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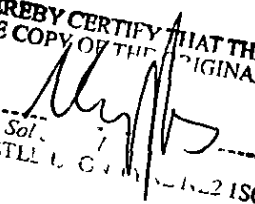
11<sup>th</sup> May

2007

D JAY and others

and

NORTHERN BEAR PLC

WE HEREBY CERTIFY THAT THIS IS  
A TRUE COPY OF THE ORIGINAL  
SIGNED   
mincoffs - Sol.  
NEWCASTLE U. G. 11-12 ISQ

**AGREEMENT**

for the sale and purchase of shares comprised in the capital of  
**Chirmarn Holdings Limited**

WEDNESDAY



\*AEXN9PLR\*

A16

16/05/2007

188

COMPANIES HOUSE

5 Osborne Terrace Newcastle upon Tyne NE2 1SQ  
Telephone 0191 281 6151 Facsimile 0191 281 8069  
DX 62550 Jesmond e-mail mail@mincoffs.co.uk

***mincoffs***  
solicitors LLP

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THIS AGREEMENT is made the 11<sup>th</sup> day of May 2007

**BETWEEN**

- (1) Those Persons whose names and addresses are set out in columns (1) and (2) respectively of Schedule 1 ('the Vendors'), and
- (2) Northern Bear PLC (registered in England and Wales number 5780581) whose registered office is located at Unit 1, Station House, Station Road, Chester-le-Street, County Durham, DH3 3DU ('the Purchaser')

**WHEREAS**

- (A) The Company (as hereinafter defined) is a private company limited by shares and at the date of this agreement has an authorised share capital of £100,000 00 divided into 100,000 ordinary shares of £1 00 each, all of which have been issued and are fully paid or credited as fully paid
- (B) The Vendors are legally and beneficially entitled to the Shares (as hereinafter defined) in the numbers set out in column (3) of Schedule 1 and have the right to sell or procure the sale of them free from all liens charges and encumbrances
- (C) The Vendors have agreed with the Purchaser to sell or procure the sale to it of the Shares on the terms but subject to the conditions of this agreement

**NOW IT IS AGREED** as follows

**1 Definitions and interpretation**

- 1.1 In this agreement and in the Schedules (unless the context otherwise requires) the following words and expressions shall have the following meanings
  - 1.1.1 'Accounting Date' means 30 November 2005,
  - 1.1.2 'Accounts' means the consolidated accounts of the Group Companies for the accounting reference period ended on the Accounting Date (a copy of which has been Disclosed) comprising, inter alia, a balance sheet, a profit and loss account, notes and directors' report prepared in accordance with Part VII of the Companies Act 1985,
  - 1.1.3 'Agreed Rate' means 2½ per cent per annum above the base lending rate of The Governor and Company of the Bank of Scotland from time to time,
  - 1.1.4 'Business Day' means a day (excluding Saturday or Sunday) on which banks generally are open in London for the transaction of normal banking business,
  - 1.1.5 'CAA 2001' means the Capital Allowances Act 2001;
  - 1.1.6 'Company' means Chirmarn Holdings Limited, further details of which are set out in Part I of Schedule 2,
  - 1.1.7 'Company's Accountants' means Baker Tilly of 1 St James Gate, Newcastle upon Tyne, NE1 4AD,
  - 1.1.8 'Companies Acts' means the Companies Acts 1985 and 1989,
  - 1.1.9 'Completion Accounts' means the consolidated balance sheet of the Group Companies at the Completion Accounts Date and their consolidated profit and loss account for the period from and excluding the Accounting Date to and including the Completion Accounts Date, prepared in accordance with clause 4,

- 1.1.10 'Completion Accounts Date' means the close of business on 31 March 2007;
- 1.1.11 'Completion Date' means the date of this agreement;
- 1.1.12 'Completion' means actual completion of the matters provided for in clause 4.1;
- 1.1.13 'Completion Payment' means the sum of £3,728,000.00.
- 1.1.14 'Connected' in relation to a person, has the meaning contained in section 839 of the ICTA 1988;
- 1.1.15 'Consideration' means the aggregate amount payable by the Purchaser in respect of the Shares, as set out in clause 3.1 and adjusted (if appropriate) in accordance with clause 4;
- 1.1.16 'Consideration Shares' means 820,000 new ordinary shares of £0.01 each in the capital of the Purchaser;
- 1.1.17 'Copyright' means copyright, design rights, topography rights and database rights whether registered or unregistered (including any applications for registration of any such thing) and any similar or analogous rights to any of the foregoing;
- 1.1.18 'Determination Date' means the date upon which the Completion Accounts and Statement are agreed or determined in accordance with clause 4;
- 1.1.19 'Disclosed' means fairly disclosed (with sufficient details to identify clearly the nature, scope of the matters disclosed) in or under the Disclosure Letter;
- 1.1.20 'Disclosure Letter' means the letter and its annexures dated on the date of this agreement, delivered immediately before the execution of this agreement and addressed by the Vendors to the Purchaser;
- 1.1.21 'Encumbrance' means any mortgage, charge (whether fixed or floating), pledge, lien, option, right of pre-emption, right of retention of title or any other form of security interest or any obligation (including any conditional obligation) to create any of the same;
- 1.1.22 'Environment' means the natural and man-made environment, including all or any of the following media, namely air, water and land (including air within buildings and other material or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media;
- 1.1.23 'Environmental Laws' means all applicable laws, statutes, regulations, secondary legislation, bye-laws, which are in force as at the date of this agreement in so far as they relate to or apply to the Environment, including Part IIA of the Environmental Protection Act 1990 and any regulations and guidance made or issued thereunder;
- 1.1.24 'Environmental and Health and Safety Matters' means all matters relating to.
- (a) pollution or contamination of the Environment;
  - (b) the presence, existence, disposal, release, spillage, deposit, escape, discharge, leak, migration or emission of Hazardous Substances or Waste;
  - (c) the exposure of any person to any Hazardous Substances or Waste;
  - (d) the health and safety of any person, including any accidents, injuries, illnesses and diseases;
  - (e) the creation or existence of any noise, vibration, odour, radiation, common law or statutory nuisance or other adverse impact on the Environment, or

- (f) the condition, protection, maintenance, remediation, reinstatement, restoration or replacement of the Environment or any part of it;
- 1 | 25 **'Environmental and Health and Safety Permits'** means any permits, licences, consents, certificates, registrations, notifications or other authorisations required under any Environmental Laws or Health and Safety Laws for the operation of the business of the Company or in relation to the Property,
- 1 | 26 **'Group Companies'** means together the Company and the Subsidiaries and each or any of them (and **'Group Company'** shall mean any one of them),
- 1 | 27 **'Hardware'** means any and all computer, telecommunications and network equipment,
- 1 | 28 **'Harm'** means harm to the Environment, and in the case of man includes offence caused to any of his senses or harm to his property;
- 1 | 29 **'Hazardous Substances'** means any material, substances or organisms which, alone or in combination with others, are capable of causing Harm, including radioactive substances and asbestos containing materials,
- 1 | 30 **'Health and Safety Laws'** means all applicable laws, statutes, regulations, secondary legislation, bye-laws, which are in force as at the date of this agreement in so far as they relate to or apply to the health and safety of any person, including the Health and Safety at Work etc Act 1974, the Control of Asbestos at Work Regulations 2002 and the Construction (Design and Management) Regulations 1994,
- 1 | 31 **'ICTA 1988'** means the Income and Corporation Taxes Act 1988,
- 1 | 32 **'IHTA 1984'** means the Inheritance Tax Act 1984;
- 1 | 33 **'Intellectual Property'** means Patent Rights, Know How, Copyright (including rights in Software), Trade Marks and IP Materials,
- 1 | 34 **'Intellectual Property Agreements'** means agreements, arrangements or licences relating to the Relevant IP,
- 1 | 35 **'IP Materials'** means all documents, records, tapes, discs, diskettes and any other materials whatsoever containing Copyright works, Know How or Software,
- 1 | 36 **'IT Contracts'** means any agreements, arrangements or licences with third parties relating to IT Systems or IT Services, including all hire purchase contracts or leases of Hardware owned or used by the Company or any of the Subsidiaries, licences of Software owned or used by the Company or any of the Subsidiaries, and other IT procurement;
- 1 | 37 **'IT Services'** means any services relating to the IT Systems or to any other aspect of the Company's or any of the Subsidiaries' data processing or data transfer requirements, including facilities management, bureau services, hardware maintenance, software development or support, consultancy, source code deposit, recovery and network services,
- 1 | 38 **'IT Systems'** means Hardware and/or Software owned or used by the Company or any of the Subsidiaries,
- 1 | 39 **'Know-How'** means trade secrets and confidential business information including details of supply arrangements, customer lists and pricing policy, sales targets, sales statistics, market share statistics, marketing surveys and reports, marketing research; unpatented technical and other information including inventions, discoveries, processes and procedures, ideas, concepts, formulae, specifications, procedures for experiments and

tests and results of experimentation and testing, information comprised in Software, together with all common law or statutory rights protecting the same including by any action for breach of confidence and any similar or analogous rights to any of the foregoing whether arising or granted under the law of England or any other jurisdiction,

