABILITIES**

### **1. Borrowings**

The total amount borrowed by the Company from whatsoever source does not exceed any limitation on its borrowings contained in its articles of association or in any debenture or loan stock deed or any other instrument or agreement to which the Company is a party.

### **2. Facilities**

Details of all overdrafts, loans, invoice discounting, factoring or other financial facilities or any arrangement relating to the management of any interest rate or exchange rate liability which is outstanding or available to the Company are contained in the Disclosure Letter and

nothing has been done or omitted to be done whereby the continuance of any such facilities or arrangements in full force and effect might be affected or prejudiced (save where the prepayment of such facilities is expressly provided for in this Agreement)

### **3. Guarantees and indemnities**

Other than in the ordinary course of business, there is not outstanding any guarantee, indemnity, security, bond, letter of credit, letter of comfort or other similar obligation or any credit card, BACS or netting facility given by or for the benefit of the Company

### **4. Events of default**

No event has occurred or is subsisting or has been alleged or, so far as the Warrantors are aware, is likely to arise which

4.1 constitutes an event of default (howsoever described), or otherwise gives rise to an obligation to repay, or to give security under any agreement relating to borrowing or indebtedness in the nature of borrowing (or will do so with the giving of notice or lapse of time or both), or

4.2 will lead to any security for any borrowing or indebtedness in the nature of borrowing or any guarantee, indemnity or other obligation of the Company becoming enforceable (or will do so with the giving of notice or lapse of time or both)

## **PART VI - TRADING ARRANGEMENTS**

### **1. Suppliers**

1.1 In each of the last three financial years of the Company and during the current financial year (on an annualised basis) of the Company, no more than 10% of the aggregate amount of purchases of the Company has been or will be obtained from the same supplier (including any person connected with such supplier)

1.2 No material supplier to the Company has, during the last 12 months, ceased or indicated an intention to cease (or to reduce the volume of) trading with the Company or to materially increase prices nor, so far as the Warrantors are aware (having made no specific enquiry of such suppliers), is likely so to do

### **2. Customers**

2.1 In each of the last three financial years of the Company and during the current financial year (on an annualised basis) of the Company, no more than 10% of the aggregate amount of all the sales of the Company has been or will be made to the same customer (including any person connected with such customer)

- 2.2 No material customer of the Company has, during the last 12 months, ceased or indicated an intention to cease (or to reduce the volume of) trading with the Company nor, so far as the Warrantors are aware (having made no specific enquiry of such customers), is likely to do so

### 3. **Contracts**

- 3.1 Complete and accurate copies of all the material Contracts have been disclosed, including any agreement or arrangement which

- 3.1.1 is in the nature of a partnership, joint venture or consortium arrangement or agreement or any agreement for sharing commissions or other income,
- 3.1.2 is liable to be terminated by another party, or under which rights of any person are liable to arise or be affected as a result of any change in the control, management or shareholders of the Company,
- 3.1.3 is of a long-term nature (that is to say, unlikely to have been fully performed, in accordance with its terms, more than six months after the date on which it was entered into),
- 3.1.4 is of a loss-making nature (that is to say, now known to be likely to result in a loss on completion of performance or to result in a failure to achieve the budgeted profit margin),
- 3.1.5 limits or excludes the right of the Company to do business and/or to compete in any area or in any field or with any person,
- 3.1.6 is of an unusual or abnormal nature or entered into otherwise than on an arm's-length basis or otherwise than in the ordinary and usual course of its trading,
- 3.1.7 is incapable of termination in accordance with its terms by the Company on 60 days' notice or less,
- 3.1.8 involves, or is likely to involve, an aggregate outstanding or potential expenditure by the Company of more than £50,000,
- 3.1.9 is an agreement to which any Seller is a party or in which any Seller (or any person connected with any of them) is interested or from which any such person takes benefit (directly or indirectly),
- 3.1.10 is having, or as far as the Warrantors are aware is likely to have, a material effect on the financial or trading position or prospects of the Company

### 4. **Validity and performance of Contracts**

In relation to each of the material Contracts

- 4.1 as far as the Warrantors are aware there are no grounds for its invalidity, termination, avoidance, rescission or repudiation,
- 4.2 the Company has not given notice to terminate it and as far as the Warrantors are aware no party has given notice to terminate it (no specific enquiry having been made of such other parties) nor has the Company sought to repudiate or disclaim it nor, so far as the Warrantors are aware, intends to do so nor has any party as far as the Warrantors are aware (having made no specific enquiry of any such party) sought to suspend its performance (for whatever reason),
- 4.3 so far as the Warrantors are aware no party is in material breach of it nor is there any material delay in its implementation, and
- 4.4 so far as the Warrantors are aware, there are no facts or circumstances which are likely to give rise to any of the above and no party has made any allegation to the Company of any material breach nor made any material complaint regarding the performance or non-performance of such agreement, arrangement or obligation

**5. Standard terms**

- 5.1 The copy of the standard terms and conditions of business of the Company which has been disclosed to the Buyer is complete and accurate

**6. Preferential terms**

The Disclosure Letter contains details of all material discounts, over-riders, rebates, allowances and other preferential terms of any nature available to the Company from its suppliers or offered by the Company to its customers

**7 Defective goods or services**

- 7.1 There is no claim, and as far as the Warrantors are aware (having no specific enquiry of any customers) there are no circumstances which may lead to any claim, against the Company for faulty, defective or dangerous goods, services, work or materials or for breach of representation, warranty or condition or for delays in delivery or completion of contracts or for deficiencies of design or performance or otherwise relating to liability for goods or services sold or supplied by or on behalf of the Company
- 7.2 The Company has not agreed to produce or deliver replacement goods or perform replacement or additional services after the date of this Agreement or to take back any goods (whether defective or not) or reimburse the cost of any services or to effect modifications or

repairs to the same free of charge or otherwise than at arm's-length rates or to issue a credit note, money-back guarantee or write-off or reduce indebtedness in respect thereof

7.3 All Products when supplied complied with all applicable laws, standards and requirements, performed in accordance with their specifications and were of satisfactory quality and fit for their purpose

7.4 The Company has not been notified of any changes to applicable laws, standards and requirements that would result in any Product ceasing to comply with relevant laws, standards and requirements

## **8. IT Systems**

8.1 The IT Systems perform adequately in accordance with their specifications and as far as the Warrantors are aware do not contain any defect or feature which may adversely affect their performance

8.2 The IT Systems are substantially adequate for the current use of the Business in terms of functionality, capacity and performance

8.3 As far as the Warrantors are aware, no action (including the payment of any sum) will be necessary to enable the IT Systems to continue to be used in the Business to the same extent and in the same manner as they have been used up to and including the date of this Agreement

8.4 The IT Systems are covered by warranty and/or maintenance arrangements which the Seller reasonably believes are adequate for requirements of the Business and sufficient to remedy or compensate any material defect

8.5 Reasonable steps have been taken to back up electronically stored information used in the Business, and each Target Group Company has in place adequate disaster recovery and security arrangements in relation to the IT Systems

8.6 Without prejudice to any other warranty contained in this Agreement, in the 12 months prior to the date of this Agreement, the Companies have not suffered any failure, virus or bug in, or breakdown of, any part of the IT Systems which has caused any material disruption or interruption to its use by the Companies and the Warrantors are not aware that

8.6.1 there is any fact or matter which may disrupt or interrupt or affect the use of the IT Systems following Completion of this Agreement, or

8.6.2 any third party (having made no specific enquiry of such third party) has suffered any failure, virus, bug or breakdown of any computer system (including any software used in conjunction with the same) used in conjunction with the IT Systems which has caused any material disruption or interruption to

its use by the Company

8.7 The Sellers have disclosed to the Purchaser complete and accurate copies of any agreement or commitment entered into by each Company in respect of any planned upgrade or new acquisition of the IT Systems

8.8 All third party owned or supplied Software used by or in the possession of the Company (including Software used in the Company's Products) is subject to valid and subsisting software licences allowing for the use of the software in the Business and in the Products by the Company or in relation to Software used in the Products for the use by the Company's customers and the Company has, in its possession or under its control, documents sufficient to prove their validity and subsistence

## **9. Ownership and operation of the hardware**

The Hardware is

9.1 legally and beneficially owned by each Company free from any Security Interest,

9.2 operated by and under the control of each Company, and

9.3 not dependent on any facilities which are not under the exclusive ownership, operation or control of any Company

## **10. Data Protection**

Each Company has complied with the provisions of the Data Protection Act 1998 and all regulations made under it and any equivalent legislation in any other jurisdiction to which the Company has been or is subject

## **11. Confidential Information**

Where information of a confidential nature has been developed or acquired by any Company for the purposes of the business in the five year period prior to the date of this Agreement, such information (except in so far as it has fallen into the public domain through no fault of such Company or Seller) has been kept strictly confidential and has not been disclosed otherwise than subject to an obligation of confidentiality being imposed on the person to whom the information was disclosed. The Warrantors are not aware (having made no enquiry of any third party) of any breach of such confidentiality obligations by any third party

