

Herbert Smith

5566787



2 NOVEMBER 2005

(1) GONDOLA HOLDINGS PLC

and

(2) TDR CAPITAL NOMINEES LIMITED

and

(3) CV1 LIMITED

and

(4) PANDORAEXPRESS LP

and

(5) THE PERSONS WHOSE NAMES AND
ADDRESSES ARE SET OUT IN SCHEDULE 1

AGREEMENT
for the acquisition of shares in
GONDOLA GROUP LIMITED

Herbert Smith LLP

WE HEREBY CERTIFY
THIS TO BE A TRUE AND
ACCURATE COPY OF
THE ORIGINAL

Herbert Smith LLP
HERBERT SMITH LLP
Exchange House
Palmrose Street
London EC2A 2HS

Date.....17/11/05.....

THIS AGREEMENT is made on

2 November 2005

BETWEEN:

1. **GONDOLA HOLDINGS PLC**, a company incorporated in England with registered number 5566787 and whose registered office is at 20 High Street, St. Albans, Herts AL3 4EL (the "**Purchaser**").
2. **TDR CAPITAL NOMINEES LIMITED**, a company incorporated in England with registered number 4708906 and whose registered office is at Great Burgh, Epsom, Surrey KT18 5XT ("**TDR**");
3. **CV1 LIMITED**, a company incorporated in the British Virgin Islands with registered number 520054, the registered office of which is at PO Box 3162, Woodburn Hall, Road Town, Tortola, British Virgin Islands ("**CV1**"); and
4. **PANDORAEXPRESS LP**, a limited partnership under the Limited Partnerships Act 1907 with registered number LP008769 and whose registered office is 6 Chesterfield Gardens, London W1J 5BQ ("**PELP**") acting through its general partner TDR Capital General Partner Limited, a company incorporated in Scotland with registered number SC243882, the registered office of which is at 50 Lothian Road, Festival Square, Edinburgh, EH3 9WJ and
5. **THE PERSONS WHOSE NAMES AND ADDRESSES ARE SET OUT IN SCHEDULE 1** (the "**Individual Sellers**") (TDR and CV1 and the Individual Sellers, together the "**Vendors**").

WHEREAS:

- (A) Gondola Group Limited (the "**Company**") is incorporated in England with registered number 4836955.
- (B) The issued share capital of the Company at the date of this Agreement consists of 25,623,499 ordinary shares of £0.0005 each.
- (C) TDR is the legal owner of 1,474,291 ordinary shares of £0.0005 each in the Company's share capital (the "**TDR Shares**") and has declared a trust of the beneficial interest in such shares in favour of PELP. CV1 is the legal owner of 10,462,869 ordinary shares of £0.0005 each in the Company's share capital (the "**CV1 Shares**") and has declared a trust of the beneficial interest in such shares in favour of PELP.
- (D) TDR has agreed to sell the TDR Shares and CV1 has agreed to sell the CV1 Shares (and PELP as beneficial owner has consented to TDR and CV1 selling such shares) and the Purchaser has agreed to purchase the 19,937,160 issued ordinary shares of £0.0005 each registered in TDR's and CV1's names at the date of this Agreement (the "**PELP Shares**"), and the Individual Sellers have agreed to sell and the Purchaser has agreed to purchase the 462,840 issued ordinary shares of £0.0005 each registered against the names of the Individual Sellers in Schedule 1 (the "**Sale Shares**") upon the terms and conditions hereinafter appearing.

NOW IT IS AGREED as follows:

1. INTERPRETATION

1.1 For the purposes of this Agreement, except where expressly stated to the contrary:

"Completion" shall mean the completion of the sale and purchase of the shares herein provided by effecting the actions required of the respective parties as set out in Clause 4 hereof;

"Purchaser Warranties" means the warranties set out in Part B of Schedule 2;

"Shares" means issued ordinary shares of £0.0005 each in the capital of the Company (each a "Share"); and

"Vendor Warranties" means the warranties set out in Part A of Schedule 2.