- 1.1.40 **'Lease'** means the lease, short particulars of which are set out in Schedule 3;
- 1.1.41 **'Legal and Beneficial Title'** means full and unrestricted title with the benefit of quiet possession and free from lawful interruption and disturbance,
- 1.1.42 **'Management Accounts'** together:
- (a) the balance sheet of the Company as at 30 November 2006 and the trading and profit and loss account of the Company for the period of commencing upon (but excluding) the Accounting Date and ending upon 30 November 2006, and
  - (b) the balance sheet of the Company as at 28<sup>th</sup> February 2007 and the trading and profit and loss account of the Company for the period of commencing upon 1 December 2006 and ending upon 28<sup>th</sup> February 2007,
- in each case in the agreed form,
- 1.1.43 **'Net Asset Value'** means in relation to the Group, its consolidated fixed assets plus its consolidated current assets less its consolidated liabilities, in each case as set out in the Completion Accounts,
- 1.1.44 **'Other Properties'** means any property (other than the Property) previously owned, operated, occupied or used by any Group Company at any time before Completion,
- 1.1.45 **'Patent Rights'** means patent applications or patents, author certificates, inventor certificates, utility certificates, improvement patents and models and certificates of addition including any divisions, renewals, continuations, refilings, confirmations-in-part, substitutions, registrations, confirmations, additions, extensions or reissues thereof and any similar or analogous rights to any of the foregoing whether arising or granted under the law of England or any other jurisdiction;
- 1.1.46 **'Pension Schemes'** means agreements or arrangements (whether legally enforceable or not) for the payment of any pensions, allowances, lump sums or other like benefits on retirement for the benefit of any present or former director, officer or employee of any Group Company or for the benefit of the dependants of any such persons,
- 1.1.47 **'Permits'** means any and all licences, consents, permits, authorisations, registrations or the like, made or issued pursuant to or under, or required under Environmental Laws,
- 1.1.48 **'Primary Period'** means the period of 12 months commencing upon the Completion Date,
- 1.1.49 **'Property'** means the leasehold property demised by the Lease,
- 1.1.50 **'Pro Rata Share'** means in respect of each Vendor the percentage set out opposite his name in column (6) of Schedule 1,
- 1.1.51 **'Purchaser's Solicitors'** means Mincoffs Solicitors LLP of 5 Osborne Terrace, Newcastle upon Tyne, NE2 1SQ,
- 1.1.52 **'Purchasers' Group'** means the Purchaser, its holding companies and the subsidiary undertakings and associated companies from time to time of such holding companies, all of them and each of them as the context admits,

- 1153 'Relevant IP' means the Intellectual Property owned, licensed, used or exploited by the Group Companies;
- 1154 'Secondary Period' means a period of 12 months commencing upon the expiry of the Primary Period;
- 1155 'Service Agreements' means the service agreements (in each case, in the Agreed Form) between
- (a) the Purchaser and D Jay (a Vendor), and
  - (b) the Company and each of
    - (i) S Hampton (a Vendor),
    - (ii) D J Wales (a Vendor), and
    - (iii) K Lambert (being an employee of the Company at the date of this agreement);
- 1156 'Settled Claim' means any claim made by the Purchaser against the Vendors under the Tax Deed or for a breach of the Warranties in respect of which either.
- (a) any court, tribunal or arbitrator has determined that an amount is due to the Purchaser, or
  - (b) the Vendors have agreed in writing that an amount is due to the Purchaser;
- 1157 'Shares' means the 100,000 ordinary shares of £1 00 each in the share capital of the Company, comprising the whole of the issued share capital of the Company;
- 1158 'Software' means any and all computer programs in both source and object code form, including all modules, routines and sub-routines thereof and all source and other preparatory materials relating thereto, including user requirements, functional specifications and programming specifications, ideas, principles, programming languages, algorithms, flow charts, logic, logic diagrams, orthographic representations, file structures, coding sheets, coding and including any manuals or other documentation relating thereto and computer generated works,
- 1159 'Statement' means a statement of the Net Asset Value in the form set out in Schedule 7,
- 1160 'Subsidiaries' means those companies details of which are set out in Part II of Schedule 2 (and 'Subsidiary' shall mean any one of them),
- 1161 'Taxation' or 'Tax' means any form of taxation, duty, levy, impost, charge, national insurance or other similar contribution or rates, whether created or imposed by any Taxation Authority and also including any related penalty interest fine or surcharge,
- 1162 'Taxation Authority' means the H M Revenue & Customs and any other governmental or other authority whatsoever competent to impose any Taxation in the United Kingdom,
- 1163 'Tax Deed' means a deed of tax indemnity in the Agreed Form,
- 1164 'Taxation Statute' means any directive, statute, enactment, law or regulation, wheresoever enacted or issued, coming into force or entered into providing for or imposing any Taxation and shall include orders, regulations, instruments, bye-laws or other subordinate legislation made under the relevant statute or statutory provision and any directive, statute, enactment, law, order, regulation or provision which amends, extends, consolidates or replaces the same or which has been amended, extended, consolidated or replaced by the same,

- 1165 'TCGA 1992' means the Taxation of Chargeable Gains Act 1992,
- 1166 'Third Party Rights Act' means the Contracts (Rights of Third Parties) Act 1999,
- 1167 'TMA 1970' means the Taxes Management Act 1970,
- 1168 'Trade Marks' means trade or service mark applications or registered trade or service marks, registered protected designations of origin, registered protected geographic origins, refilings, renewals or reissues thereof, unregistered trade or service marks, get up and company names in each case with any and all associated goodwill and all rights or forms of protection of a similar or analogous nature including rights which protect goodwill whether arising or granted under the law of England or of any other jurisdiction,
- 1169 'Transfer' means any disposition of any legal or equitable interest in any share and whether by way of gift, sale, mortgage or otherwise,
- 1170 'VATA 1994' means the Value Added Tax Act 1994,
- 1171 'Vendors' Representative' means David Jay of Mulberry House, Pinfold Lane, Kirksmeaton, West Yorkshire, WF8 3JT,
- 1172 'Vendors' Solicitors' means Watson Burton LLP of 1 City Square, Leeds, LS1 2ES,
- 1173 'Warranties' means the warranties and representations set out in clause 7 and Schedule 4, and
- 1174 'Waste' means any waste, including any by-product of an industrial process and anything which is discarded, disposed of, spoiled, abandoned, unwanted or surplus, irrespective of whether it is capable of being recovered or recycled or has any value
- 12 In this agreement, unless the context otherwise requires:
- 121 any document referred to as being '**in the Agreed Form**' shall mean a document in a form agreed by the parties at the date of this agreement and initialled by or on their behalf for identification purposes,
- 122 any of the Warranties which are qualified by the expression '**to the best of the knowledge information and belief of the Vendors**' or '**so far as the Vendors are aware**' or any similar expression shall be deemed to include an additional statement that the statements have been made after due and careful inquiry,
- 123 references to '**party**' and '**parties**' shall be construed as references to a party or the parties to this agreement,
- 124 references to '**recitals**', '**clauses**' and '**Schedules**' are references to recitals and clauses of and schedules to this agreement;
- 125 references within a Schedule to a '**paragraph**' are references to a paragraph within that Schedule,
- 126 '**writing**' or '**written**' includes faxes but not e-mail,
- 127 '**other**' and '**otherwise**' are illustrative and shall not limit the sense of the words preceding them,
- 128 references to a rate of interest means that rate as from time to time in force, calculated from day to day upon the basis of a 365 day year and compounded on the last day of March, June, September and December in each year, both before as well as after judgment,



- 1 2 9 expressions defined in ICTA 1988, TCGA 1992 or in the Companies Acts shall wherever used in this agreement have the meanings given to them in the relevant statute (unless the context otherwise requires) and in the case of any inconsistency the defined terms used in the Companies Acts shall prevail,
- 1 2 10 references to any statute or statutory provision shall be construed as references to such statute or statutory provision as respectively amended or re-enacted or as their operation is modified by any other statute or statutory provision (whether before or after the date of this agreement) and shall include any provisions of which they are re-enactments (whether with or without modification) and shall include subordinate legislation made under the relevant statute,
- 1 2 11 a reference 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 is, in respect of any jurisdiction other than England, deemed to include what most nearly approximates in that jurisdiction to the English legal term and to any English statute is to be construed so as to include equivalent or analogous laws of any other jurisdiction, and
- 1 2 12 expressions in the singular shall include the plural and in the masculine shall include the feminine and vice versa and references to persons shall include corporations and other legal entities and vice versa
- 1 3 Where the words “including”, “include”, “in particular” or any similar expression are used in this agreement they are deemed to have the words “without limitation” following them
- 1 4 The headings used in this agreement are inserted for convenience only and shall not affect its construction or interpretation
- 1 5 The Schedules form part of this agreement.
- 1 6 All obligations expressed to be given or entered into by the Vendors or resulting from the execution of or breach of the provisions of this agreement (including without limitation any of the Warranties proving to be untrue or misleading or being breached) shall be deemed to be given undertaken or entered into by them jointly and severally (save as otherwise provided)
- 1 7 Any obligation in this agreement on a person not to do something includes an obligation not to agree or allow that thing to be done
- 2 Agreement for sale**
- 2 1 At Completion each of the Vendors shall, with full title guarantee, sell or procure the sale of and the Purchaser (relying on the representations, warranties, undertakings and indemnities given by the Vendors contained in this agreement and the Tax Deed) shall purchase the Shares free from any Encumbrances and with all attached or accrued rights, subject to and on the terms of this agreement
- 2 2 Each of the Vendors waives any rights of pre-emption conferred on him by the articles of association of the Company or otherwise over those of the Shares agreed to be sold by the other Vendors
- 2 3 The Purchaser shall not be obliged to complete the purchase of any of the Shares unless the purchase of all of the Shares is completed simultaneously
- 3 Consideration**
- 3 1 The aggregate consideration payable for the Shares shall be an amount equal to the Completion Payment, adjusted (if appropriate) in accordance with clause 4.

- 3 2 The Consideration shall be satisfied, as to the Completion Payment
- 3 2 1 by the payment by the Purchaser of the cash amounts to each Vendor set opposite his name in column (4) of Schedule 1 in accordance with clause 5.1 5(a); and
- 3 2 2 as to the balance, by the allotment and issue to certain of the Vendors of such number of Consideration Shares as are set opposite their names in column (5) of Schedule 1.