## **12. Records**

12.1 All the Business Information is recorded, stored, maintained or operated or otherwise held by a Target Group Company and the use of or access to such Business Information is not



wholly or partly dependent on any facilities which are not under the exclusive ownership or control of the relevant Target Group Company

## **PART VII - EFFECT OF SALE**

Neither the execution nor the completion or performance of this Agreement or of any document to be executed pursuant to it will

1. as far as the Warrantors are aware result in the Company losing the benefit of any asset, licence, grant, subsidy, right or privilege which it enjoys in any jurisdiction,
2. as far as the Warrantors are aware conflict with, or result in a breach of, or give rise to an event of default under, or require the consent of a person under, or enable a person to terminate, or relieve a person from an obligation under, any agreement, arrangement or obligation to which the Company is a party or any legal or administrative requirement in any jurisdiction,
- 3 result in any customer or supplier being entitled to cease dealing with the Company or substantially to reduce its existing level of business or to change the terms on which it deals with the Company or as far as the Warrantors are aware (having made no enquiry of any suppliers or customers) otherwise prejudicially affect the attitudes, actions or prices of any such customer or supplier,
4. so far as the Warrantors are aware, result in any officer or senior employee leaving the employ of the Company, or
5. make the Company or the Buyer liable to offer for sale, transfer or otherwise dispose of or purchase or otherwise acquire any assets, including shares held by it in other bodies corporate under their articles of association or any agreement or arrangement

## **PART VIII - COMPLIANCE AND LITIGATION**

1. **Compliance with laws**
  - 1.1 The Target Group and its officers, agents and employees (past and present) in the course of their respective duties have complied in all material respects with all applicable laws and regulations of the United Kingdom, the European Community, the US or any other foreign jurisdiction in which the Business is carried on and is not in breach of the provisions of its memorandum or articles of association
  - 1.2 As far as the Warrantors are aware there is no violation of, or default with respect to, any statute, regulation, order, decree or judgment of any court or any governmental agency of the United Kingdom, the European Community, the US or any other foreign jurisdiction which may have a material adverse effect upon the assets or business of the Company

## **2. Licences and consents**

- 2.1 The Disclosure Letter discloses details of all licences, consents, approvals, permissions, permits, certificates, qualifications, registrations and other authorisations (public and private) necessary or desirable for the proper and efficient operation of the Business in the places and in the manner in which the Business is now carried on (together the "Authorities")
- 2.2 All of the Authorities are in full force and effect and are not limited in duration, and have been complied with in all material respects
- 2.3 So far as the Warrantors are aware, there are no circumstances which indicate that any of the Authorities will or are likely to be revoked or not renewed, in whole or in part, whether as a result of the transactions contemplated by this Agreement or otherwise

## **3. Litigation**

Except as claimant in the collection of debts arising in the ordinary course of business (none of which exceeds £10,000 and which do not exceed £10,000 in aggregate), no member of the Target Group is a claimant or defendant in or otherwise a party to any material litigation, arbitration or administrative proceedings (including any proceeding before any tribunal) which are in progress, threatened or pending by or against or concerning it or any of its assets. The Warrantors are not aware of any circumstances which are likely to give rise to any such proceeding

## **4. Investigations**

So far as the Warrantors are aware, no governmental, administrative, regulatory or other official investigation or inquiry concerning any Target Company is in progress or pending and as far as the Warrantors are aware having made no enquiry of such governmental, administrative, regulatory or other official body, there are no circumstances likely to lead to any such investigation or inquiry

## **PART IX - INSOLVENCY**

### **1. Winding up**

No order has been made, petition presented or meeting convened for the winding up of the Seller and member of the Target Group or for the appointment of any provisional liquidator or in relation to any other process whereby the business is terminated and the assets of the company concerned are distributed amongst the creditors and/or shareholders or other contributors, and there are no cases or proceedings under any applicable insolvency, reorganisation or similar laws in any relevant jurisdiction, and as far as the Warrantors are aware no events have occurred which, under applicable laws, would be reasonably likely to justify any such cases or proceedings

## **2. Administration and receivership**

As far as the Warrantors are aware no person has taken any step, legal proceeding or other procedure with a view to the appointment of an administrator, whether out of court or otherwise, in relation to the Sellers or any member of the Target Group, and no receiver (including administrative receiver) has been appointed in respect of the whole or any part of any of the property, assets and/or undertaking of any member of the Target Group, nor has any order been made (including, in any relevant jurisdiction, another order by which, during the period it is in force, the affairs, business and assets of the company concerned are managed by a person appointed for the purpose by a court, governmental agency or similar body)

## **3. Voluntary arrangement etc**

None of the Sellers or any member of the Target Group has taken any step with a view to suspension of payments or a moratorium of any indebtedness or has made any voluntary arrangement with any of its creditors or is insolvent or unable to pay its debts as they fall due

# **PART X - INTELLECTUAL PROPERTY**

## **1. Ownership Of Business IPR**

### **1.1 There are no Intellectual Property Rights necessary or desirable for carrying on the Business other than**

**1.1.1 Intellectual Property Rights of which the Company is sole legal and beneficial owner, and**

**1.1.2 the Licensed IPR**

### **1.2 The Company is the sole legal and beneficial owner of all of the Business IPR other than the Licensed IPR free from any encumbrances Without prejudice to the foregoing and save to the extent specified in the IPR Agreements, there are no agreements or arrangements of any kind which restrict, or could restrict, the disclosure, use, licensing, assignment or charging by the Company of any Business IPR**

### **1.3 All the Business IPR is sufficiently documented to allow its full and proper use without reliance on the special knowledge or memory of any one or more individuals**

## **2. Know-How**

### **2.1 All Know-How material to the Business has been kept strictly confidential and has not been disclosed otherwise than subject to an obligation of confidentiality on the person to whom it**

was disclosed and subject to an obligation on that person not to use the Know-How other than for the purpose for which it was disclosed

- 2.2 There is no Know-How material to the Business which, following the completion and performance of this Agreement, the Business will not be able to use free from any restrictions

### **3. Licensing**

- 3.1 The Company or the Target Group has not granted and is not obliged to grant any licence or other permission to any person in respect of any Business IPR other than

3.1.1 to the extent specified in the IPR Agreements,

3.1.2 in respect of the disclosure of Know-How to a person in the ordinary course of the Business subject to the obligations described in paragraph 2.1, or

3.1.3 implied licences granted by the Company or the Target Group in the ordinary course of the Business which may be terminated by the Company or the Target Group without liability on less than three months' notice

### **4. Infringement and validity**

- 4.1 In respect of all Business IPR other than the Licensed IPR

4.1.1 as far as the Warrantors are aware such Business IPR are not being infringed nor are they the subject of any claim, opposition or action and the Company is not aware of any circumstance (existing or reasonably foreseeable) which is likely to cause any such claim, opposition or action,

4.1.2 all such Business IPR are valid and subsisting and the Company has, in its possession or under its control, documents sufficient to prove their validity and subsistence and their ownership by the Company, and

4.1.3 the Company has not done or omitted to do any act, matter or thing in respect of any such Business IPR and no event has occurred or as far as the Warrantors are aware is likely to occur which would or might impinge upon the validity or enforceability of the same or upon the right of the Company to use the same, nor are there any acts which need to be done to perfect the vesting of title to the same in the Company

- 4.2 So far as the Company is aware (having made no enquiry of the licensor of the Licensed IPR), the Licensed IPR are

4.2.1 owned solely and beneficially by the relevant licensor under the IPR Agreement in question, free from any encumbrance and, without prejudice to the foregoing, there are no agreements or arrangements other than the IPR Agreements which restrict

or could restrict the use by the Company or the Target Group of such Licensed IPR and none of the Licensed IPR has been sub-licensed by the Company or the Target Group,

4.2.2 not being infringed nor are they the subject of any claim, opposition, court order or action, and

4.2.3 valid and subsisting and no party to the relevant IPR Agreement has done or omitted to do any act, matter or thing and no event has occurred or as far as the Warrantors are aware is likely to occur which will or might impinge upon the validity or enforceability of the Licensed IPR or upon the right of the Company to use the same

4.3 As far as the Warrantors are aware none of the activities of the Business infringe or as far as the Warrantors are aware are likely to infringe any Intellectual Property of any other person or involve the unauthorised use of information confidential to any person or, save as provided in the IPR Agreements, gives rise to any liability for any royalty or similar payments

## **5 IPR Agreements**

5.1 The execution and performance of this Agreement will not entitle any party to any IPR Agreement to exercise any rights (whether of termination or otherwise) which would not otherwise have arisen nor, as a result of such execution and performance, will

5.1.1 any such party be relieved of any obligations under any IPR Agreement, nor will

5.1.2 the Company incur any liability to any person which would not otherwise have arisen

5.2 So far as the Company is aware

5.2.1 each of the IPR Agreements is in full force and effect, each is valid and binding and (having made no enquiry) there exist no grounds upon which any of them may be terminated by any party,

