

DATE _____

ANALYSE AND SEPARATION OF METALS IN HIGH-PRESSURE LIQUIDS

ADDRESS: 4001 10TH AVE. S.W. SEASIDE, CALIF. 94061

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THIS AGREEMENT is made the 21st
Two thousand and four five

day of January

BETWEEN:

1. **MARKS AND SPENCER PROPERTY HOLDINGS LIMITED** (registered in England number 02100781) whose registered office is at ~~47 Baker Street, London W1H 8EG~~
Waterside House, 35 North Wharf Road, London W2 1NW

AND

2. **MARKS AND SPENCER CHESTER LIMITED** (registered in England number 05174129) whose registered office is at ~~47 Baker Street, London W1H 8EG~~
Waterside House, 35 North Wharf Road, London W2 1NW

AND INCORPORATES the Standard Commercial Property Conditions (First Edition) insofar as they are applicable and are not inconsistent with its express terms.

IT IS AGREED as follows:

1. INTERPRETATION

- 1.1 In this Agreement, except where the context otherwise requires, the following words and expressions have the following meanings:

"the Buyer" means the second named party to this Agreement;

"the Completion Date" means the date hereof;

"the Incumbrances" means the matters contained or referred to in the documents set out in the schedule to this Agreement;

"the Property" means freehold land lying to the South of Wrexham Road, Eccleston as is registered with title absolute under number CH261404;

"the Purchase Price" means thirty seven million pounds (£37,000,000) being satisfied by the issue of up to £7,500,000 of ordinary share capital of the Buyer the remainder to be left as outstanding on inter-company loan account; and

"the Seller" means the first named party to this Agreement.

- 1.2 In this Agreement, unless otherwise specified:

- (A) references to General Conditions are references to the several conditions of the Standard Commercial Property Conditions (First Edition);
- (B) any reference to a clause is a reference to a clause of this Agreement and any reference to a sub-clause is a reference to a sub-clause of the clause in which the reference appears; and

(C) headings to clauses do not affect the interpretation of this Agreement.

2. AGREEMENT FOR SALE

- 2.1 The Seller will sell and the Buyer will buy the Property for the Purchase Price.
- 2.2 No loss or damage occasioned to the Property nor any deterioration in its state of repair or condition nor any possession or occupation of the Property being taken by any third party is the responsibility of the Seller or is to annul the sale or give rise to any abatement in price, any claim to compensation or damages or entitle the Buyer to rescind.

3. TITLE

- 3.1 The Seller is registered at H.M. Land Registry with absolute title to the Property under title number CH261404.
- 3.2 Before the date of this Agreement, the Seller's title to the Property has been produced to the Buyer and the Buyer accepts the title without any further enquiry or requisition.

4. INCUMBRANCES

- 4.1 The Seller is selling the Property free from incumbrances, other than those mentioned in this Agreement.
- 4.2 The Property is sold subject to:
- (A) the Incumbrances;
 - (B) matters discoverable by inspection of the Property;
 - (C) matters the Seller does not know about;
 - (D) matters disclosed or which would have been disclosed by the searches and enquiries which a prudent buyer would have made before entering into this Agreement; and
 - (E) entries made in any public register (including those maintained by H.M. Land Registry or its Land Charges Department or by Companies House) other than any in respect of charges created by the Seller to secure the repayment of money.
- 4.3 Before the date of this Agreement, particulars of the Incumbrances have been supplied to the Buyer and the Buyer accepts the Incumbrances without further enquiry or requisition.

5. PUBLIC REQUIREMENTS

- 5.1 The Property is sold subject to and the Buyer is to indemnify the Seller against all public requirements and all matters registered or capable of being registered with any local or other competent authority at the date of this Agreement or at completion.
- 5.2 The Buyer buys with full notice of the use or development of the Property for which permission has been granted and accepts the position without any further enquiry or requisition.