#### 4 Completion Accounts

- 4 1 The Vendors shall, promptly after Completion, prepare (or procure the preparation of), in accordance with the provisions of this clause, the Completion Accounts together with the Statement. The Completion Accounts shall be prepared on the basis of the accounting policies and procedures set out in Schedule 6. The Vendors shall use all reasonable endeavours to deliver the draft Completion Accounts and the draft Statement to the Purchaser within 30 Business Days of Completion.
- 4 2 The Purchaser shall notify the Vendors' Representative within 30 Business Days of receipt of such draft Completion Accounts and the draft Statement whether or not it accepts them for the purposes of this agreement.
- 4 3 If the Purchaser notifies the Vendors' Representative that it does not accept such draft Completion Accounts and the draft Statement:
- 4 3 1 it shall, at the same time, set out in a notice in writing its reasons for such non-acceptance and specify the adjustments which, in its opinion, should be made to the draft Completion Accounts and the draft Statement in order to comply with the requirements of this agreement and deliver a copy of such notice to the Vendors' Representative; and
- 4 3 2 the parties shall use all reasonable endeavours to meet and discuss the objections of the Purchaser and to reach agreement upon the adjustments (if any) required to be made to the draft Completion Accounts and the draft Statement.
- 4 4 If the Purchaser is satisfied with the draft Completion Accounts and the draft Statement (either as originally submitted or after adjustments agreed between the Vendors' Representative and the Purchaser), then the draft Completion Accounts and the draft Statement (incorporating any agreed adjustments) shall be deemed to constitute the Completion Accounts and the Statement for the purposes of this agreement.
- 4 5 If:
- 4 5 1 the Purchaser shall fail to notify the Vendors' Representative (in accordance with clause 4 2) that it does not accept the draft Completion Accounts and the draft Statement for the purposes of this agreement; or
- 4 5 2 the Vendors' Representative and the Purchaser do not reach agreement within 20 Business Days of receipt of the Purchaser's notice of non-acceptance pursuant to clause 4 3,

then the matter shall be referred, on the application of either party, for determination by an independent firm of chartered accountants ('the Independent Firm') to be agreed upon by the Vendors and the Purchaser or, failing agreement, to be selected, on the application of either the Vendors or the Purchaser, by the President for the time being of the Institute of Chartered Accountants in England and Wales or his duly appointed deputy. The following provisions shall apply to such determination.

- (a) the Purchaser and the Vendors' Representative shall each promptly prepare a written statement on the matters in dispute which (together with the relevant documents) shall be submitted to such Independent Firm for determination, -
  - (b) in giving such determination, the Independent Firm shall be requested to state what adjustments (if any) are necessary to the draft Completion Accounts and the draft Statement in respect of the matters in dispute in order to comply with the requirements of this agreement;
  - (c) the Independent Firm shall act as an expert (and not as an arbitrator) in making any such determination which shall be final and binding on the parties (in the absence of manifest error),
  - (d) each party shall bear the costs and expenses of all counsel and other advisers, witnesses and employees retained by it and the costs and the expenses of the Independent Firm shall be borne between the Vendors and the Purchaser in such proportions as the Independent Firm shall in its discretion determine or, in the absence of any such determination, equally between the Vendors and the Purchaser
- 4.6 When the Vendors and the Purchaser reach agreement on the draft Completion Accounts and the draft Statement or when the draft Completion Accounts and the draft Statement are finally determined at any stage in accordance with the procedures set out in this clause
- 4.6.1 the Completion Accounts and the Statement as so agreed or determined shall be the Completion Accounts and the Statement for the purposes of this agreement and shall be final and binding on the parties (save in the event of manifest error), and
  - 4.6.2 the Net Asset Value shall be as set out in the Statement
- 4.7 Subject to any rule of law or any regulatory body or any provision of any contract or arrangement entered into prior to the date of this agreement to the contrary, the Vendors shall and the Purchaser shall, and shall procure that the Group Companies shall, promptly provide each other, their respective advisers and the Independent Firm with all information (in their respective possession or control) relating to the operations of each Group Company, as the case may be, including access at all reasonable times to all the Group Companies' employees, books and records, and all co-operation and assistance, as may in any such case be reasonably required to:
- 4.7.1 enable the production of the Completion Accounts and the Statement, and
  - 4.7.2 enable the Independent Firm to determine the Completion Accounts and the Statement.
- The Vendors and the Purchaser hereby authorise each other, their respective advisers and the Independent Firm to take copies of all information which they have agreed to provide under this clause.
- 4.8 If the Net Asset Value is less than nil then the Vendors shall, within 5 Business Days of the Determination Date, make a payment to the Purchaser of the amount by which the Net Asset Value is less than nil
- 4.9 Any amount payable by the Vendors to the Purchasers pursuant to clause 4.8 shall be treated as a reduction by that amount of the Consideration
- 5 Completion**
- 5.1 Completion of the sale and purchase of the Shares hereby agreed shall take place forthwith upon exchange of this agreement by the parties at the offices of the Purchaser's Solicitors when:
- 5.1.1 the Vendors shall deliver or cause to be delivered to the Purchaser:

- (a) transfers of the Shares, duly executed by the registered holders, in favour of the Purchaser (or its nominees), accompanied by their respective share certificates (or an indemnity in the Agreed Form in respect of any lost certificates),
  - (b) such waivers, consents or other documents as may be required to give a good title to the Shares and to enable the Purchaser or its nominees to become their registered holders;
  - (c) certificates in respect of all issued shares in each of the Subsidiaries or an indemnity in respect of any missing share certificates in the Agreed Form,
  - (d) the certificate of incorporation, statutory books (including minute books), and all books of account and other records of each Group Company, complete and (where appropriate) written up to the date immediately prior to Completion;
  - (e) the Lease and all ancillary documents relating to the Property;
  - (f) a written acknowledgement in the Agreed Form from each of the Vendors that neither he nor any person Connected with him has any claim whatever against any Group Company,
  - (g) the resignation of the Company's Accountants as existing auditors or reporting accountants (as appropriate) of each Group Company effective in all respects confirming that they have no outstanding claims of any kind,
  - (h) the Tax Deed, duly executed by each of the Vendors,
  - (i) counterparts of the Service Agreements, duly executed by D Jay, S Hampton, D J Wales and K Lambert,
  - (j) bank statements in respect of current and deposit account balances of each Group Company at the close of business on the last Business Day prior to the Completion Date ("**Bank Statements**") together with reconciliations to the date of Completion in respect of each such bank account;
  - (k) deeds of release, in a form satisfactory to the Purchaser, in respect of any Encumbrance on, over or otherwise affecting the Company or its assets (or any of them), including the debenture granted in favour of the Governor and Company of the Bank of Scotland,
  - (l) copies of all bank mandates and appropriate forms to amend the mandates given by each Group Company to its bankers; and
  - (m) a certified copy of any power of attorney under which any transfer or document referred to in this clause 5.1 1 is executed on behalf of a Vendor or any nominee;
- 5.1 2 the Vendors shall, and shall procure that any person Connected with any of them shall, repay all money (if any) then owing by them to the Company (whether then due for payment or not),
- 5.1 3 the Vendors shall procure that a board meeting of each Group Company shall be held at which.
- (a) such persons as the Purchaser may nominate shall be appointed as directors and the secretary,
  - (b) KPMG LLP shall be appointed auditors;
  - (c) the existing bank mandates given by that company shall be cancelled, and new mandates issued giving authority to persons nominated by the Purchaser,

- (d) such other resolutions as the Purchaser may reasonably require, approving the giving by the Company of financial assistance to the Purchaser in relation to its purchase of the entire issued share capital of the Company, shall be proposed and passed,
  - (e) the registered offices of that company shall be changed as the Purchaser may direct, and
  - (f) (in the case of the Company) the transfers of the Shares shall (subject to stamping) be approved for registration;
- 5 1 4 the Vendors shall deliver to the Purchaser a written resolution, in the Agreed Form, approving the giving by each Group Company of financial assistance to the Purchaser in relation to its purchase of the entire issued share capital of the Company, duly executed by the Vendors, and
- 5 1 5 subject to full compliance by the Vendors with the obligations incumbent upon them under the foregoing sub-clauses of this clause 5 1:
- (a) the Purchaser shall pay or procure the payment of the sum of £2,580,000 00 by telegraphic transfer to the client account of the Vendors' Solicitors (who are irrevocably authorised to receive the same) for the account of the Vendors, and
  - (b) the Purchaser shall deliver, or procure the delivery, to the Vendors
    - (i) a counterpart of the Tax Deed duly executed by the Purchaser, and
    - (ii) the Service Agreements, duly executed (as appropriate) by either the Purchaser or the Company

## 6. Consideration Shares

- 6 1 The Purchaser shall issue definitive share certificates in respect of the Consideration Shares to those Vendors receiving the same on or before the date 20 Business Days following the Completion Date and the Purchaser shall use all reasonable endeavours to procure that the Consideration Shares are admitted to trading on the AIM market of the London Stock Exchange as soon as reasonably practicable and in any event no later than 8 30 a.m. on 15 Business Days following the Completion Date. In the event that the Consideration Shares are not admitted to trading on the AIM of the London Stock Exchange in accordance with the provisions of this clause then those Vendors receiving the same shall be entitled to require the Purchaser by notice in writing to satisfy in cash that part of the Consideration attributable to the Consideration Shares
- 6 2 The Purchaser hereby warrants that it has the requisite authorities and consents, and sufficient authorised and issued share capital to issue the Consideration Shares to the Vendors in accordance with this clause 6
- 6 3 Each of the Vendors receiving Consideration Shares, whether held for his own account or by nominees, pursuant to this agreement severally undertakes that during the Primary Period he will not, directly or indirectly, Transfer any of the Consideration Shares owned by him save.
- 6 3 1 in the event of an intervening court order; or
  - 6 3 2 in acceptance of a general offer made to shareholders of the Purchaser to acquire all the ordinary shares (other than any such shares which are already owned by the person making such offer or any person(s) acting in concert with it) which has become or been declared unconditional in all respects; or

- 6.3.3 a disposal by the personal representatives of any Vendor who shall die during the period ending 12 months from Completion (provided that the sale of any shares in the Purchaser by such personal representatives pursuant to this clause 6.3.3 during such period shall be effected through the Purchaser's nominated broker from time to time, subject to being offered terms as to price and rates of commission at least as favourable to that Vendor as those being offered by any other reputable broker at that time, so as to ensure an orderly market for the issued share capital of the Purchaser), or
- 6.3.4 to a spouse, son, daughter, stepson or stepdaughter, parent or to a trust the beneficiaries of which are either the transferor or any of such transferor's spouse, son, daughter, stepson, stepdaughter or parent; or
- 6.3.5 for the purpose only of effecting the appointment of a new trustee or by the trustees of a trust to a person beneficially entitled under such trust; or
- 6.3.6 for the purposes of satisfying the liability of such Vendor (or any part thereof) in respect of any Settled Claim (provided that the sale of any shares in the Purchaser by such personal representatives pursuant to this clause 6.3.6 during such period shall be effected through the Purchaser's nominated broker from time to time, subject to being offered terms as to price and rates of commission at least as favourable to that Vendor as those being offered by any other reputable broker at that time, so as to ensure an orderly market for the issued share capital of the Purchaser),

provided always that any transferee as is referred to in clauses 6.3.3 or 6.3.6 shall undertake to the Purchaser by deed (in a form reasonably acceptable to the Purchaser) to comply with all liabilities and obligations of the transferor under this clause 6.3 and clause 6.4 whereupon the transferor will be released from any such liability or obligation.