5.2.2 the Company has neither given nor received notice of termination of any IPR Agreement, and

5.2.3 no party (having made no enquiry of such party) to any of the IPR Agreements is in material default and nor have there been any material disputes at any time relating to or arising out of any of the IPR Agreements and as far as the Warrantors' are aware (having made no enquiry of such party) no party to the relevant IPR Agreement has done or omitted to do any act, matter or thing and no event has occurred or is likely to occur which will or might impinge upon the validity or enforceability of the Licensed IPR or upon the right of the Company to use the same

## **6. Material Business IPR**

Annexed to the Disclosure Letter is a list of all material Business IPR

## **PART XI - OFFICERS AND EMPLOYEES**

In this Part XI references to “employees” mean employees of any of the Target Group Companies and “employee” means any one of them

### **1. Particulars**

**1.1** Those persons named as such in the schedule of officers annexed to the Disclosure Letter are the only directors of the Target Group Companies and there is directors' and officers' liability insurance in place for each of the named officers and copies of the relevant policies have been disclosed to the Buyer

**1.2** No person is or has been a shadow director of any Target Group Company

**1.3** The particulars shown in the schedule of employees annexed to the Disclosure Letter list all the employees of each of the Target Group Companies, are true and accurate and disclose in relation to each employee (or, where appropriate, to each category of employee)

**1.3.1** gender, date of birth, period of continuous service and workplace location,

**1.3.2** all other terms and conditions of employment including job title or job function, job grade, pay, notice periods, holiday entitlements, benefits (car, healthcare etc ), restrictive covenants, bonus arrangements and any entitlements to severance or other payments on termination of employment (including enhanced redundancy payments),

**1.3.3** arrangements relating to hours of work (including any night work and part-time work) and overtime,

**1.3.4** the terms of any share option, incentive or other similar scheme in which any of the employees are entitled to participate (together with details of their entitlements), and

**1.3.5** any benefits provided to any of the employees on an ex gratia or discretionary basis

**1.4** No change in the remuneration, benefits and arrangements relating to the employees is due or expected within six months from the date of this Agreement and no request for any such change has been received and no such change has occurred at any time during the period of

12 months immediately preceding the date of this Agreement other than salary or wage increases in the ordinary course of business

- 1.5 No employee will be entitled to receive any payment, right or benefit from the Company arising out of or in connection with either this Agreement and/or Completion of this Agreement
- 1.6 No Target Group Company has made any outstanding offer nor agreed to employ any person who is not an employee of such Target Group Company at the date of this Agreement
- 1.7 No Target Group Company has any obligation to provide any benefit or make any payment of any nature (including share options, profit share or bonus) to or for the benefit of, or in connection with the employment or office of, any former employees or officers

## **2. Compliance**

- 2.1 As far as the Warrantors are aware, each Target Group Company has complied in all material respects with all its obligations (including health and safety obligations) to or in respect of all employees and former employees arising out of or in connection with their terms and conditions of employment and/or with any relevant requirement whether under European law, English law or otherwise including any judgments, decisions, orders and awards made in respect of any of them and no amount due to or in respect of any employee or former employee is in arrears and unpaid (including holiday pay and bonuses) other than salary for the month current at the date of this Agreement, and no liability for any failure to comply with any such obligation or requirement has been transferred to the Company by virtue of the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE")
- 2.2 Each Target Group Company has maintained adequate, relevant and accurate records in all material respects relating to its employees and former employees (including records relating to employers' liability insurance, data protection, working time legislation, national minimum wage, parental leave, maternity leave, paternity leave, adoption leave, sickness absence and evidence of entitlement to work in the country in which the employees work)

## **3. Notice**

- 3.1 There is not outstanding any contract of employment between any Target Group Company and any of its directors, officers or employees which is not terminable by the Target Group Company without payment in lieu of notice, damages or compensation (other than any compensation payable by statute) on three month's notice or less given at any time
- 3.2 No employee of any Target Group Company has given notice to terminate his contract of employment or is under notice of dismissal

**4. Trade unions**

There are no recognition, procedural or other arrangements with trade unions which relate to any of the employees nor so far as the Warrantors are aware are any of the employees members of a trade union, the Company has not received any outstanding applications for trade union recognition or derecognition relating to any of the employees and nor are any such applications likely to be made, there is no staff association, works council or similar employee body or employee representatives relating to any of the employees

**5. Disputes and disciplinary/grievance proceedings**

5 1 There are no, nor at any time during the 12 months preceding the date of this Agreement have there been any, disputes, enquiries or investigations involving the Company relating to the employees or former employees of Target Group Company and/or any trade union or other representatives nor as far as the Warrantors are aware are any such disputes, enquiries or investigations pending or threatened or likely to arise

5 2 There are no disciplinary or grievance proceedings which have not yet been completed and there are no appeals pending in relation to any disciplinary or grievance decisions, in either case relating to any employee

**6. Absence**

No employee of any Target Group Company has been absent from work for more than 4 consecutive weeks for any reason whatsoever

**7. Property**

No employee resides in or occupies or is entitled to reside in or occupy any property belonging to any Target Group Company

**8. Loans**

There are no outstanding loans made by any Target Group Company to any of the employees

**9. Immigration**

All employees of the Target Group Companies have permission and authorisation to work in the country in which their place of work is located, including any necessary work visas. Either the Company or Seal Analytical Inc. has properly verified employment eligibility of all employees working in the US in compliance with the US Immigration Reform Control Act and other immigration laws and have retained fully completed and executed Forms 1-9 (Employment Eligibility Verification Form) for each such employee.



**10. Secondments**

No Target Group Company has entered into any secondment arrangement relating to any of its employees and no persons, other than the employees, are or have been, at any time during the period of 12 months preceding the date of this Agreement, employed or engaged by any Target Group Company (whether on an agency basis or otherwise) to work in the business as carried on by any Target Group Company as at the date of this Agreement

**11. Outsourcing**

No Target Group Company is a party to any outsourcing or contracting-out arrangements

**12. Consultancy**

No Target Group Company has entered into any consultancy arrangements

**13 Redundancies**

No Target Group Company has been subject to a requirement in respect of any of its employees to consult with appropriate representatives as defined in section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 and/or issue a form HR1 during the twelve months immediately preceding the date of this Agreement

**14. TUPE**

No Target Group Company has been a party to a "relevant transfer" (as defined in TUPE) at any time during the period of three years immediately preceding the date of this Agreement

**PART XII – PENSIONS**

**1. Interpretation**

The following words and expressions where used in this Part shall have the meanings given to them below

**1.1 "COBRA"** means the requirements of Part 6 of Subtitle B of Title I of ERISA and Code § 4980B

**1.2 "Code"** means the US Internal Revenue Code of 1986, as amended

**1.3 "Employee Pension Benefit Plan"** has the meaning set forth in ERISA § 3(2)

**1.4 "Employee Welfare Benefit Plan"** has the meaning set forth in ERISA § 3(1)

**1.5 "ERISA"** means the US Employee Retirement Income Security Act of 1974

**1.6 "IRS"** means the US Internal Revenue Service

- 1.7 **"Multiemployer Plan"** has the meaning set forth in ERISA § 3(37)
- 1.8 **"Proceedings"** includes any litigation, arbitration or tribunal proceedings, any investigation or determination by any regulatory body, any request for information, investigation or determination by the Pensions Ombudsman or the Pensions Advisory Service and any complaint under any internal dispute resolution procedure established in connection with the Schemes
- 1.9 **"Relevant Benefits"** has the meaning given to it in section 393B(1) of the Income Tax (Earnings and Pensions) Act 2003 but with the omission of the exclusions set out in section 393B(2) of that Act
- 1.10 **"Relevant Person"** means any past or present employee, officer or director of any Target Group Company or any predecessor to all or part of the business of any Target Group Company and their respective spouses, civil partners and dependants
- 1.11 **"Schemes"** means each of the following
- The Executive Pension Scheme of Seal Analytical Limited (the **"Executive Scheme"**),
  - The Seal Analytical Group Personal Pension Scheme for Provident Mutual Members,
  - The Seal Analytical Group Personal Pension Scheme for non Provident Mutual Members,
  - The pension operated by Seal Analytical GmbH of which Stephen Coverly, Uwe Doring and Heinz Rohwetter only are members, and
  - The 401K plan operated by Seal Analytical Inc
- 1.12 **"US Employee Benefit Plan"** means any (a) qualified or non-qualified Employee Pension Benefit Plan (including any Multiemployer Plan) or deferred compensation or retirement plan or arrangement, (b) Employee Welfare Benefit Plan or (c) equity-based plan or arrangement (including any stock option, stock purchase, stock ownership, stock appreciation or restricted stock plan) or material fringe benefit or other retirement, severance, bonus, profit-sharing or incentive plan or arrangement, in each case, of or applicable to any US Subsidiary
- 1.13 **"connected"** and **"associate"** have the meanings given to them in sections 435 and 249 of the Insolvency Act 1986 respectively
- 1.14 **"transaction at an undervalue"** has the meaning given to it in section 52(6) of the Pensions Act 2004
2. **Warranties**
- 2.1 Save for the Schemes, no obligation, agreement, arrangement or understanding (whether actual or contingent, contractual, under trust or otherwise) exists for the provision of