1.2 In this Agreement, words and expressions defined in the Companies Act shall bear the same meaning as in that Act unless expressly stated otherwise.

1.3 In this Agreement, except where the context otherwise requires:

1.3.1 any reference to this Agreement includes the Schedule to it which forms part of this Agreement for all purposes;

1.3.2 a reference to an enactment or statutory provision shall include a reference to any subordinate legislation made under the relevant enactment or statutory provision and is a reference to that enactment, statutory provision or subordinate legislation as from time to time amended, consolidated, modified, re-enacted or replaced;

1.3.3 words in the singular shall include the plural and vice versa;

1.3.4 references to one gender include other genders;

1.3.5 a reference to a person shall include a reference to a firm, a body corporate, an unincorporated association, a partnership or to an individual's executors or administrators;

1.3.6 a reference to a clause, sub-clause, paragraph or Schedule (other than to a schedule to a statutory provision) shall be a reference to a clause, sub-clause, paragraph or Schedule (as the case may be) of or to this Agreement;

1.3.7 if a period of time is specified as from a given day, or from the day of an act or event, it shall be calculated exclusive of that day;

1.3.8 references to 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 England be deemed to include what most nearly approximates the English legal term in that jurisdiction and references to any English statute or enactment shall be deemed to include any equivalent or analogous laws or rules in any other jurisdiction;

1.3.9 references to writing shall include any modes of reproducing words in any legible form and shall include email except where expressly stated otherwise;

1.3.10 a reference to a balance sheet or profit and loss account shall include a reference to any note forming part of it;

- 1.3.11 a reference to "includes" or "including" shall mean "includes without limitation" or "including without limitation";
- 1.3.12 references to documents "in the agreed terms" or any similar expression shall be to documents agreed between the Parties, annexed to this Agreement and initialled for identification by the Vendors and the Purchaser;
- 1.3.13 the headings in this Agreement are for convenience only and shall not affect its interpretation;
- 1.3.14 references to this Agreement include this Agreement as amended or supplemented in accordance with its terms, and
- 1.3.15 the obligations of the Vendors contained in this Agreement shall be several and not joint.

2. SALE AND PURCHASE

- 2.1 TDR and CV are the legal owners of and PELP is the beneficial owner of and shall sell or procure to be sold and the Purchaser shall purchase the PELP Shares for the consideration specified in Clause 3 below, on the basis that they are sold at Completion with full title guarantee, that is with the benefit of the implied covenants set out in Part 1 of the Law of Property (Miscellaneous Provisions) Act 1994 when a disposition is expressed to be made with full title guarantee, and free from any claim, option, charge, lien, equity, encumbrance, rights of pre-emption or any other third party rights and together with all rights attached to them at the date of this Agreement or subsequently becoming attached to them.
- 2.2 The Individual Sellers are the legal and beneficial owners of and shall sell or procure to be sold and the Purchaser shall purchase the Sale Shares for the consideration specified in Clause 3 below, on the basis that they are sold at Completion with full title guarantee, that is with the benefit of the implied covenants set out in Part 1 of the Law of Property (Miscellaneous Provisions) Act 1994 when a disposition is expressed to be made with full title guarantee, and free from any claim, option, charge, lien, equity, encumbrance, rights of pre-emption or any other third party rights and together with all rights attached to them at the date of this Agreement or subsequently becoming attached to them.

3. CONSIDERATION

- 3.1 Subject to Clause 3.2, the consideration for Shares sold pursuant to this Agreement shall be satisfied by the allotment on Completion to each Vendor credited as fully paid of two ordinary shares of £1 each in the capital of the Purchaser (each such share being a "Consideration Share") for each Share sold by a Vendor.
- 3.2 TDR hereby agrees to waive an entitlement to 100,000 Consideration Shares (with the consent of PELP) and CV1 hereby agrees to waive an entitlement to 100,000 Consideration Shares (with the consent of PELP) in aggregate and TDR and CV1 each irrevocably and unconditionally agree that the allotment and issue to TDR of 188,485.82 Consideration Shares and the allotment and issue to CV1 of 20,925.738 Consideration Shares shall be a full discharge of the Purchaser's obligations in relation to the payment to TDR and CV1 of consideration for the PELP Shares agreed to be sold under this Agreement.