- 6.4 Each Vendor receiving Consideration Shares under this agreement hereby severally covenants and undertakes that, in order to preserve an orderly market in the ordinary shares of the Purchaser, he or it will during the Secondary Period:
  - 6.4.1 Transfer any Consideration Shares only with the prior written consent of the Purchaser (not to be unreasonably withheld or delayed), or
  - 6.4.2 effect any Transfer of Consideration Shares through the Purchaser's nominated broker from time to time, subject to being offered terms as to price and rates of commission at least as favourable to that Vendor as those being offered by any other reputable broker at that time

## 7. Warranties

- 7.1 The Vendors warrant and represent to the Purchaser in the terms set out in Part I of Schedule 4 and further undertake to indemnify the Purchaser from any losses, damage, claims, actions, proceedings, demands, liabilities, costs and expenses caused by any of the said Warranties being untrue
- 7.2 The Vendors warrant and represent to the Purchaser in relation to the Company and as separate warranties and representations in relation to each of the Subsidiaries as if their respective names (where the context so admits) were substituted for references to 'the Company', in the terms set out in Parts II and III of Schedule 4
- 7.3 The Warranties shall be deemed to be given as at the date of this agreement

- 7 4 The Warranties shall remain in full force and effect notwithstanding Completion and be deemed to constitute fundamental representations upon the faith of which this agreement has been entered into by the Purchaser
- 7 5 For the avoidance of doubt the Warranties shall be separate and independent and save as expressly provided shall not be limited by reference to any other clause or anything in this agreement or its Schedules
- 7 6 Subject always to the provisions of Schedule 5, the rights and remedies of the Purchaser in respect of the Warranties shall not be affected by
- 7 6.1 Completion,
- 7 6.2 its knowledge of any information the Purchaser may have received or been given or have actual, implied or constructive notice of prior to the signing of this agreement (other than that Disclosed, and including for the avoidance of doubt those general disclosures contained in the Disclosure Letter),
- 7 6.3 their failing to exercise or delaying the exercise of any right or remedy; or
- 7 6.4 by any event or matter whatever except a specific and duly authorised written waiver or release.
- 7 7 None of the information supplied by any Group Company or its officers, employees, agents or representatives prior to the date of this agreement to the Vendors or employees, agents or representatives in connection with the Warranties and the contents of the Disclosure Letter or otherwise in relation to the business or affairs of any Group Company shall be deemed a representation, warranty or guarantee of its accuracy by any Group Company to the Vendors and the Vendors waive any claims against any Group Company or its officers, employees, agents or representatives which they might otherwise have in respect of the same
- 7.8 The liability of the Vendors in respect of the Warranties shall be limited if and to the extent that the limitations referred to in Schedule 5 apply
- 7 9 The Purchaser warrants and represents to the Vendors that it is not actually aware, as at the date of this agreement, of any matter or thing which would give rise to any claim for breach of any of the Warranties contained in Parts II and III of Schedule 4

## 8 Protection of Goodwill

- 8 1 Each Vendor covenants with the Purchaser that he shall not
- 8 1 1 for a period of 2 years from the Completion Date be concerned in any other business enterprise or venture which
- (a) is in competition, directly or indirectly, with the business (or any part thereof) of any Group Company as carried on at the Completion Date, and
- (b) which operates within 100 miles of the Property,
- 8 1 2 at any time during the period of 2 years beginning with the Completion Date:
- (a) offer employment to, enter into a contract for the services of, or attempt to entice away from the Company or any of the Subsidiaries, any individual who is at the time of the offer or attempt, and was at the Completion Date, directly or indirectly employed or engaged in an executive or managerial position with any Group Company; or

- (b) procure or facilitate the making of any such offer or attempt by any other person, or
- 8.1.3 in the case of any person firm or company who or which during the 12 months prior to the Completion Date shall have been a customer of any Group Company or a prospective customer with whom any Group Company has entered into (or been invited to enter into) a formal tender or bid process, to whom a written quotation has been supplied by any Group Company or from whom a written request for a quotation has been received by any Group Company
  - (a) for a period of 2 years from the Completion Date, in competition (whether directly or indirectly) with the business carried on by the any Group Company as at the Completion Date, directly or indirectly canvass or solicit or accept orders from to such person firm or company; or
  - (b) for a period of 2 years from the Completion Date, directly or indirectly induce or seek to induce any such person firm or company to cease dealing with any Group Company or restrict or vary the terms upon which it deals with any Group Company;
- 8.1.4 at any time after Completion use or (except as required by law or any regulatory authority) disclose to any person any information of a secret or confidential nature concerning the business or affairs of any Group Company or any of its customers or suppliers or prospective customers or suppliers whom they have had negotiations (except where such information enters the public domain following the Completion Date otherwise than as a result of any such disclosure), or
- 8.1.5 at any time after Completion use or (so far as it lies within his power) allow to be used in any business with which he is concerned any trade or business name or distinctive mark, style, logo, domain name or website address used by any Group Company ('the Marks') at Completion or any other name, mark, logo, domain name or website address likely to be confused with the Marks save that where any such trading or business name is a word of a generic nature
- 8.2 The covenants in this clause are intended for the benefit of the Purchaser and each Group Company and apply to actions carried out by a Vendor in any capacity and whether directly or indirectly, on the Vendor's own behalf, on behalf of any other person or jointly with any other person
- 8.3 Nothing in this clause prevents each of the Vendors from.
  - 8.3.1 holding for investment purposes only any units of any authorised unit trust; or
  - 8.3.2 holding for investment purposes only in aggregate not more than 5% of any class of shares or securities of any company traded on any recognised investment exchange (as defined in the as defined in section 285 of the Financial Services & Markets Act 2000), or
  - 8.3.3 performing his duties under his Service Agreement
- 8.4 The Vendors acknowledge that the duration and extent and application of the provisions of this clause are no greater than are reasonable and necessary for the protection of the interests of the Purchaser
- 8.5 Each of the obligations assumed by the Vendors under this clause is separate and to be construed independently of the others and is assumed without prejudice to any other obligations of the Vendors at law or in equity



- 8 6 If any provision of this clause shall be judged by any court of competent jurisdiction to be void or unenforceable but would be valid if part of that provision were deleted and/or its duration or scope were reduced then that provision shall apply within the jurisdiction of that court with such modifications as may be necessary to make it valid

## 9 Costs

All costs and expenses incurred by or on behalf of the parties to this agreement, including all fees of representatives solicitors and accountants employed by any of the parties in connection with the negotiation preparation and execution of this agreement, shall be borne solely by the party who shall have incurred the same and the other party shall have no liability in respect of such costs and expenses

## 10. Notices

- 10.1 Any notice to be given for the purposes of this agreement shall either be delivered personally or sent by first class recorded delivery post, registered post or facsimile transmission
- 10.2 The address for service of the Vendors shall be the address of the Vendors' Representative or such other address within England and Wales as the Vendors who own the majority in number of the Shares may by notice in writing to the Purchaser require. If at any time it shall not be evident which representative of the Vendors is appointed for the purposes of this clause the Purchaser may by notice to the Vendors at their addresses in this agreement nominate one of their number for the purposes of receiving and giving notices
- 10.3 The address for service of the Purchaser shall be its registered office for the time being.
- 10.4 A notice shall be deemed to have been served as follows
- 10.4.1 if personally delivered, at the time of delivery;
- 10.4.2 if sent by recorded delivery post, at the expiration of 48 hours after the same was delivered into the custody of the postal authorities,
- 10.4.3 if sent by registered post, at the expiration of 48 hours after the same was delivered into the custody of the postal authorities, and
- 10.4.4 if sent by facsimile transmission prior to 5 pm on a Business Day, on acknowledgement by the addressee's facsimile receiving equipment and in any other case on the Business Day following the day of acknowledgement by the addressee's facsimile receiving equipment.
- 10.5 Any communication will be deemed to have been given to the personal representative of a deceased party, notwithstanding that no grant of representation has been made in respect of such party's estate, if the communication is addressed either.
- 10.5.1 to the deceased party by name,
- 10.5.2 to such party's personal representative by title;
- at the party's address as specified in 10.2 or 10.3 (as appropriate) and is otherwise served in accordance with this agreement.
- 10.6 In proving such service it shall be sufficient to prove that personal delivery was made or that the envelope containing such notice was properly addressed and delivered into the custody of the postal authorities as a pre-paid recorded delivery letter or registered post letter or that the facsimile transfer was properly addressed and dispatched
- 10.7 Notice given to the Vendors pursuant to clause 10.2 above shall be deemed to be notice to all the Vendors and any notice by the Vendors (other than a notice changing their representative

pursuant to clause 10 2) shall only be given by their appointed representative or by the Vendor nominated by the Purchasers pursuant to clause 10 2

#### **11 Governing law and jurisdiction**

This agreement shall be governed by and construed in all respects in accordance with English law and the parties irrevocably agree that the Courts of England and Wales shall have exclusive jurisdiction in respect of any dispute suit action arbitration or proceedings which may arise out of or in connection with this agreement provided that nothing contained in this agreement.