Relevant Benefits for any Relevant Person with which any member of the Target Group is or may become legally or morally liable to make any payment, and no member of the Target Group has participated in or contributed to such arrangement and no Target Group Company is liable to make contributions to a personal pension or stakeholder pension scheme in respect of any person

- 2.2 A list of all the Relevant Persons who are active members, including the current payment schedules showing the employers' and members' rates of contributions to these schemes have been disclosed to the Purchaser
- 2.3 As far as the Warrantors are aware, all information made available to the Purchaser or its advisers in connection with the Schemes is true and accurate in all material respects
- 2.4 All benefits payable, or prospectively or contingently payable, under the Schemes are (and always have been) money purchase benefits within the meaning of section 181(1) of the Pension Schemes Act 1993
- 2.5 All benefits payable on the death of any Relevant Person are fully insured with an insurance company (as defined in section 275 of Finance Act 2004) and all premiums and other amounts payable under such insurance contracts have been paid
- 2.6 All contributions to the Schemes and other amounts which have fallen due for payment by any Target Group Company have been paid on or before their due dates and in accordance with the Schemes' payment schedules
- 2.7 Without prejudice to the generality of paragraph 2.13 below, no person is entitled to any enhanced terms as to the payment of, or the amount of, Relevant Benefits (whether under the Schemes or otherwise) if he takes early retirement or is made redundant (or as a result of having taken early retirement or having been made redundant) whether passed to any Target Group Company or to any business previously acquired by any Target Group Company by the operation of the Transfer of Undertakings (Protection of Employment) Regulations 1981 or the Transfer of Undertakings (Protection of Employment) Regulations 2006 or otherwise
- 2.8 No Target Group Company is engaged in or involved in any Proceedings which relate to or are in connection with any Relevant Benefit, as far as the Warrantors are aware no such Proceedings are pending or threatened, and as far as the Warrantors are aware there are no facts likely to give rise to any such Proceedings
- 2.9 Each Target Group Company has at all times complied with the applicable requirements of the Welfare Reform and Pensions Act 1999 in all material respects and all other regulatory or legislative requirements relating to the provision of stakeholder pensions
- 2.10 No financial support direction or contribution notice has been issued by the Pensions Regulator under section 43 or 38 of the Pensions Act 2004 respectively against any member of the Target Group and no Target Group Company is, nor has been at any time since 27 April 2004, connected with or an associate of any other company which participates, or has participated, in a scheme to which section 38 or 43 of the Pensions Act 2004 applies

- 2.11 No restoration order has been issued by the Pensions Regulator under section 52 of the Pensions Act 2004 against any member of the Target Group, and no Target Group Company has been a party to a transaction at an undervalue entered into within two years prior to the date of this Agreement
- 2.12 No indemnity, undertaking or guarantee has been given by any member of the Target Group in connection with any Relevant Benefits, any occupational pension scheme or any personal pension or stakeholder pension scheme and no undertaking, assurance or announcement (whether legally enforceable or not) has been given to any Relevant Person about the continuance, introduction, increase or improvement of any Relevant Benefits or a change in any of the conditions of membership of the Schemes
- 2.13 Each Target Group Company has complied with the requirements of sections 257 and 258 of the Pensions Act 2004 (pension protection on transfer of employment) and sections 260 and 261 of the Pensions Act 2004 (consultation by employers) in respect of its employees and former employees
- 2.14 Each Target Group Company has complied with the requirements of the Transfer of Undertakings (Protection of Employment) Regulations 1981 and the Transfer of Undertakings (Protection of Employment) Regulations 2006 insofar as they concern the provision of, or contributions in respect of, Relevant Benefits
- 2.15 The Executive Scheme is, and has been with effect from its establishment on 15 July 2003, an approved personal scheme under section 592 of the Income and Corporation Taxes Act 1988) (prior to 6 April 2006) and a registered pension scheme under Chapter 2 of Part 4 of the Finance Act 2004 thereafter and nothing has been done or omitted to be done which will or may result in the Executive Scheme ceasing to be so registered
- 2.16 Every person, including every person in part-time and/or fixed-term employment, who has at any time had the right to join, or apply to join, the Schemes has been properly advised of that right No Relevant Person has been excluded from membership of the Schemes or from any benefits under the Schemes in contravention of Article 141 of the EC Treaty, section 62 of the Pensions Act 1995 (or any supervening legislation) or other applicable laws or requirements, the provisions of the Schemes or otherwise
- 2.17 As far as the Warrantors are aware, the Executive Scheme complies with and has at all times been administered in accordance with all applicable laws, regulations and requirements (including, without limitation, those of HM Revenue & Customs, trust law and data protection legislation)
- 2.18 Each US Employee Benefit Plan that is an Employee Pension Benefit plan meets the requirements of a "qualified plan" under Code S 401(a), has received a favourable determination letter from the IRS that it is such a "qualified plan" and, to the knowledge of the warrantors (having made no enquiry), there are no facts or circumstances that could result in the revocation of such determination letter
- 2.19 There is no US Employee Benefit plan that is covered by or subject to Title IV of ERISA

- 2.20 The execution of this Agreement and any other document contemplated hereunder and the performance of the transactions contemplated hereunder and thereunder will not constitute a triggering event under any US Employee Benefit Plan that (either alone or upon the occurrence of any additional or subsequent event) will or may result in any payment, "parachute payment" (as defined in Code S 280 G), acceleration, vesting or increase in benefits to any employee, former employee or director of Seal Analytical Inc
- 2.21 Neither Seal Analytical Inc nor any other member of the "controlled group" (as defined in Code S 1563) that includes Seal Analytical Inc contributes, has contributed, has been required to contribute, or as a result of the transactions contemplated hereunder will be required to contribute to any Multiemployer Plan or has any liability (including withdrawal liability as defined in ERISA S 4201) under any Multiemployer Plan Seal Analytical Inc neither maintains nor has ever maintained or contributed, or been required to contribute, or as a result of the transactions contemplated hereunder, will be required to contribute to any Employee Welfare Benefit Plan providing medical, health, or life insurance or other welfare-type benefits for current or future retired or terminated employees, their spouses or their dependents (other than in accordance with COBRA)

## **PART XIII – PROPERTY**

### **1. Interpretation**

In this Part XIII each Warranty which is expressed to be given in relation to the "Property" shall be deemed to be given in relation to each of the Properties as if it had been repeated with respect to each of the Properties and each and every part of it and reference to the "Owner" shall, where the context so admits, be a reference to the Target Group Company which is the owner of the relevant Property as shown in Schedule 6 In this Part XIII references to the "Town and Country Planning Legislation" shall mean the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004 and any other town and country planning or related legislation and any statute amending, consolidating or replacing any of the aforementioned acts for the time being in force and to the extent that any Property is located outside England and Wales references to the "Town and Country Planning Legislation" shall mean those acts within the jurisdiction that the Property is located which are analogous or as similar as possible to the legislation set out above and reference to the "Existing Use" means the actual use to which the Property is presently put as referred to in Schedule 6 and all buildings constructed on the Property as at the date of this Agreement

### **2. Warranties**

- 2.1 Schedule 6 contains an accurate list of the real estate owned, controlled, used or occupied by the Target Group or in which the Target Group has any interest or liability (whether actual or contingent) and the information given in Schedule 6 is accurate

- 2.2 So far as the Warrantors are aware (having made no enquiry), the Existing Use of the Property is the lawful use under the Town and Country Planning Legislation and the planning permissions authorising the Existing Use are free from unusual or onerous conditions and permanent and are not personal
- 2.3 There are no outstanding material breaches of any of the terms of the leases or licences under which the Property is occupied by the Target Group and there are no arrears of rent, service charge or other outgoings
- 2.4 So far as the Warrantors are aware (having made no enquiry), there are no disputes, claims, actions, demands, notices or complaints in respect of the Property or its use which are outstanding or, so far as the Warrantors are aware (having made no enquiry), anticipated by the Owner
- 2.5 The Owner is the sole legal and beneficial owner of the Property and is in exclusive physical occupation and possession
- 2.6 The Property has the benefit of the legal rights and easements necessary for the use and enjoyment of the Property for the Existing Use free from all unusual or onerous conditions or restrictions or any right to terminate or curtail them
- 2.7 No election has been made to waive the exemption from Value Added Tax in relation to any supply made in relation to the Property

#### **PART XIV - ENVIRONMENT**

##### **1. Interpretation**

- 1.1 In this Part, each Warranty which is expressed to be given in relation to "the Property" shall be deemed to be given in relation to

1.1.1 each of the Properties, and

1.1.2 any other property owned, leased, used or occupied by any Target Group Company at any time previously

as if it had been repeated with respect to each and every part thereof

- 1.2 The following words and expressions where used in this Part shall have the meanings given to them below