4. COMPLETION

- 4.1 Completion shall take place on 7 November or on such other time and date as the parties may agree in writing.

Vendors' obligations

- 4.2 At Completion:

- 4.2.1 TDR and CV1 shall deliver or cause to be delivered to the Purchaser duly executed transfers of the PELP Shares together with the definitive share certificates for them;
- 4.2.2 the Individual Sellers shall deliver or cause to be delivered to the Purchaser duly executed transfers of the Sale Shares together with the definitive share certificates for them;
- 4.2.3 the Vendors shall procure that, at a meeting of the directors of the Company, the directors shall approve the transfers of the PELP Shares and the Sale Shares for registration and the entry of the Purchaser or its nominees in the register of members of the Company, subject only to the transfers being subsequently presented duly stamped; and
- 4.2.4 the Vendors shall deliver or cause to be delivered to the Purchaser any waivers, consents or other documents required to vest in the Purchaser the full legal and beneficial ownership of the Shares sold hereunder in accordance with Clause 2.1 and enable the Purchaser to procure them to be registered in the name of the Purchaser or its nominees.

Purchaser's obligations

- 4.3 At Completion, the Purchaser shall allot the Consideration Shares to which any Vendor is entitled on the basis of Clauses 2 and 3 above, such shares to be credited as fully paid.
- 4.4 The Purchaser shall procure the Consideration Shares are forthwith on Completion issued to the Vendors, the register of members of the Purchaser updated accordingly and that share certificates evidencing such shareholdings are issued to each Vendor.

5. WARRANTIES

- 5.1 Each Vendor severally warrants and represents to the Purchaser in the terms of the Vendor Warranties.
- 5.2 The Purchaser warrants and represents to the Vendors in the terms of the Purchaser Warranties.

6. ENTIRE AGREEMENT AND SEVERANCE

- 6.1 Each of the parties to this Agreement confirms that this Agreement represents the entire understanding, and constitutes the whole agreement, in relation to its subject matter and supersedes any previous agreement between the parties with respect thereto and, without prejudice to the generality of the foregoing, excludes any warranty, condition or other undertaking implied at law or by custom, usage or course of dealing.

6.2 Each party confirms that:

6.2.1 in entering into this Agreement it has not relied on any representation, warranty, assurance, covenant, indemnity, undertaking or commitment which is not expressly set out in this Agreement; and

6.2.2 in any event, without prejudice to any liability for fraudulent misrepresentation or fraudulent misstatement, the only rights or remedies in relation to any representation, warranty, assurance, covenant, indemnity, undertaking or commitment given or action taken in connection with this Agreement are contained in this Agreement and for the avoidance of doubt and without limitation, neither party has any right or remedy (whether by way of a claim for contribution or otherwise) in tort (including negligence) or for misrepresentation (whether negligent or otherwise, and whether made prior to, and/or in, this Agreement).

6.3 In the event that any part (including any sub-clause or part thereof) of this Agreement shall be void or unenforceable by reason of any applicable law, it shall be deleted and the remaining parts of this Agreement shall continue in full force and effect and if necessary, both parties shall use their best endeavours to agree any amendments to the Agreement necessary to give effect to the spirit of this Agreement.

6.4 No variation of this Agreement shall be effective unless it is in writing signed by the parties.

7. MISCELLANEOUS

Third Party Rights

7.1 No term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement.

Assignment

7.2 No party may transfer, mortgage, charge or otherwise dispose in any manner whatsoever of the benefit of this Agreement.

Unenforceable provisions

7.3 If any provision or part of this Agreement is void or unenforceable due to any applicable law, it shall be deemed to be deleted and the remaining provisions of this Agreement shall continue in full force and effect.