#### **12 Publicity**

No announcement or other disclosure concerning the sale and purchase of the Shares or any ancillary matter shall be made before or after Completion by any party to this agreement (whether to the press, employees, customers or otherwise) unless:

- 12 1 the content thereof and the manner and timing of its presentation and publication has been agreed between the parties (not to be unreasonably withheld or denied), or
- 12 2 such announcement or disclosure is required by any applicable law or order of a court of competent jurisdiction or by any governmental authority or supervisory or regulatory body to whose rules we are subject or with whose rules it is necessary for a party to comply.

#### **13. General**

- 13 1 This agreement shall (except for any obligation that has already been fully performed) continue in full force and effect after Completion
- 13 2 All of the parties to this agreement shall promptly do all acts and things and sign and execute all documents and deeds requisite for the purpose of implementing the terms of this agreement
- 13 3 Each of the Vendors by executing this agreement appoints the Purchaser to be his attorney from Completion granting to the Purchaser full power on his behalf to exercise all voting and other related rights attaching to the Shares sold by that Vendor and power to execute, do and make all documents, acts and things as may be required to vest the full benefit of the same in the Purchaser for a period of 6 months from the Completion Date or until the Shares are registered in its name if sooner
- 13 4 Without prejudice to clause 13 3, the Vendors shall (at the Purchaser's expense), from time to time on being required to do so by the Purchaser, now or at any time in the future, do or procure the doing of all such acts and/or execute or procure the execution of all such documents in a form satisfactory to the Purchaser as the Purchaser may reasonably consider necessary for giving full effect to this agreement and securing to the Purchaser the full benefit of the rights, powers and remedies conferred upon the Purchaser in this agreement
- 13 5 Notwithstanding any rule of law or equity to the contrary, any release, waiver or compromise or any other arrangement of any kind whatever which the Purchaser may agree to or effect in relation to one Vendor in connection with this agreement (and in particular the Warranties) shall not affect the rights and remedies of the Purchaser as regards any other Vendor
- 13 6 The Purchaser shall be entitled to assign or transfer in whole or in part the benefit and/or burden of this agreement or any rights and/or obligations of the Purchaser under this agreement to any member of the Purchaser's Group
- 13 7 Save as set out in clause 13.6 none of the rights or obligations under or pursuant to this agreement may be assigned or transferred to any other person without the written consent of all the parties.

- 13 8 This agreement, together with any documents in the Agreed Form (together '**the Transaction Documents**'), contains the whole agreement between the parties relating to the transactions provided for in this agreement and supersedes all previous agreements (if any) between such parties in respect of such matters and each of the parties to this agreement acknowledges that in agreeing to enter into the Transaction Documents it has not relied on any representations or warranties except for those contained in the Transaction Documents.
- 13 9 No variations to this Agreement shall be effective unless in writing and signed by or on behalf of each party
- 13 10 Time shall be of the essence of this agreement as regards the dates and periods specifically mentioned in the agreement
- 13 11 If a party which is required to pay any sum under this agreement fails to pay any sum payable by it under this agreement on the due date for payment ('**the Defaulting Party**'), it shall pay interest at the Agreed Rate of on such sum for the period from and including the due date up to the date of actual payment (after as well as before judgment), such interest to accrue daily on the basis of the actual number of days elapsed and a 365-day year and shall be paid by the Defaulting Party on demand
- 13 12 Any remedy or right conferred upon the Purchaser for breach of this agreement (including the right to rescission) shall be in addition to and without prejudice to all other rights and remedies available to it
- 13 13 Subject always to the provisions of Schedule 5, no failure or delay by the Purchaser in exercising any claim, remedy, right, power or privilege under this agreement shall operate as a waiver nor shall any single or partial exercise of any claim, remedy, right, power or privilege preclude any further exercise thereof or exercise of any other claim right power or privilege
- 13 14 This agreement shall be binding on the Vendors and their executors, personal representatives and successors whomsoever and unless the context otherwise requires, references to the Vendors shall include references to such executors, personal representatives and successors
- 13 15 This agreement may be executed in any number of counterparts each of which shall be an original but such counterparts shall together constitute one and the same agreement Any party may enter into this agreement by executing a counterpart and this agreement shall not take effect until it has been executed by all parties
- 13 16 Nothing in this agreement is intended to confer on any person any right to enforce any term of this agreement which that person would not have had but for the Third Party Rights Act

IN WITNESS whereof this agreement has been executed as a deed on the date first above written.

**SCHEDULE 1****The Vendors**

(1) Name	(2) Address	(3) No of Shares	(4) Consideration (£)	(5) Consideration Shares value	(6) Pro Rata Share (%)
David Jay	Mulberry House Pinfold Lane Kirksmeaton West Yorkshire WF8 3JT	80,000	2,180,000 00	540,000 00	80 00
Steven Hampton	121 Glenluce Vigo Birtley Tyne & Wear DH3 2JA	10,000	200,000 00	140,000 00	10 00
David John Wales	36 Bluebell Close Gateshead Tyne and Wear NE9 6RF	10,000	200,000 00	140,000 00	10 00

## **SCHEDULE 2**

### **Part I**

#### **The Company**

<b>Place Of Incorporation:</b>	England and Wales
<b>Registered Number:</b>	04907402
<b>Registered Office:</b>	Newburn Bridge Road Blaydon Tyne & Wear NE21 4TE
<b>Date of Incorporation:</b>	22 September 2003
<b>Directors:</b>	D Jay S Hampton D J Wales
<b>Secretary:</b>	D Jay
<b>Accounting Reference Date:</b>	30 November
<b>Accountants:</b>	Baker Tilly Chartered Accountants
<b>Authorised Share Capital:</b>	100,000 ordinary shares of £1 00 each
<b>Issued Share Capital:</b>	100,000 ordinary shares of £1 00 each
<b>Mortgages/Charges:</b>	Debenture dated 4 <sup>th</sup> December 2003 granted in favour of The Governor and Company of the Bank of Scotland

## **Part II**

### **The Subsidiaries**

<b>Name:</b>	Chirmam Limited
<b>Place Of Incorporation:</b>	England and Wales
<b>Registered Number:</b>	01276545
<b>Registered Office:</b>	Newburn Bridge Road Blaydon Tyne & Wear NE21 4NT
<b>Date of Incorporation:</b>	9 September 1976
<b>Directors:</b>	D Jay S Hampton D J Wales
<b>Secretary:</b>	D Jay
<b>Accounting Reference Date:</b>	30 November
<b>Accountants:</b>	Baker Tilly Chartered Accountants
<b>Authorised Share Capital:</b>	16,000 ordinary shares of £1 00 each
<b>Issued Share Capital:</b>	16,000 ordinary shares of £1 00 each
<b>Mortgages/Charges:</b>	Debenture dated 4 <sup>th</sup> December 2003 granted in favour of The Governor and Company of the Bank of Scotland

<b>Name:</b>	Chirmarn (Surveying) Limited
<b>Place Of Incorporation:</b>	England and Wales
<b>Registered Number:</b>	05087226
<b>Registered Office:</b>	Newburn Bridge Road Blaydon Tyne & Wear NE21 4TE
<b>Date of Incorporation:</b>	29 March 2004
<b>Directors:</b>	D Jay S Hampton D J Wales
<b>Secretary:</b>	D Jay
<b>Accounting Reference Date:</b>	30 November
<b>Accountants:</b>	Baker Tilly Chartered Accountants
<b>Authorised Share Capital:</b>	1,000 ordinary shares of £1 00 each
<b>Issued Share Capital:</b>	1,000 ordinary shares of £1 00 each
<b>Mortgages/Charges:</b>	None

### **SCHEDULE 3**

#### **The Lease**

<b>Address of Property:</b>	The storage and office premises at Newburn Bridge Road, Blaydon
<b>Tenure:</b>	Leasehold
<b>Lease Date:</b>	1 November 2002
<b>Parties:</b>	Hobsons Choice Stores Limited and Chirmarn Limited
<b>Term Commencement Date:</b>	1 November 2002
<b>Term:</b>	6 years
<b>Current Annual Rent:</b>	£19,000 per annum
<b>Rent Review Dates:</b>	1 November 2005
<b>Permitted Use:</b>	As permitted by the Planning Permission



## **SCHEDULE 4**

### **Warranties**

#### **Part I**

##### **1 Title Warranties**

- 1 1 Each Vendor has full power and authority to enter into and perform this agreement and all documents entered into or delivered pursuant to it and this agreement and all documents entered into or delivered pursuant to it when executed will constitute binding obligations on each Vendor
- 1 2 Each Vendor is entitled to sell and transfer to the Purchaser the full legal and beneficial ownership of the number of Shares set opposite his name in column (3) of Schedule 1 free of all liens charges and Encumbrances or interests in favour of or claims made by or which could be made by any other person.
- 1 3 There is not, nor is there any agreement or arrangement to create, any pledge, lien, charge or Encumbrance on, over or affecting the Shares held by each Vendor and no claim has been made by any person to be entitled to any of the foregoing

#### **Part II**

##### **2 Corporate matters**

- 2 1 The information contained in Schedules 2 and 3 is true and accurate in all respects.
- 2 2 The Company has complied with all applicable provisions of the Companies Acts
- 2 3 The register of members and the statutory books of the Company
  - (a) have been properly kept, and
  - (b) are up-to-date
- 2.4 The Company has not received any notice of any application or intended application under the provisions of the Companies Acts for the time being in force for the rectification of the register of members
- 2 5 The Disclosure Letter has annexed to it a true and complete copy of the current memorandum and articles of association of the Company
- 2 6 The Company has not at any time on or following 1 December 2003 acquired or taken a charge over any of its own shares.
- 2 7 So far as the Vendors are aware, the Company has not at any time prior to 1 December 2003 acquired or taken a charge over any of its own shares.
- 2 8 So far as the Vendors are aware, the Company has not entered into any arrangement involving the acquisition from or disposal to its current directors or connected persons of non-cash assets
- 2 9 The Company has filed all returns particulars resolutions and documents required by the Companies Acts or any other legislation to be filed with the registrar of companies or any other governmental or local authority and all such filings were and are correct In particular all charges created by or in favour of the Company have (if appropriate) been registered in accordance with the provisions of the Companies Acts