**Environmental Claim** means any litigation, claim, proceedings, notice of violation, demand, action, official warning, abatement, enforcement, notice, order or complaint arising out of any

Environmental Laws and/or relating to any Environmental Matter including any requirement to inspect, monitor or remediate any Environmental Matter

**Environmental Consents** means all consents, licences, authorisations, permits, registrations, notifications or other approval required under or in relation to any Environmental Laws

**Environmental Laws** means all applicable European, national (including, without limitation, those of the US), state and local laws concerning Environmental Matters including but not limited to regulations, directives, statutes, secondary legislation, statutory guidance, circulars and codes of practice and common law

**Environmental Matters** means all matters relating to pollution, contamination, human health and/or the environment, including but not limited to those matters relating to health and safety, waste, nuisance, discharges, emissions, deposits, disposals and releases to land, air and water, and the sale, import, export, manufacture, use, treatment, storage, handling, deposit, transport or disposal of chemicals, wastes, radioactive substances or any other polluting, dangerous, hazardous, toxic or otherwise regulated substances or materials or forms of energy

**Remedial Action** means any steps, whether required by a governmental body or not, necessary for limiting, removing, remedying, abating, mitigating, containing, preventing, monitoring or investigating any actual or potential harm to the environment, human health, land or buildings or compliance with or liability under any Environmental Laws

## **2. Warranties**

- 2.1** Each Target Group Company has obtained all Environmental Consents required for the operation of the Business and occupation and enjoyment of the Property All such Environmental Consents are in full force and effect and as far as the Warrantors are aware there are no reasons or circumstances which are likely to result in the variation, suspension, cancellation, revocation, refusal to renew and/or judicial review of any Environmental Consents
- 2.2** There are no pending or contemplated applications to obtain, renew, vary, surrender or revoke any Environmental Consents, nor have any such applications been refused nor as far as the Warrantors are aware are there any circumstances which are likely to result in the need for any new Environmental Consents
- 2.3** Each Target Group Company has complied and is currently in compliance in all material respects with, and (so far as the Warrantors are aware) there are no circumstances which are likely to result in any non-compliance with, all applicable Environmental Laws and with all terms, improvements, conditions and requirements of its Environmental Consents
- 2.4** There has been no spillage, leakage, emission, discharge, storage, escape, disposal or deposit into, on, or from the Property by any Target Group Company of any substance or material which is causing, has caused or as far as the Warrantors are aware or is likely to cause harm

to health or to the environment, give rise to a nuisance or give rise to an Environmental Claim

- 2.5 No Environmental Claim has been made against any Target Group Company nor as far as the Warrantors are aware (having made no enquiry) is any such Environmental Claim pending or threatened and, so far as the Warrantors are aware, there are no circumstances likely to give rise to an Environmental Claim nor as far as the Warrantors are aware is any investigation in respect of Environmental Matters being carried out by any governmental body or third party, nor has one been carried out or as far as the Warrantors are aware threatened by any governmental body or third party
- 2.6 At the date of this Agreement, no Target Group Company has any actual or contingent obligation, and (so far as the Warrantors are aware) there are no circumstances likely to give rise to an actual or contingent obligation to pay money or carry out any work in respect of any Environmental Matter and/or in respect of any Environmental Consents
- 2.7 As far as the Warrantors are aware the Property has not had any Remedial Action carried out and, so far as the Warrantors are aware, no Remedial Action is likely to be required to be carried out in the future
- 2.8 Copies of all surveys, assessments, inspections, audits or reports which deal with Environmental Matters in respect of the Target Group Companies or the Properties have been disclosed in full to the Buyer and are listed in the Disclosure Letter
- 2.9 True copies of all Environmental Consents held by the Target Group Companies are attached to the Disclosure Letter
- 2.10 As far as the Warrantors are aware (having made no enquiry) no Target Group Company has been subject to, nor (so far as the Warrantors are aware, having made no enquiry) do any circumstances exist which are likely to subject any Target Group Company to, any investigation (both formal and informal) by either the Health and Safety Executive or local authority, or any equivalent federal, state or local governmental bodies in the US, regarding any potential or actual non-compliance with any applicable occupational health and safety legislation
- 2.11 Each Target Group the Company has complied with and is in compliance with, and there are no circumstances which are likely to result in any non-compliance with, all assessment, reporting, auditing, maintenance and safety requirements required under occupational health and safety legislation and codes of practice

## **PART XV - TAX**

### **1. - General**

- 1.1 Provision or reserve (as appropriate) has been made in the Accounts for all Taxation, including deferred Taxation, liable to be assessed on the Company or for which the



Company is accountable in respect of all income, profits or gains earned, accrued or received on or before the Accounts Date or deemed to have been or treated for taxation purposes as earned, accrued or received on or before the Accounts Date, and in respect of any event occurring or deemed to have occurred on or before the Accounts Date

**1.2 Since the Accounts Date -**

**1.2.1** no payment or deemed payment has been made by the Company which will not qualify for a deduction in calculating Taxation or taxable profits,

**1.2.2** no Taxation has or may have arisen to the Company (or would have arisen but for the use of any available reliefs) other than in respect of normal trading income arising in the ordinary course of the Company's business,

**1.2.3** no transaction or event has taken place which, had it occurred or been planned at the Accounts Date, would have caused the provision for deferred Taxation to be greater than that which appears in the Accounts,

**1.2.4** no accounting period of the Company has ended

**1.3** The Company has not engaged in, or been a party to, a scheme or arrangement of which the main purpose, or one of the main purposes, was the avoidance of Taxation or the obtaining of a Taxation advantage The Company has not taken part in any arrangements in respect of which any disclosure has been made or any information provided in compliance with part 7 of the Finance Act 2004 (disclosure of tax avoidance schemes) or schedule 11A Value Added Tax Act 1994 (disclosure of avoidance schemes) or any regulations made under that part or that schedule

**1.4** Any transaction by the Company for which any clearance, approval or consent (a "Clearance") from a taxation authority was legally required was carried out only after such Clearance was obtained Each application upon which a Clearance was based disclosed all facts and circumstances which could reasonably have affected the decision of the relevant taxation authority to grant the Clearance

**1.5** There is set out in the Disclosure Letter with reference to this warranty full details of any payments made and repayments claimed by the Company since the Accounts Date under the Corporation Tax (Instalment Payments) Regulations 1998 All such payments and repayments were made on the basis of a reasonable estimate of the Company's total liability for the relevant accounting period

**1.6** The Company is not, and will not become, liable to pay, or to pay any amount in respect of, any Taxation which is primarily chargeable to any other person (other than a Target Group Company) The Company is not liable as an agent, permanent establishment or prescribed person for any Taxation liability of another person

## **2 Compliance**

- 2.1** The Company has made all returns, claims for relief, applications, notifications, computations, reports, accounts, statements, registrations and assessments ("**Returns**") it is required by law to submit to a taxation authority All Returns have been in the required form and have been properly submitted by the Company within any relevant time limits The Returns were and remain complete, true and accurate, give full disclosure of all material facts and circumstances and are not the subject of any question or dispute nor are likely to become the subject of any question or dispute with any taxation authority
- 2.2** The Company has prepared, kept and preserved full and sufficient records as required by law and to enable it to deliver correct and complete Returns and to calculate any present or, so far as possible, future liability for Taxation of the Company, including without limitation in relation to a future disposal of any of its assets, or its entitlement to any deduction, relief or repayment of Taxation Such records are accurate and up-to-date
- 2.3** The Company (whether alone or jointly with any other person) neither has nor at Completion will have any outstanding entitlement or obligation -
- 2.3.1** to make any appeal (including a further appeal) against an assessment to Taxation,
- 2.3.2** to make any application for the postponement of payment of Taxation, or
- 2.3.3** to submit any return or provide particulars, claims, elections, disclaimers or information to any taxation authority
- 2.4** The Company has properly and punctually paid all Taxation which it has become liable to pay The Company has, where legally obliged to do so, deducted or withheld amounts in respect of Taxation and has properly and punctually accounted to the relevant taxation authority for the Taxation so deducted or withheld
- 2.5** The Company has not within the last six years paid or become liable to pay, nor as far as the Warrantors are aware are there any circumstances which may cause it to become liable to pay, any penalty, fine, surcharge or interest in connection with Taxation The Company is not subject to any suspended penalties
- 2.6** No taxation authority has agreed to operate any special arrangement (being an arrangement which is not based on a strict and detailed application of the relevant legislation, statements of practice or published extra-statutory concessions) in relation to the Company's affairs
- 2.7** The Company is not and as far as the Warrantors are aware (having made no specific enquiry of a taxation authority) is not likely to be involved in a dispute in relation to Taxation The Company has not within the last six years been subject to, nor as far as the Warrantors are aware (having made no specific enquiry of a taxation authority) is it likely to be subject to, any visit, audit, investigation, enquiry, discovery or access order by any taxation authority The

Company has not within the last six years been, and as far as the Warrantors are aware, is not likely to be, required to provide any taxation authority with documents or information following the service of a statutory notice