Counterparts

7.4 This Agreement may be executed in any number of counterparts and by the parties to it on separate counterparts, each of which when executed shall be an original but all the counterparts together constitute one instrument.

Deed of Adherence

7.5 The parties acknowledge and agree that additional persons may adhere to the terms of this Agreement, as additional Vendors of Shares in relation to any such Shares held by such parties, on terms substantially as set out in Schedule 3.

8. POST COMPLETION

The parties shall after Completion execute all such deeds and documents and do all such things as the other party may require for perfecting the transactions intended to be effected under or pursuant to this Agreement and for giving the parties the full benefit of the provisions of this Agreement, including vesting in the Purchaser the legal and beneficial title to the Shares and vesting in the Vendors the legal and beneficial title to the Consideration Shares and the Individuals' Consideration Shares.

9. GOVERNING LAW AND JURISDICTION

- 9.1 This Agreement shall be governed by, and construed in accordance with, English law.
- 9.2 The Courts of England shall have exclusive jurisdiction in relation to any claim, dispute or difference concerning this Agreement and any matter arising therefrom.
- 9.3 Each party irrevocably waives any right that it may have to object to an action being brought in those Courts, to claim that the action has been brought in an inconvenient forum, or to claim that those Courts do not have jurisdiction.

SCHEDULE 1

The Individual Sellers

Name	Address	Ordinary shares of £0.0005 held
David Ross	Chemin Des Laurelles 50, 1196 Gland Switzerland	397,856
Zillah – Byng- Maddick	15 Coaters Lane, Wooburn Green, High Wycombe, Bucks HP10 0FF	5,305
Richard Grigson	The Grove, Hardingham, Norfolk NR9 4EL	13,262
Karen Jones	Paddock House, 9 Spencer Park, Wandsworth SW18 2SX	46,417

SCHEDULE 2

Part A – Vendor Warranties

- (1) The Vendor is, with the exception of CV1 Limited who holds the beneficial interest in the CV1 Shares absolutely for PELP and TDR Capital Nominees Limited who holds the beneficial interest in the TDR Shares absolutely for PELP, the sole legal and beneficial owner of the Shares which it has agreed to sell and transfer pursuant to this Agreement and such Shares are fully paid or credited as fully paid.
- (2) The Vendor has all necessary power and authority to:
 - (i) enter into and execute this Agreement and each of the other documents and instruments to be executed by it under this Agreement; and
 - (ii) perform all of the obligations to be performed by it under this Agreement and any other documents and instruments to be entered into by it under this Agreement.
- (3) The execution of this Agreement and the performance by the Vendor of its obligations under it have been duly and validly authorised by all necessary action on the part of the Vendor and constitutes a valid and binding obligation of the Vendor, enforceable against it in accordance with its terms.
- (4) No consent, approval, authorisation or order of any court or government or regulatory or local agency or body or any other person is required by the Vendor for the execution or implementation of this Agreement.

Part B – Purchaser Warranties

- (1) The Purchaser has all necessary power and authority to:
 - (i) enter into and execute this Agreement and each of the other documents and instruments to be executed by it under this Agreement; and
 - (ii) perform all of the obligations to be performed by it under this Agreement and any other documents and instruments to be entered into by it under this Agreement.
- (2) The execution of this Agreement and the performance by the Purchaser of its obligations under it have been duly and validly authorised by all necessary action on the part of the Purchaser and constitutes a valid and binding obligation of the Purchaser, enforceable against it in accordance with its terms.
- (3) No consent, approval, authorisation or order of any court or government or regulatory or local agency or body or any other person is required by the Purchaser for the execution or implementation of this Agreement.