- 2 10 The Company does not have, and has not on or following 1 December 2003 had, any subsidiaries or subsidiary undertakings other than the Subsidiaries

### **3 Share Capital**

- 3.1 The Company is the sole and beneficial owner of the whole allotted and issued share capital of each of the Subsidiaries, and the issued shares of the Subsidiaries are free from Encumbrances

- 3 2 There are no agreements or other arrangements in force which provide for the present or future issue allotment or transfer of any share or loan capital of the Company (including any option or right of pre-emption or conversion)

- 3 3 Since the Accounting Date

(a) no share or loan capital of the Company has been issued or allotted or agreed to be issued or allotted, whether conditionally or absolutely,

(b) the Company has not undergone any capital reorganisation or change in its capital structure, and

(c) no resolutions have been passed by the Company

- 3 4 So far as the Vendors are aware no share capital shown in the Accounts or in the statutory books of the Company has been forfeited

- 3 5 No shares in the capital of the Company have at any time been issued and no transfers of shares in the capital of the Company have been registered otherwise than in accordance with the articles of association of the Company from time to time in force and the Companies Acts

- 3 6 No dividends or other distributions<sup>1</sup> of profits have been declared made or paid since the Accounting Date

- 3 7 All dividends or other distributions of profits declared made or paid on or since 1 December 2003 have been declared made and paid in accordance with law and its articles of association.

- 3 8 So far as the Vendors are aware all dividends or other distributions of profits declared made or paid since the date of incorporation of the Company and prior to 1 December 2003 have been declared made and paid in accordance with law and its articles of association

### **4 Accounts**

- 4.1 The Accounts

(a) comply with the requirements of the Companies Acts;

(b) have been prepared on a consistent basis and in accordance with accounting standards, policies, principles and practices generally accepted in the UK,

(c) are accurate in all material respects and show a true complete and fair view of the state of affairs financial position assets and liabilities of the Company and of its results for the financial period ending on the Accounting Date,

(d) are not affected by any unusual extraordinary or non-recurring items, and

(e) value the work-in-progress on a basis that includes profit and includes adequate provision for losses which have arisen on uncompleted contracts and on completed contracts in respect of which the maintenance period is unexpired

- 4 2 The Accounts set out correctly all such reserves or provisions for Taxation, including deferred Taxation in respect of any transaction occurring prior to the Accounting Date for which the Company is accountable up to such date

- 4 3 The profits of the Company for the three financial periods ended on the Balance Sheet Date, as shown by the accounts of the relevant Group Companies, and the trend of profits shown by them have not (except as fully, fairly and accurately disclosed in them) been affected to a material extent by inconsistencies of accounting practices, by the inclusion of exceptional or non-recurring items of income or expenditure, by transactions entered into otherwise than on normal commercial terms or by any other factors rendering such profits for all or any of such periods exceptionally high or low
- 4 4 The Management Accounts have been prepared in accordance with generally accepted United Kingdom accounting standards and practices and show a true and fair view of the state of affairs financial position assets and liabilities of the Company during the period to which they relate and adequately disclose all assets and liabilities of the Company at the relevant balance sheet date to which they relate
- 4 5 So far as the Vendors are aware, the book debts of the Company which have not been realised on or prior to the Completion Date will realise within 3 months of such date their nominal value less the value attributed to any reserve for bad or doubtful debts included in the Management Accounts and, so far as the Vendors are aware, none of the book debts is subject to any counter-claim or set-off
- 4.6 The accounting records of the Company
- (a) are in the possession of the Company and contain accurate records of those required to be entered in them by the Companies Acts, and
  - (b) have been held for the periods required by the Companies Acts
- 5 **Borrowings and lending**
- 5 1 Except as disclosed in the Accounts or the Management Accounts the Company does not have outstanding (whether made by or incurred by the Company)
- (a) any borrowing or indebtedness in the nature of borrowing including any bank overdrafts;
  - (b) any Encumbrance, guarantee or similar obligation; and
  - (c) any arrangements of a type envisaged by the Companies Act 1985 sections 320 or 330 or any agreements for such arrangements or any other transaction in which a director of or a person connected with the Company has a material interest.
- 5 2 The Company
- (a) has not lent any money which has not been repaid to it, and
  - (b) does not own the benefit of any debt (whether present or future) or the right to receive any money other than debts accrued to it in the ordinary course of its business
- 5.3 The statements of the Company's bank accounts and of their credit or debit balances and the reconciliations to be delivered at Completion are correct and the Company has no other bank or deposit accounts (whether in credit or overdrawn) not included in such statements
- 5.4 In relation to such Encumbrances or guarantees (if any) Disclosed and in relation to any other financial facilities available to or financial obligations incurred by the Company
- (a) the Vendors have supplied to the Purchaser full particulars;
  - (b) so far as the Vendors are aware there has been no contravention of or non-compliance with any provision of any such Encumbrances, guarantees or facilities, and

- (c) so far as the Vendors are aware no steps for the enforcement of any Encumbrances have been taken or threatened
- 5 5 The Company has not
  - (a) factored any of its debts or engaged in financing of a type which would not require to be shown or reflected in the Accounts,
  - (b) since the Accounting Date repaid or become liable to repay or prepaid any loan or loan capital or indebtedness in advance of its date of maturity, and
  - (c) received notice from any lenders of money to it requiring repayment or enforcement of any Encumbrance and so far as the Vendors are aware there are no circumstances likely to give rise to any such notice
- 5 6 No grants have been made to the Company since 1<sup>st</sup> December 2003 and, so far as the Vendors are aware, no grants have been made to the Company during the period commencing upon the date 6 years prior to the date of this agreement and ending upon 30 November 2003. No act or transaction has been effected in consequence whereof the Company is or may be held liable to refund in whole or in part any such grant or any loan received by virtue of any statute or in consequence whereof any such grant or loan for which application has been made by it will not or may not be paid or will or may be reduced
- 5 7 The Company is not responsible for the indebtedness of any other person nor party to any option or pre-emption right or any guarantee, suretyship or any other obligation (whatever called) to pay, purchase or provide funds (whether by the advance of money, the purchase of or subscription for shares or other securities or the purchase of assets or services or otherwise) for the payment of, or as an indemnity against the consequence of default in the payment of, any indebtedness of any other person
- 5.8 No person other than the Company or a Subsidiary has given any guarantee of or security for any overdraft, loan or loan facility granted to the Company or any Subsidiary
- 6 Assets
- 6 1 The Company has Legal and Beneficial Title to all assets of the Company which are included in the Accounts or have otherwise been represented as being the property of the Company or which were at the Accounting Date used or held for the purposes of its business and (except for assets disposed of or realised by the Company in the ordinary course of business) the Company retains such title to all such assets and all such assets are in the possession and control of the Company and are sited within the United Kingdom
- 6.2 The Company has Legal and Beneficial Title to all assets which have been acquired by the Company since the Accounting Date and the same are in the possession and control of the Company
- 6.3 The fixed and loose plant and machinery, fixtures and fittings, vehicles and office equipment used in connection with the business of the Company:
  - (a) are (having regard to their age and use) in good repair and condition;
  - (b) are regularly maintained;
  - (c) are capable of doing the work for which they were designed, and
  - (d) in the case of the vehicles owned by the Company, are road-worthy and duly licensed for the purposes for which they are used

- 6.4 Save as Disclosed all assets used in connection with the business of the Company are owned by it absolutely and are held free from any lease, hire purchase or conditional sale agreement, bill of sale or other agreement for payment on deferred terms
- 6.5 The assets owned by the Company (together with assets held under the hire purchase, lease or rental agreements listed in the Disclosure Letter) comprise all assets necessary for the continuation of the business of the Company as presently carried on
- 7 Insurances**
- 7.1 Particulars of all the policies of insurance currently maintained by or on behalf of the Company are set out in the Disclosure Letter and these particulars are accurate and not misleading
- 7.2 All premiums due in respect of the Company's insurance policies have been paid in full.
- 7.3 The Vendors are not aware of any circumstances which would or might entitle the Company to make a claim under any of its insurance policies or which would or might be required under any of its insurance policies to be notified to the insurers
- 8 Defective services**
- 8.1 No proceedings have been started and so far as the Vendors are aware there are no outstanding liabilities or claims pending or threatened against the Company in respect of any services supplied by the Company for which the Company is or may become liable and no dispute exists between the Company and any of their respective customers or clients
- 8.2 No proceedings have been started, are pending or have been threatened against the Company in which it is claimed that any products manufactured or sold by the Company are defective, not appropriate for their intended use or have caused bodily injury or material damage to any person or property when applied or used as intended
- 9 Disputes/litigation**
- 9.1 The Company is not engaged (whether as claimant, respondent or otherwise) in any litigation, criminal or arbitration proceedings before any court, tribunal, statutory or governmental body, department, board or agency and no litigation, criminal or arbitration proceedings are pending or threatened by or against the Company and the Vendors do not know of any facts which are likely to give rise to the same or which are likely to give rise to proceedings in respect of which the Company would be liable to indemnify any person concerned
- 9.2 The Company is not subject to any order or judgment given by any court or governmental agency and has not been a party to any undertaking or assurance given to any court or governmental agency which is still in force nor so far as the Vendors are aware are there any facts or circumstances which (with or without the giving of notice or lapse of time) would be likely to result in the Company becoming subject to such an order or judgment or being required to be a party to any such undertaking or assurance
- 9.3 None of the Vendors, the Company, the directors of the Company or (so far as the Vendors are aware) any of its employees have been notified that they are the subject of any investigation inquiry process or request for information in respect of any aspect of the activities of the Company by any governmental body department board or agency or by any organisation charged with the supervision of any activities from time to time engaged in by the Company and no such procedures are pending or threatened and the Vendors do not know of any facts which are likely to give rise to any such procedure
- 9.4 The Company has not been notified of any dispute with any Taxation Authority or other official department in the United Kingdom or elsewhere in relation to the affairs of the Company and so far as the Vendors are aware there are no facts which may give rise to such dispute