6. LICENCE TO OCCUPY

- 6.1 If the Seller at the request of the Buyer permits the Buyer to occupy the Property before actual completion then as from the date of such permission the Buyer shall:
- (A) not use or occupy the Property otherwise than as the licensee of the Seller;
 - (B) not to permit any third party to use or occupy the Property;
 - (C) pay or indemnify the Seller against all outgoings and other expenses in respect of the Property and all services consumed by the Buyer;
 - (D) comply with all statutory provisions in respect of the Property;
 - (E) pay the Seller on demand a fee calculated at the contract rate (as well after as before any judgment) on the Purchase Price (less any deposit paid);
 - (F) keep the Property in as good a state of repair as it was in when it went into occupation;
 - (G) not carry out any work to the Property without the Seller's express written approval; and
 - (H) not do or permit or suffer anything which may cause the Seller's insurance of the Property to be vitiated or the insurance monies withheld in whole or in part.
- 6.2 The permission to occupy will come to an end on the earliest of:
- (A) actual completion;
 - (B) rescission of this Agreement;
 - (C) on the expiration of not less than three working days notice from the Seller if completion does not take place on the Completion Date otherwise than by reason of the Seller's default; and

- (D) on the expiration of not less than three working days notice from the Seller calling for a breach of any of the obligations in clause 6.1 to be remedied if such breach has not been remedied to the Seller's satisfaction.

- 6.3 Upon the permission to occupy coming to an end otherwise than by actual completion, the Buyer shall forthwith vacate the Property but shall continue to be bound by the terms of clause 6.1 until it does so.
- 6.4 Any work carried out to the Property by the Buyer or at its request before actual completion is at the sole risk and expense of the Buyer and the Buyer is to indemnify the Seller against the expense of reinstating the Property to its original or some intermediate state if completion does not take place on or before the Completion Date otherwise than by reason of the Seller's default.

7. TRANSFER

- 7.1 The transfer of the Property shall be in the form attached to this Agreement.
- 7.2 At its own expense, the Buyer is to engross and execute the transfer of the Property in duplicate and deliver the duplicate, stamped and denoted against the original to the Seller's solicitors as soon as practicable after completion.
- 7.3 At its own expense, the Buyer is to engross and execute the transfer of the Property in duplicate and deliver the duplicate, stamped and denoted against the original, to the Seller's solicitors as soon as practicable after completion.

8. VALUE ADDED TAX

- 8.1 All sums made payable by this Agreement are exclusive of value added tax.
- 8.2 The Buyer shall pay to the Seller an amount equal to all value added tax for which the Seller is liable to account to H.M. Customs and Excise in relation to any supply made or deemed to be made to the Buyer for value added tax purposes under this Agreement.

9. COMPLETION

- 9.1 Completion of the sale is to take place on the Completion Date.
- 9.2 Apportionments are to be made with effect from the Completion Date except where completion is delayed otherwise than by reason of the Seller's default and the Seller elects that they should be made from actual completion.
- 9.3 Except to the extent that the delay is due to the Seller's default, the Buyer is to pay interest at the contract rate (as well after as before any judgment) on the Purchase Price (less any deposit paid) for the period between the Completion Date and actual completion.

- 9.4 Where the Seller is able or would be able to procure the discharge of any mortgage or charge affecting the Property or to itself complete the purchase of the Property from a third party, the Seller shall be deemed to be ready, able and willing to complete for the purpose of General Condition 6.8 notwithstanding that the title documents are not in its possession.
- 9.5 Where the Seller agrees to complete by post, the Seller's solicitors shall not be taken as acting as the Buyer's solicitors' agents on completion and may forward documents to the Buyer's solicitors unregistered and uninsured through a document exchange or by post without liability for loss or damage.
- 9.6 Where actual completion takes place after the Completion Date and the delay is caused by the Seller and it retains or withholds physical possession, the Buyer shall, in lieu of its rights at law or in equity and on proof of damage, be entitled to require the Seller to pay or allow to it on actual completion compensation not exceeding interest on the Purchase Price at the contract rate (as well after as before any judgment) for such period as the delay in completion shall have been due to the default of the Seller.

10. ACKNOWLEDGEMENT

10.1 The Buyer acknowledges that:

- (A) it has had the opportunity to carry out its own survey and inspection of the Property and to form its own view as to its suitability for the Buyer's purposes; and
- (B) the Seller's written replies to formal preliminary enquiries raised through the Seller's solicitors are the only authorised statements by or on behalf of the Seller made in connection with the sale.