### **3 Distributions and loan relationships**

3.1 The Company has not since the Accounts Date made or agreed to make any distributions within the meaning of section 209 ICTA 1988 save as provided in the Accounts

3.2 The Company has not issued or agreed to issue any security which will be outstanding at or after Completion in circumstances such that any interest or other payment payable in respect of it constitutes or would constitute a distribution under section 209 ICTA 1988

3.3 All interest, discounts or premiums payable by the Company on its loan relationships are eligible to be brought into account as debits for the purposes of Chapter II of Part IV Finance Act 1996 at the same time and to the same extent as those debits are recognised in the Company's statutory accounts

### **4. Capital allowances**

4.1 The aggregate book value in or adopted for the purposes of the Accounts of the assets of the Company which qualify for allowances under the Capital Allowances Act 2001 does not exceed the aggregate residue of qualifying expenditure or written-down value attributable to such assets for the purposes of that Act. The aggregate book value in or adopted for the purposes of the Accounts of assets allocated to a pool of assets which qualify for allowances under the Capital Allowances Act 2001 does not exceed the available qualifying expenditure in respect of each such pool under that Act

4.2 Since the Accounts Date any claims for capital allowances which have been made under the Capital Allowances Act 2001 have not been withdrawn, and no available allowances have been disclaimed

4.3 No capital allowances have been claimed by the Company in respect of any asset which is leased to or from, or hired to or from, the Company

### **5. Capital gains and intangible assets**

5.1 The book value in or adopted for the purposes of the Accounts of each of the assets of the Company on the disposal of which a chargeable gain or allowable loss could arise does not exceed the amount deductible under section 38 TCGA 1992 (acquisition and disposal costs etc.) in respect of each such asset. No chargeable gain would (or would but for any relief, allowance, deduction or credit other than amounts falling to be deducted under section 38 TCGA 1992) arise on the disposal of any asset acquired by the Company since the Accounts Date for a consideration equal to that paid on its acquisition

5 2 In respect of any assets of the Company in respect of which it has claimed, or will before Completion claim, any debits under schedule 29 Finance Act 2002, no Taxation liability will arise if it were to dispose of those assets at the values at which they appear in the Company's books

6. **Groups of companies**

6 1 The Company is not, and has not in the last few years, been a member of any group for UK or US tax purposes

7. **Value added tax**

7.1 The Company has complied fully with its legal obligations relating to value added tax, including maintaining and retaining complete, accurate and up to date records, invoices and other documents in such form and for such periods as required by law

7 2 The Company is not and has never been treated for the purposes of sections 43 to 43C Value Added Tax Act 1994 (groups of companies) as a member of a group

7 3 The Company is a registered and taxable person for the purposes of the Value Added Tax Act 1994, such registration not being pursuant to paragraph 2 schedule 1 Value Added Tax Act 1994 and not subject to any conditions imposed by or agreed with Her Majesty's Revenue and Customs

7.4 The Company has not been required by Her Majesty's Revenue and Customs to give security under any statutory provision or regulation relating to value added tax

7.5 The Company obtains credit for all input tax paid or suffered by it

7.6 There is set out in the Disclosure Letter with express reference to this warranty full details of each of the assets of the Company to which Part XV of the Value Added Tax Regulations 1995 (adjustments to the deductions of input tax on capital items) applies or will apply, including the date the first interval commenced, the input tax deducted or deductible and the proportion of input tax for which credit has been claimed

7.7 There is set out in the Disclosure Letter with express reference to this warranty full details of any election by the Company to waive exemption under paragraph 2(1) schedule 10 Value Added Tax Act 1994 All such elections have full effect and none is likely to be ineffective by virtue of paragraph 2(3AA) schedule 10 Value Added Tax Act 1994

7.8 No claims have or could be made by the Company under section 36 Value Added Tax Act 1994 (bad debts) No input tax to which the Company has been entitled is likely to be disallowed under section 26A Value Added Tax Act 1994 (disallowance of input tax where consideration not paid)

## **8. Close companies**

- 8.1** The Company is not and has never been a close company within the meaning of section 414 ICTA 1988 (close companies)

## **9. Employees**

- 9.1** The Company has complied fully with its legal obligations relating to PAYE and National Insurance contributions and any similar amounts payable to a taxation authority outside the United Kingdom

- 9.2** Any amounts paid by the Company to, or for the direct or indirect benefit of, a person who is or who may be regarded by any taxation authority as an employee of the Company, or who would be regarded as such an employee but for the involvement of an intermediary company, has been made to that person directly and not to any company or other entity associated with that person

- 9.3** No Taxation has arisen or as far as the Warrantors are aware is likely to arise to the Company as a result of any person acquiring shares or securities or an interest in shares or securities by reason of employment

## **10 Stamp taxes**

- 10.1** There is no instrument to which the Company is a party, or which is necessary to establish the Company's rights or the Company's title to any asset, which is liable to stamp duty (or any like duty or tax in a jurisdiction outside the United Kingdom) which has not been duly stamped or in respect of which the relevant duty or tax has not been paid

- 10.2** The implementation of the transactions contemplated by this Agreement will not result in the withdrawal of any exemption or relief previously claimed by the Company in respect of stamp duty land tax

- 10.3** The Disclosure Letter contains full details of all land transactions (as defined in section 43 Finance Act 2003) to which the Company was a party, and of all interests which the Company holds in land, in respect of which the Company may have any future obligations relating to stamp duty land tax

## **11. International**

- 11.1** The Company has always been resident for Taxation purposes and for the purposes of any double taxation agreement in its jurisdiction of incorporation. The Company is not liable to, and has at no time incurred any, Taxation in any jurisdiction other than that in which it was incorporated

- 11.2** The Company has not, without the prior consent of the Treasury, entered into any of the

transactions specified in section 765 ICTA 1988 (migration etc of companies)

**11.3** The Company is not and has not been party to any transaction or arrangement under which it may be or has been required to compute its profits or losses for tax purposes in accordance with the requirements of schedule 28AA ICTA 1988 as if arm's length terms had been made or imposed instead of the actual terms. The Company has sufficient information and records to enable it to comply with, or establish that it is not subject to the operation of, schedule 28AA ICTA 1988

**11.4** The Company does not have, and has not in the six years ending on Completion had, an interest in any controlled foreign company as defined in Chapter IV of Part XVII ICTA 1988 (tax avoidance), or any offshore fund as defined in Chapter V of Part XVII ICTA 1988

**12. Inheritance tax**

**12.1** The Company has never made any transfer of value within the meaning of the Inheritance Tax Act 1984

**12.2** Neither the assets owned by nor the shares of the Company are subject to an outstanding Inland Revenue charge as defined in section 237 Inheritance Tax Act 1984 (imposition of charge)

**12.3** No circumstances exist, or but for section 204(6) Inheritance Tax Act 1984 (contingent liability of transferee for unpaid capital transfer tax or inheritance tax) would exist, such that a power of sale could be exercised in relation to any assets or shares of the Company pursuant to section 212 Inheritance Tax Act 1984 (powers to raise tax)

## SCHEDULE 5

### WARRANTY CLAIMS

#### 1. Interpretation

In this Schedule (unless the context otherwise requires)

- 1.1 a "**Claim**" means any claim against the Warrantors (or any of them) under the Warranties,
- 1.2 "**determination**" means a final determination by a court of competent jurisdiction or a final award or decision of a duly appointed arbitrator or expert (as the case may be) and "**determined**" shall be construed accordingly, and
- 1.3 "**Tax Deed Claim**" means any claim under the Tax Deed

#### 2. Time limits

- 2.1 The Buyer shall give the Sellers' Representative written notice of

- 2.1.1 any Claim under Part XV of Schedule 4, on or before the seventh anniversary of the Completion Date, and

- 2.1.2 any other Claim, on or before the date following eighteen months after the Completion Date

and the Sellers agree that, provided notice is given within the relevant time limit set out above, and proceedings are issued and served in accordance with paragraph 2.3, any shorter limitation period (whether arising under statute or by virtue of any other rule of law, regulation or otherwise) shall be extended and shall be treated by the parties as extended accordingly

- 2.2 The written notice of the Claim shall give details (so far as such details are known to the Buyer) of the nature of the Claim, the circumstances giving rise to it and the Buyer's bona fide estimate of any alleged loss (provided that any failure by the Buyer to provide such notice shall not prejudice the claim in question)

- 2.3 Any Claim shall be deemed to be withdrawn (if it has not been previously satisfied, settled or withdrawn) unless legal proceedings in respect thereof have been commenced within nine months of the giving of written notice of the Claim, and for this purpose such legal proceedings shall not be deemed to have commenced unless both issued and served, provided that this 9 month time limit shall not start to run in relation to a Claim in relation to which a Target Group Company is obliged to enforce recovery against a third party pursuant to paragraph 12 until the Target Group Company has exhausted its remedies against such third party

### 3. Upper limit

The aggregate liability of each Warrantor for all Claims and all Tax Deed Claims and all other claims under this Agreement (except claims under clauses 11 and 12.1.1) shall be limited to the maximum value of the consideration (in whatever form) received by that Warrantor (which amount, for the avoidance of doubt, shall not include in relation to each Warrantor the aggregate exercise price payable by such Warrantor of any options to subscribe for Ordinary Shares which were exercised immediately prior to Completion) less any adjustment pursuant to clause 3. For the purposes of this limit (i) the liability of the Warrantors shall be deemed to include the amount of all costs, expenses and other liabilities (together with any VAT thereon) payable by them in connection with the satisfaction, settlement or determination of any such claim, and (ii) the value of any Consideration Shares or Buyer Shares held by any Warrantor shall be calculated on the basis of the value of such Consideration Shares as at the date of the satisfaction of any such claim.