- 9 5 There are no claims pending or threatened or capable of arising against the Company by any employee or workman or third party in respect of any accident or injury which are not fully covered by insurance

**10 Compliance with statutes and licences**

- 10 1 The Company has obtained all licences, consents, approvals, permissions, permits, test and other certificates and authorities (public or private) necessary for the carrying on of its business in the places and in the manner in which such business is now carried on, all of which are valid and subsisting and there are no reasons or facts or circumstances which (with or without the giving of notice or lapse of time) would be likely to give rise to any reason why any of them should be suspended cancelled revoked or not renewed
- 10 2 So far as the Vendors are aware the Company has conducted and is conducting its business in all respects in accordance with all applicable laws and regulations (whether of the United Kingdom or elsewhere)
- 10.3 The Company has registered itself under the Data Protection Act 1998 in respect of all registrable personal data held by it and all due and requisite fees in respect of such registrations have been paid
- 10.4 The details contained in such registrations or applications are correct, proper and suitable for the purpose(s) for which the Company holds or uses the personal data which are the subject of them
- 10 5 All personal data held by the Company has been held in accordance with the Data Protection Act 1998 and so far as the Vendor is aware there has been no unauthorised disclosure of such personal data
- 10 6 There are no outstanding enforcement, deregistration or transfer prohibition notices or any other nature of notice under the Data Protection Act 1998 currently outstanding against the Company, nor is there any outstanding appeal against such notices. The Vendors are not aware of any circumstances which may give rise to the giving of any such notices to the Company
- 10 7 There are no unsatisfied requests to the Company made by data subjects in respect of personal data held by the Company, nor any outstanding applications for rectification or erasure of personal data.
- 10 8 There are no outstanding claims for compensation for inaccuracy, loss or unauthorised disclosure of personal data nor is any personal data held by the Company inaccurate, nor has the Company lost or made any unauthorised disclosure of any such data
- 10 9 The Company has complied in all respects with the provisions of the Data Protection Act 1998 and all regulations made under that Act and has established procedures to ensure continued compliance with all such legislation.

**11 Trading position**

**11 1 Since the Accounting Date:**

- (a) the Company has not experienced any material deterioration in its financial position or turnover;
- (b) the Company has not disposed of any assets or assumed or incurred any outstanding capital commitment or any material liabilities (whether actual or contingent) otherwise than in the ordinary course of carrying on its business (and for this purpose disposals of fixed assets fixed and loose plant and machinery shall be deemed to be not in the ordinary course of business);

- (c) the Company has carried on its business in the ordinary and usual course and without entering into any transaction, assuming any liability or making any payment which is not in the ordinary course of business and without any interruption or alteration in the nature, scope or manner of its business;
  - (d) has not declared, made or paid any dividend, bonus or other distribution of capital or income (whether a qualifying distribution or otherwise) and (excluding fluctuations in overdrawn current accounts with bankers) no loan or loan capital of the Company has been repaid in whole or in part or has become due or is liable to be declared due by reason of either service of a notice or lapse of time or otherwise howsoever,
  - (e) has not entered into contracts involving capital expenditure in an amount exceeding £50,000 00 in the aggregate;
  - (f) has not purchased stocks in quantities or at prices materially greater than was the practice of the Company prior to the Balance Sheet Date,
  - (g) has not released any debts in whole or in part and has not written off debts in an amount exceeding £50,000 00 in the aggregate, and
  - (h) has paid its creditors within the times agreed with such creditors and does not have any creditors outstanding which are overdue for payment by more than four weeks
- 11 2 The Company does not use on its letterhead, books or vehicles or otherwise carry on the Business under any name other than its corporate name
- 11 3 So far as the Vendors are aware, the Company is entitled to carry on the business now carried on by it and carried on by it since incorporation without any conflict with any valid right of any other person firm or company
- 11 4 There are in force no powers of attorney given by the Company (other than to the holder of an Encumbrance which has been Disclosed, solely to facilitate its enforcement) nor any other authority given by the Company to any person to enter into any contract or commitment or do anything on its behalf other than any authority of employees to enter into routine trading contracts in normal course of their duties
- 12 Contracts and arrangements**
- 12 1 There are not now outstanding with respect to the Company or to which the Company is a party
- (a) any long term, unusual or onerous contract;
  - (b) any contract not made in the ordinary course of business;
  - (c) any joint venture consortium or other partnership arrangement or agreement,
  - (d) any arrangements contractual or otherwise between the Company and any third party which will or may, in accordance with its terms, be terminated as a result of any change in shareholders of the Company or the sale and purchase provided for in this agreement or, so far as the Vendors are aware, of compliance with any other provision of this agreement,
  - (e) any contract of agency or distributorship,
  - (f) (excepting guarantees or warranties implied by law with respect of the services supplied or performed by the Company in the ordinary course of business) any guarantee, warranty, undertaking or contract for indemnity or for suretyship under which the Company is under a prospective or contingent liability,

- (g) any agreement or arrangement entered into by the Company otherwise than by way of bargain at arms length or on arms length terms and in the ordinary course of the Company's business,
  - (h) any contracts or arrangements of whatever nature binding on the Company which cannot be terminated without giving rise to any liabilities whatever on the part of the Company by the Company giving 3 months' notice or less,
  - (i) any agreement or arrangement which cannot readily be fulfilled or performed by the Company in accordance with its terms and without undue or unusual expenditure or effort or without making a loss; any agreement containing covenants limiting or excluding its right to do business and/or compete in any area or any field or with any person firm or company, or
  - (j) any agreement or arrangement which the Vendors know or believe to be invalid or in respect of which there are grounds for its determination rescission avoidance or repudiation (whether by the Company or any other party)
- 12 2 The terms of all contracts of the Company have been complied with by the Company and, so far as the Vendors are aware, by the other parties to the contracts in all respects and, so far as the Vendors are aware, there are no circumstances likely to give rise to a default by the Company or by the other parties under any such contract
- 12 3 There are no outstanding claims, separately or in the aggregate, of material amounts against the Company on the part of customers or other parties in respect of defects in quality or delays in delivery or completion of contracts or deficiencies of design or performance or otherwise relating to liability for goods or services sold or supplied by the Company and no such claims are threatened or so far as the Vendors are aware anticipated and there is no matter or fact in existence in relation to goods or services currently sold or supplied by the Company which might give rise to the same
- 12 4 The Company has no knowledge of the invalidity of, or grounds for rescission, avoidance or repudiation of, any agreement or other transaction to which the Company is a party or in relation to which it otherwise purports to have enforceable rights and has received no notice of any intention to terminate, repudiate or disclaim any such agreement or other transaction
- 12 5 No offer, tender or the like given or made by the Company on or before the date of this agreement and still outstanding is capable of giving rise to a contract merely by a unilateral act of a third party
- 12 6 The Vendors have no knowledge, information or belief that since the Accounting Date or after Completion or as a result of the proposed acquisition of the Shares by the Purchaser
- (a) any supplier of the Company has ceased or will cease supplying the Company or may substantially reduce its supplies to the Company, or
  - (b) any customer of the Company has terminated or will terminate any contract with the Company or cease or materially reduce its business with it
- 13 **Intellectual property rights**
- 13 1 Other than the Relevant IP the Company does not require any further Intellectual Property in relation to the development, marketing or sale of its services or in relation to any of the processes employed in the business of the Company
- 13 2 The Relevant IP is valid and subsisting and none of the Relevant IP is the subject of outstanding or threatened disputes, claims or proceedings for cancellation, revocation, opposition, interference, rectification or contested ownership.



- 13 3 All Relevant IP of which the Company is the registered proprietor has been maintained and all renewal fees have been paid on time
- 13 4 So far as the Vendors are aware the Company has not infringed and does not infringe any Intellectual Property of a third party as a result of the Company's use or exploitation of the Relevant IP, nor will such use or exploitation give rise to any infringement dispute, claims or proceedings against the Company.
- 14 **Information technology and telecommunications**
- 14 1 All IT Systems and data are owned by the Company, and are not wholly or partly dependent on any facilities or services not under the exclusive ownership and control of the Company
- 14 2 The Company has obtained all necessary rights from any third party to enable the Company full and unrestricted access to and use of the IT Systems enable the Company to continue to operate its business
- 14 3 The Company has in its possession or in its control the source code of all Software used by it for the purposes of the business of the Company
- 14 4 All IT Systems are in good working order, function in accordance with all applicable specifications, and have been and are being properly and regularly maintained and replaced
- 14.5 So far as the Vendors are aware the present capacity of the IT Systems is sufficient in order to satisfy the existing requirements of the Company with regard to data processing and communications at the date hereof
- 14 6 So far as the Vendors are aware no part of the IT Systems is or has been infected by any virus or other extraneously-induced malfunction, and no person has had unauthorised access to the IT Systems or any data stored thereon.
- 14.7 The Company has taken all reasonable steps to ensure that its business can continue in the event of a failure of the IT Systems
- 14 8 The operation of the IT Systems and the provision of the IT Services has been unaffected by any change in date or by any related change in the field configurations containing date information within the IT Systems In particular
- (a) there has been no error, malfunction or change in the operation, functionality or performance of the IT Systems or the provision of the IT Services;
- (b) date-based functionality has behaved consistently for dates since the year 2000,
- 15 **Employees**
- 15 1 Full particulars of the names and addresses, dates of birth, dates of commencement of employment or appointment to office, salaries and terms and conditions of employment of all of the employees and officers of the Company (including all remuneration payable participation in benefit schemes such as medical expenses, permanent health insurance, pension, company car etc, any profit sharing, commission, incentive or discretionary bonus arrangements to which the Company is a party and all other benefits provided which the Company is bound to provide (whether now or in the future) to each officer and employee of the Company) are Disclosed
- 15 2 There are not now outstanding.
- (a) any service agreements or contracts between the Company and any of its directors, officers, executives or employees which cannot be terminated by the Company by 12 weeks' notice or less without giving rise to a claim for damages or compensation (other than a statutory redundancy payment),