SCHEDULE 3

Deed of adherence

THIS AGREEMENT is made as a Deed

BETWEEN

1. **GONDOLA HOLDINGS PLC**, a company incorporated in England with registered number 5566787 and whose registered office is at 20 High Street, St. Albans, Herts AL3 4EL (the "**Purchaser**"); and
- 2 [] (the "**New Vendor**")

RECITAL

This deed is supplemental to the sale and purchase agreement dated 2 November 2005 between the Purchaser, TDR Capital Nominees Limited, CV1 Limited and PandoraExpress L.P. and the persons whose names and addresses are set out in schedule 1 of that agreement from time to time (the "**Sale and Purchase Agreement**").

NOW IT IS AGREED AS FOLLOWS

The New Vendor covenants with the Purchaser to observe, perform and be bound by the Sale and Purchase Agreement as if it were a party to it and named therein as an Individual Seller.

The Purchaser covenants with the New Vendor that the New Vendor shall be entitled to the benefit of the terms of the Sale and Purchase Agreement as if it were a party to it and named therein as an Individual Seller.

The New Vendor shall sell all ordinary shares of £0.0005 in the capital of the Company of which the New Vendor is the registered holder (the "**Additional Sale Shares**") to the Purchaser in consideration for the Purchaser allotting [] ordinary shares of [] to the New Vendor.

Without prejudice to the generality of the foregoing, the New Vendor shall, upon execution of this Deed, give the Vendor Warranties in relation (as the context requires) to all Additional Sale Shares hereby agreed to be sold to the Purchaser.

Clauses 7 (other than 7.5), 8 and 9 of the Sale and Purchase Agreement apply to this Deed mutatis mutandis.

IN WITNESS whereof this DEED has been executed by the parties hereto and is intended to be and is hereby delivered on the date first above written

EXECUTED AS A DEED by)	
GONDOLA HOLDINGS PLC)
acting by two directors/director and)	Director
Secretary)
		Director/Secretary

EXECUTED AS A DEED

By [New Vendor]

in the presence of:

)

)

)

)

)

IN WITNESS whereof this DEED has been executed by the parties hereto and is intended to be and is hereby delivered on the date first above written

EXECUTED AS A DEED by)
GONDOLA HOLDINGS PLC)
acting by two directors/director and)
Secretary)

M. Whaley
.....
Director Secretary
C. Heath
.....
Director/Secretary

EXECUTED AS A DEED by)
TDR CAPITAL GENERAL)
PARTNER LIMITED as general)
partner of PANDORAEXPRESS LP)
acting by two directors or director)
and company secretary)

M. Whaley
.....
Director
C. Heath
.....
Director/Secretary

EXECUTED AS A DEED by)
TDR CAPITAL NOMINEES)
LIMITED)
acting by two directors or director)
and company secretary)

M. Whaley
.....
Director
C. Heath
.....
Director/Secretary

EXECUTED AS A DEED on behalf of)
DAVID ROSS by his Attorney, Chris)
in the presence of: Heath)

C. Heath
.....

[Signature]
DAVID LEWIS
5 Barrington Gardens, London NW4 4AU

EXECUTED AS A DEED)
By CHRIS HEATH)
in the presence of:)

C. Heath
.....

[Signature]
DAVID LEWIS
5 Barrington Gardens, London
NW4 4AU

EXECUTED AS A DEED on behalf of)
ZILLAH BYNG-MADDICK)
in the presence of: by her Attorney,)
Chris Heath)

C. Heath
.....

[Signature]
DAVID LEWIS
5 Barrington Gardens, London NW4 4AU

EXECUTED AS A DEED on behalf of)
RICHARD GRIGSON by his Attorney,)
in the presence of: Chris Heath)

C. Heath
.....

[Signature]
DAVID LEWIS
5 Barrington Gardens, London
NW4 4AU

EXECUTED AS A DEED on behalf of)
by KAREN JONES by her Attorney, Chris)
in the presence of: Heath)

C. Heath

[Signature]

DAVID LEWIS

5 Burroughs Gardens, London

NW4 9AU

The Common Seal of
CV1 Limited
was hereto affixed
and attested by Cordico
Management AG

)
)
)
)
)

[Handwritten Signature]

Authorised Signatory