### 4 Lower limit

#### 4.1 The Warrantors shall not be liable for any Claim

4.1.1 unless the amount of any individual Claim is equal to or exceeds £10,000 (a "**Relevant Claim**") (in which case the Sellers shall, subject to the other limits contained in this Schedule, be liable for the whole amount and not simply the excess), and

4.1.2 all Relevant Claims exceed £75,000 (the "**Threshold**") in which event the Warrantors shall, subject to the other limits contained in this Schedule, be liable for the whole of such aggregate amount and not merely for the amount in excess of the Threshold.

### 5. Double claims

If the same fact, matter, event or circumstance gives rise to more than one Claim, or to a Claim and/or a Tax Deed Claim and/or any other claim under this Agreement, the Buyer shall not be entitled to recover more than once in respect of such fact, matter, event or circumstance.

### 6. Changes on and/or after Completion

The Warrantors shall not be liable for any claim to the extent that it arises, or is increased or extended by

#### 6.1 any change to legislation, any increase in rates of Taxation or any change in the published practice of a revenue authority, in each case made on and/or after Completion with retrospective effect,



- 6.2 any change in the accounting reference date of the Buyer or any Target Group Company made on and/or after Completion, or
- 6.3 any change in any accounting policy or practice of any Target Group Company made on and/or after Completion, save where such change is required to conform such policy or practice with generally accepted policies or practices or where such change is necessary to correct an improper policy or practice, or
- 6.4 any unreasonable failure on the part of the Buyer to make any claim, election, surrender or disclaimer or give notice or consent to do any other thing under the provisions of any enactment or regulation relating to Taxation after Completion, the doing or making of which was taken into account in the Completion Accounts

## **7 Remediable breaches**

The Warrantors shall not be liable for any Claim to the extent that the fact, matter, event or circumstance giving rise to such Claim is remediable and is remedied by, or at the expense of, the Warrantors within 20 Business Days (or such longer period as the Sellers' Representative and the Buyer may agree) of the date on which written notice of such Claim is given to the Sellers' Representative

## **8 Reimbursement of claims**

If, after any Warrantor has made any payment in respect of a Claim, the Buyer recovers from a third party a cash sum which is directly referable to that payment (the "**Recovery Amount**"), then the Buyer shall forthwith repay (or procure the repayment of) to the relevant Warrantor so much of the Recovery Amount (less all reasonable costs, charges and expenses incurred in making such recovery) as does not exceed the sum paid by the relevant Warrantor

## **9. Reduction in consideration**

Any amount paid by any Warrantor in respect of any Claim or a Tax Deed Claim shall (so far as it is lawful so to do) be treated as a reduction in the Consideration paid to the Sellers under this Agreement

## **10. Completion Accounts**

No liability shall attach to any Warrantor for a breach of any Warranty or a Tax Deed Claim to the extent that such liability is equal to or less than the corresponding specific provision or reserve (if any) in respect of the matter giving rise to such Warranty claim in the Completion Accounts

## **11. Insurance**

Without prejudice to the duty of the Buyer to mitigate any loss in respect of any breach of the Warranties, the liability of the Warrantors for any such breach will be reduced by any amount which is recovered by the Buyer or any member of the Buyer Group under the terms of any policy of insurance in respect of which it is or any member of its Group is the policy holder. The Buyer will procure that it, and will procure that each member of the Buyer Group will, use its reasonable endeavours to recover or procure the recovery of such amounts under such insurance policies provided that such recovery does not materially increase the levels of any future insurance premia to be paid by any member of the Buyer Group.

## **12 Third parties**

**12.1** Subject to paragraph 12.2 below, where the Buyer or any member of the Target Group is entitled to recover from a third party, including under any policy of insurance, any sum in respect of any matter giving rise to a Claim, the Buyer shall use reasonable endeavours to enforce such recovery and will, provided the Warrantors have previously satisfied such Claim in full, repay to the Warrantors so much of the amount paid by the Warrantors to the Buyer in respect of such Claim as does not exceed the sum recovered from the third party, less all reasonable costs, charges and expenses properly incurred by the Buyer or any member of the Buyer's Group in recovering that sum from the third party.

**12.2** Nothing in this paragraph 12 shall oblige any member of the Buyer Group to take any action which would or could reasonably be regarded as having a material adverse effect on the goodwill of the business of the Buyer Group (from time to time).

## **13. Mitigation**

Nothing in this Schedule will derogate from the Buyer's obligation to mitigate any loss which it suffers in consequence of a breach of Warranty or Tax Deed Claim.

## **14. Conduct of claims**

In relation to a Claim or a Tax Deed Claim, the Buyer will

- (a) within 20 Business Days of the Buyer or any member of the Buyer Group becoming aware of such a claim or the circumstances giving or likely to give rise to such a claim, notify the Sellers' Representative pursuant to paragraph 2.2,
- (b) take such action and give such information and access to personnel, premises, documents and records to the Sellers' Representative and his duly authorised representatives and professional advisers as the Sellers' Representative may reasonably request in order to avoid,

dispute, mitigate, settle, defend, compromise or appeal the claim,

- (c) permit the Sellers' Representative and those representatives and advisers to make copies (at the Sellers' costs) of those records and information, and
- (d) (at the Sellers' cost) give the Sellers' Representative and those representatives and advisers any other information and assistance which any of them may reasonably require in connection with the claim in question

**15. Miscellaneous**

Payment of any Claim or Tax Deed Claim shall pro tanto reduce the amount payable in respect of any other Claim or Tax Deed Claim which is capable of being made in respect of the same act, event or default giving rise to such claim

# SCHEDULE 6

## THE PROPERTIES

### PART I - LEASEHOLD PROPERTIES

No.	Tenure	Registered proprietor	Title number	Date of title lease	Parties	Term	Current rental	Short description	Use
1	Leasehold	St John Properties Inc Hartland Wisconsin USA	N/A	1 June 2006	(1) St John Properties Inc and (2) Seal Analytical Inc	3 years from 1 June 2006	Year 1 US\$4,644 Year 2 US\$4,739 Year 3 Estimate US\$4,834	10520 Baehr Road, C&D Mequon WI, USA	Office space, storage, laboratory, light manufacturing, customer demonstrations
2	Leasehold	Bran+Luebbe GmbH	N/A	1 Feb 2008	(1) Bran+Luebbe GmbH and (2) Seal Analytical GmbH	24 months from 1 Feb 2008	As set out in lease attached to the Disclosure Letter	Werkstrasse 4, 22844 Norderstedt, Germany	Office space, storage, laboratory, light manufacturing, customer demonstrations

### PART II - PROPERTIES OCCUPIED UNDER LICENCE

Property 67 Victoria Road, Burgess Hill, West Sussex RH10 1BW  
 Licensor Synermed Europe Limited  
 Current rent £49,961 04 per annum (plus VAT)  
 Term Indefinite licence with six months' notice period from either party

## SCHEDULE 7

### COMPLETION ACCOUNTS

#### PART I

#### PRO-FORMA BALANCE SHEET

<b><i>Fixed assets</i></b>
Tangible
<b><i>Current assets</i></b>
Stock
Debtors
Trade debtors
Prepayments and accrued income
Other debtors
Cash at bank and in hand
<b><i>Creditors: Amounts falling due within one year</i></b>
Bank overdrafts
Trade creditors
Corporation tax
Other taxes
Accruals and deferred income
<b><i>Creditors: amounts falling due after more than one year</i></b>
Deferred taxation
Other long-term liabilities
<b>Net current assets</b>
<b>Completion Net Assets</b>

## **PART II**

### **Preparation of the Completion Accounts**

#### **1 GENERAL REQUIREMENTS**

The provisions of this Part II and Part III of this Schedule 7 shall apply for the purposes of preparing the Completion Accounts