10.2 To the extent that the Buyer is placing reliance on any other statement made by or on behalf of the Seller, whether in answer to formal preliminary enquiries or otherwise, express written notice of the fact, referring to this clause, has been given to the Seller's solicitors and acknowledged by them in writing as being reliable.

10.3 The parties acknowledge that this Agreement constitutes the entire agreement between the parties concerning its subject matter and has set out in it or incorporates all the terms which the parties have expressly agreed so that any agreement or arrangement entered into contemporaneously is collateral to it and is not part of it.

11. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

The parties to this Agreement do not intend that, by virtue of the Contracts (Rights of Third Parties) Act 1999, any term of this Agreement is to be enforceable by any person who is not a party to this Agreement.

12. GENERAL CONDITIONS

In the General Conditions:

- (A) "clearing bank" means Barclays Bank PLC, Lloyds TSB Bank PLC, HSBC Bank plc, National Westminster Bank PLC or The Royal Bank of Scotland PLC;
- (B) the "contract rate" means 5 per centum per annum over the base lending rate from time to time of Barclays Bank PLC;
- (C) General Conditions 3.1, 4.1.1, 4.3.2, 4.5.5, 5.1.2, 5.1.3, 5.2, 6.1.2, 6.3.2, 6.8.4 and 7.3 shall not apply;
- (D) in General Condition 1.1.1(a)(ii) for "on seven days' notice of withdrawal" there shall be substituted "overnight";
- (E) at the end of General Condition 1.3.1 shall be added "which for this purpose does not include e-mail."; and
- (F) at the end of General Condition 7.6.3 shall be added "but shall have no claim for damages for loss of bargain".

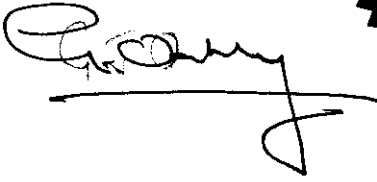
AS WITNESS the parties or the duly authorised representatives of the parties have signed this Agreement the day and year first before written.

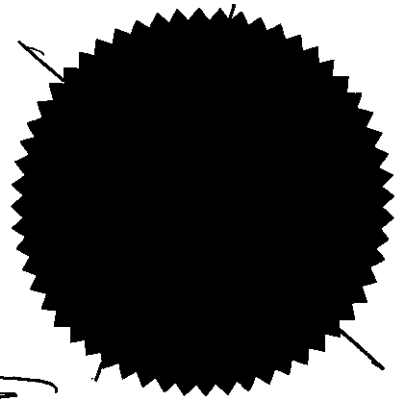
THE SCHEDULE

Documents containing or referring to Incumbrances

<u>Date</u>	<u>Document</u>	<u>Parties</u>
6 January 1988	Lease of Phase I Building	(1) Marks and Spencer Property Holdings Limited (2) St. Michael Financial Services Limited
4 November 2004	Deed of Variation re Lease of Phase I Building	(1) Marks and Spencer Property Holdings Limited (2) Marks & Spencer Financial Services P.L.C.
4 November 2004	Lease of Phase II Building	(1) Marks and Spencer Property Holdings Limited (2) Marks & Spencer Financial Services P.L.C.
9 November 2004	Car Parking Licence	(1) Marks and Spencer Property Holdings Limited (2) Marks & Spencer Financial Services P.L.C.
9 November 2004	Licence to Occupy Part First Floor Phase I Building	(1) Marks & Spencer Financial Services P.L.C. (2) Marks and Spencer PLC
9 November 2004	Licence to Occupy part Ground Floor, Phase I Building	(1) Marks & Spencer Financial Services P.L.C. (2) Marks and Spencer PLC
4 November 2004	Deeds of Variation of Leases of Phase I and Phase II Building	(1) Marks and Spencer Property Holdings Limited (2) Marks & Spencer Financial Services P.L.C.

Signed for and on behalf of
**MARKS AND SPENCER
PROPERTY HOLDINGS
LIMITED** by

X 



Signed for and on behalf of
**MARKS AND SPENCER
CHESTER LIMITED**
by

X 