The draft Completion Accounts shall

- 1.1** be prepared in accordance with the specific accounting policies and principles set out in Part III of this Schedule 7, so that, in the case of any conflict, such policies and principles shall override the provisions of paragraphs 1 2 and 1 3,
- 1.2** subject to paragraph 1 1, be prepared in accordance with the accounting policies, principles, practices and procedures adopted by the Target Group in the preparation of the Accounts, so that, in the case of any conflict, such policies, principles, practices and procedures shall override the provisions of paragraph 1 3,
- 1.3** where none of the accounting policies, principles, practices or procedures referred to in paragraphs 1 1 and 1 2 deal with the matter, be prepared or determined in accordance with generally accepted accounting principles in the UK as at the Accounts Date,
- 1.4** exclude any effects of the change in control or ownership of the Target Group contemplated by this Agreement and shall not reappraise the value of any of the assets of any Target Group Company as a result of such change in control or ownership, and
- 1.5** be prepared on a going concern basis and take no account of post-balance sheet events occurring or information becoming available more than 30 days after Completion

## **PART III**

### **SPECIFIC ACCOUNTING POLICIES FOR COMPLETION ACCOUNTS**

1. Subject to paragraphs 2 and 3 below, the Completion Accounts shall be prepared under the historical cost convention on a basis consistent with that applied to the Accounts and in accordance with generally accepted UK accounting principles and all relevant Accounting Standards and in accordance with the Companies Act as amended by the provisions of this Schedule
2. For the purposes of the preparation of the Completion Accounts, the value of stock shall be ascertained in accordance with the provisions of this paragraph 2 and 3 8
  - 2.1 The Sellers and the Buyer shall cause a stocktaking to be made as soon as reasonably practicable following Completion of all the stock insofar as it then belongs to the Company and the Subsidiaries
  - 2.2 Unless otherwise agreed by the parties, such stocktaking shall consist of a physical check of the amount, quality and condition of all such stock situated on the Properties at the Completion Date and an inspection of the books and records and contractual documentation for all stock not so situated together with confirmation from the person or persons having physical possession of such stock of the extent of any interest in or encumbrance claimed over such stock (if any)
  - 2.3 When such stocktaking has been completed, the stock shall be valued in accordance with paragraph 3 8 below and included in the Completion Accounts
3. The Completion Accounts shall be prepared
  - 3.1 excluding all amounts due from the Korean and Japanese distributors relating to the closure costs arrangements with Japan and Korea (but including, for the avoidance of doubt, all amounts actually received from such Korean and Japanese distributors relating to the closure costs arrangements with Japan and Korea),
  - 3 2 making full provision for all the Chinese Debts (except and to the extent collected by the Target Group on or before 31 August 2008),
  - 3.3 making full provision for any other debts due uncollected at the Completion Date for a period of more than three months from Completion and proper provision or reserve shall be made for all other bad or doubtful debts included in the Completion Accounts,
  - 3.4 excluding the effect of any transactions after the Completion Date that are not in the ordinary course of business of the Company, or that are not made at arm's length and on market terms,

- 3.5 without attributing any value to goodwill, acquisition costs or any other intangible asset,
- 3.6 including treatment as a tangible fixed asset, not of appropriate depreciation, of the software costs relating the new accounting system, Navison,
- 3.7 including the fixed assets at the value at which they were included in the Accounts, (or, if acquired after the Balance Sheet Date, their cost) written down on a *pro rata* basis at the rates used in the Accounts and, in each case, less provisions for damage or impairment on the same basis used in preparing the Accounts,
- 3.8 determining the nature and extent of the stock in accordance with paragraph 2 of this Schedule and valuing it on the same basis as used in the Accounts and with appropriate provision being made for unusable, unsaleable, slow moving or deteriorated stocks,
- 3.9 with no attributed value to any assets (including in particular any prepayment or debt) except to the extent that (following the Completion Date) the Company will have the benefit of the same,
- 3.10 making full provision for rebates or discounts that will fall due and fees and commissions that will become payable after the Completion Date in either case in respect of sales or other transactions that took place before the Completion Date,
- 3.11 making full provision for any liability arising as a result of the change of control of the Company on the Completion Date including but not limited to interest accruing on borrowings and finance leases, payments to managing directors,
- 3.12 making full provision in respect of the cost of making good dilapidations and/or wants of repair on or to the Property,
- 3.13 excluding any deferred tax assets and including any deferred tax liabilities,
- 3.14 excluding any amounts received as a result of the exercise of share options at completion,
- 3.15 excluding any amounts paid by Seal Analytical, Inc in relation to US social security payments in respect of the options in the capital of the Company exercised by the US Optionholders immediately prior to Completion,
- 3.16 including pro-rata (on a time basis) provision for the £125,000 exit fee in relation to the KBC loan and the professional fees incurred relating to the arrangement of the original KBC loan (and not, for the avoidance of doubt, fees incurred in connection with the renegotiation of the KBC loan) in accordance with UK GAAP,
- 3.17 treating preference shares in issue as equity not liabilities,

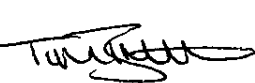


- 3.18 making appropriate provision for unpaid bonuses to employees that would accrue at the end of the quarter as if the quarter had ended,
- 3.19 excluding any amounts that are not yet due and payable under the proposed sale of the NIR business

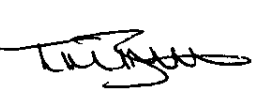
**SIGNED** by **JAMES BRATHWAITE**  
in the presence of

)  As Attorney

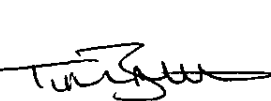
**SIGNED** by **MARTIN ROWLAND**  
in the presence of

)  As Attorney

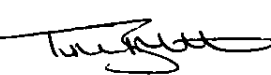
**SIGNED** by **KEITH TOZZI**  
as a trustee of Keith Tozzi's Augean FURBS  
pension plan in the presence of

)  As Attorney

**SIGNED** by  
for and on behalf of **OFA TRUSTEE**  
**SERVICES LIMITED** as a trustee of  
Keith Tozzi's Augean FURBS pension plan  
in the presence of

)  As Attorney


**SIGNED** by  
for and on behalf of  
**SYNERMED EUROPE LIMITED**  
in the presence of

)  As Attorney

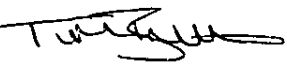
**SIGNED** by **ARTHUR KAY**  
in the presence of

)  As Attorney

**SIGNED** by **PETER FINCH**  
in the presence of

)  As Attorney

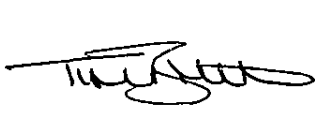
**SIGNED** by **CRAIG RANGER**  
in the presence of

)  As Attorney

**SIGNED** by  
for and on behalf of  
**MANY OAKS CONSULTANCY LTD**  
in the presence of

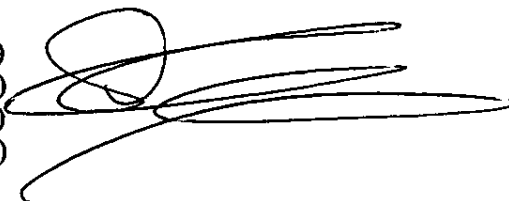
)  As Attorney

**SIGNED** by  
for and on behalf of  
**RED RABBIT IT SOLUTIONS LTD**  
in the presence of

)  As Attorney

SIGNED by *Derek King*  
for and on behalf of  
SOUTH EAST GROWTH FUND  
MANAGERS LIMITED

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SIGNED by TIMOTHY BRITTAIN  
in the presence of

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SIGNED by JOAN SMITH  
in the presence of

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SIGNED by JONATHAN GREGORY  
in the presence of

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in the presence of

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SIGNED by JEFF TE RONDE  
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SIGNED by STUART SMITH  
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SIGNED by JESSICA AMMERMAN  
in the presence of

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SIGNED by STEPHEN COVERLY  
in the presence of

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for and on behalf of  
PORVAIR PLC  
in the presence of

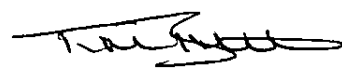
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for and on behalf of )  
SOUTH EAST GROWTH FUND )  
MANAGERS LIMITED )

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in the presence of )

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SIGNED by JOAN SMITH )  
in the presence of )

)  As Attorney

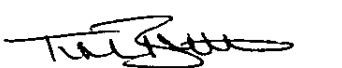
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in the presence of )

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SIGNED by ADRIAN GREGORY )  
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SIGNED by JEFF TE RONDE )  
in the presence of )

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SIGNED by STUART SMITH )  
in the presence of )

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SIGNED by JESSICA AMMERMAN )  
in the presence of )

)  As Attorney

SIGNED by STEPHEN COVERLY )  
in the presence of )

)  As Attorney

SIGNED by )  
for and on behalf of )  
PORVAIR PLC )  
in the presence of )

SIGNED by )  
for and on behalf of )  
SOUTH EAST GROWTH FUND )  
MANAGERS LIMITED )

SIGNED by TIMOTHY BRITTAIN )  
in the presence of. )

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in the presence of: )

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in the presence of. )

SIGNED by STEPHEN COVERLY )  
in the presence of )

SIGNED by )  
for and on behalf of )  
PORVAIR PLC )  
in the presence of )

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SARAH FLEMINGHAM  
PORVAIR PLC  
BRAMPTON HOUSE  
50 BERGEN WAY  
LINGS LYNN  
RE30 2JG