- (b) any recognition or other agreement or arrangement between the Company and any trade union or other body representing its employees, and
  - (c) any liabilities of the Company for industrial training levy or for any other statutory or governmental levy or charge
- 15.3 The Vendors are not aware of any outstanding claim against the Company by any person who is now or has been an officer or employee of the Company and no disputes have during the preceding 3 years arisen between the Company and any material number or category of employees and so far as the Vendors are aware there are no present circumstances which are likely to give rise to any such dispute.
- 15.4 There is no liability or claim against the Company outstanding or, so far as the Vendors are aware, anticipated under the Equal Pay Act 1970, the Sex Discrimination Acts 1975 and 1986, the Race Relations Act 1976, the Disability Discrimination Act 1995, Employment Rights Act 1996, the Transfer of Undertakings (Protection of Employment) Regulations 2006, the Social Security Contributions and Benefits Act 1992, Trade Union and Labour Relations Consolidation Act 1992, the Working Time Regulations 1998, the National Minimum Wage Regulations 1999 or the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000.
- 15.5 Since the Accounting Date no change has been made in the rate of remuneration or the endowment or pension benefits of any director or employee or in the terms of employment of any officer or senior executive. No negotiations for any increase in the remuneration or benefits of any officer or employee of the Company are current
- 15.6 No present director, officer or employee of the Company has given or received notice terminating his employment and completion of this agreement will not entitle any director, officer, employee to terminate his employment or trigger any entitlement to a severance payment or liquidated damages.
- 15.7 None of the following are in existence and there are no proposals for any of the following
  - (a) profit sharing schemes,
  - (b) share option schemes,
  - (c) 'phantom' share option schemes,
  - (d) profit related pay schemes;
  - (e) employee share ownership arrangements of any kind,
  - (f) employee benefit trusts or stakeholder pension arrangements
- 16 **Pension Schemes**
  - 16.1 The Company has not and will not have any obligation (whether or not legally binding) to provide or contribute towards pension, lump sum, death, ill-health, disability or accident benefits in respect of its past or present officers and employees (**Pensionable Employees**) and no proposal or announcement has been made to any employee or officer of the Company about the introduction, continuance, increase or improvement of, or the payment of a contribution towards, any pension, lump sum, death, ill-health, disability or accident benefit
  - 16.2 There are no former schemes which provided any pension, lump sum, death, ill-health, disability or accident benefit in respect of any Pensionable Employees.
  - 16.3 The Company has facilitated access for its Pensionable Employees to a designated stakeholder scheme as required by Section 3 of the Welfare Reform and Pensions Act 1999

- 16.4 There is no obligation on the Company to pay contributions to a stakeholder pension arrangement in respect of any Pensionable Employees of the Company
- 16.5 There are no claims or actions in progress or pending (nor, so far as the Vendors are aware, are there any reasons for such claims or actions) involving any Pensionable Employees in connection with a stakeholder arrangement
- 17 The Property**
- 17.1 The Property comprises all the freehold and leasehold property owned by the Company or occupied by it under licence or in which the Company has any other interest
- 17.2 The Company has in its possession or unconditionally held to its order all the documents of title relating to the Property
- 17.3 There are no rights, interests, covenants, restrictions, reservations, licences or easements or any disputes or outstanding notices (whether given by a landlord, a local authority or any other person) nor (without prejudice to the generality of the foregoing) are there any other matters or things which adversely affect the proper use and enjoyment of the Property for the purpose of the business now being carried on at the Property by the Company
- 17.4 The Property is not subject to the payment of any outgoings (except the usual rents, rates and taxes) and all sums due to date in respect thereof have been paid
- 17.5 There is not in respect of the Property.
- (a) any proceedings in respect of any infringement of the building bye-laws or any monetary claim or liability (contingent or otherwise) under Town and Country Planning legislation or regulations or otherwise;
  - (b) any enforcement or stop notice under the Town and Country Planning legislation or relevant regulations, or
  - (c) any order or resolution for the compulsory acquisition of the Property or any part of it by any authority or any notice for closing demolition clearance or requisition of the Property,
- and the Vendors are not aware of any proposals in relation to any of the matters referred to in this paragraph or any other circumstances known which might result in any such order notice or proceedings being made or served or which may otherwise affect the Property.
- 17.6 So far as the Vendors are aware, the Company has performed and observed all covenants conditions agreements statutory requirements planning consents bye-laws orders and regulations affecting the Property and requiring observance or performance by it and no notice of any breach of any such matters has been received
- 17.7 The Property is not affected by any outstanding or potential obligations or liabilities arising under any agreement for sale, estate contract, option or right of pre-emption
- 17.8 There are no lawfully enforceable restrictions or prohibitions which restrict or prohibit the existing use of any of the Property
- 17.9 The existing use of the Property is the permitted use under the Town and Country Planning legislation (which term includes the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990 and the Planning (Consequential Provisions) Act 1990) and is not a temporary or personal use
- 17.10 So far as the Vendors are aware, all development carried out in relation to the Property has been lawful and all necessary consents and permissions have been obtained for such development The

said consents and permissions are valid, subsisting and unimpeachable and are also either unconditional or subject only to conditions which have been satisfied so that nothing further remains to be done thereunder

- 17 11 So far as the Vendors are aware, no compensation has been received consequent upon a refusal of any planning permission affecting any of the Property or the imposition of any restrictions in any such planning permission and no such planning permission is suspended
- 17 12 The particulars of the Lease are set out in Schedule 3 and in relation to the Lease
- (a) the receipt for the payment of rent which fell due immediately prior to the date hereof is unqualified;
  - (b) the Company has observed and performed all of the covenants and conditions contained in the Lease and no notices of breaches of any such covenants or conditions contained lease have been given or received on the part of either the landlord or the Company and the landlord has not refused to accept rent or made any complaint of breach of covenant,
  - (c) no alterations, improvements or additions have been made to the Property to which the Lease relates since the grant of the Lease or in respect of all such alterations, improvements or additions made all necessary consents and approvals have first been obtained,,
  - (d) VAT is not chargeable on the rent or any other payment to be made under the lease and so far as the Vendors are aware no election has been made by the landlord to waive exemption from VAT in respect of the lease
- 17 13 So far as the Vendors are aware, the Company has at all times complied with the Factories Act 1961 the Public Health Acts 1875 to 1961 the Offices Shops and Railway Premises Act 1963 the Control of Pollution Act 1974 the Health and Safety at Work etc Act 1974 and the Clean Air Act 1993
- 17.14 Where required, a fire certificate has been issued in respect of the Property and the Property complies in all respects with current fire regulations and the current requirements of the insurers of the Property.
- 17 15 The Company has not at any time
- (a) surrendered any lease, licence or tenancy to the landlord without first satisfying itself that the landlord had good title to accept such surrender and without receiving from the landlord an absolute release from all liability arising under such lease, licence or tenancy,
  - (b) assigned, or otherwise disposed of, any lease, licence or tenancy without receiving a full and effective indemnity from the assignee or transferee in respect of its liability under such lease, licence or tenancy,
  - (c) been a guarantor of a tenant's liability under any lease, licence or tenancy, or
  - (d) assigned or otherwise disposed of any leasehold property in such a way that it retains any other residual liability in respect thereof.
- 18 **Environmental matters**
- 18.1 The Company has obtained and have at all times complied with all Environmental and Health and Safety Permits, all Environmental and Health and Safety Permits are in full force and effect, and there are no facts or circumstances that may lead to the revocation, suspension, variation, non-renewal of or inability to transfer any Environmental and Health and Safety Permits

- 18.2 The Company has at all times complied with all Environmental Laws and Health and Safety Laws and so far as the Vendors are aware there are no facts or circumstances which may lead to any breach of or liability under any Environmental Laws or Health and Safety Laws
- 18.3 The Company has at all times complied with all applicable provisions of the Asbestos (licensing) Removal Regulations 1983 and the Controlled Waste (Registration of Carriers and seizure of Vehicles) Regulations 1991
- 18.4 All information provided by or on behalf of the Company to any relevant enforcement authority, and all records and data required to be maintained by the Company under the provisions of any Environmental Laws or Health and Safety Laws are complete and accurate
- 18.5 There are no Hazardous Substances at, on or under, nor have any Hazardous Substances been emitted, escaped or migrated from, the Property
- 18.6 There have been no claims, investigations, prosecutions or other proceedings against or threatened against the Company or any of its directors, officers or employees in respect of Harm arising from the operation of the business of the Company or occupation of the Property or for any breach or alleged breach of any Environmental and Health and Safety Permits, Environmental Laws or Health and Safety Laws and there are no facts or circumstances which may lead to any such claims, investigations, prosecutions or other proceedings. At no time has the Company received any notice, communication or information alleging any liability in relation to any Environmental and Health and Safety Matters or that any works are required
- 18.7 The Company has not received any enforcement, prohibition, stop, remediation, improvement or any other notice from any enforcement authority, including the Environment Agency, the Health and Safety Executive and the relevant local authority, with regard to any breach or alleged breach of any Environmental Laws or Health and Safety Laws
- 18.8 The Company has not nor is likely to have any actual or potential liability under any Environmental Laws or Health and Safety Laws by reason of it having owned, occupied or used any Other Properties.
- 18.9 Copies of all
- (a) current Environmental and Health and Safety Permits,
  - (b) material environmental and health and safety policy statements,
  - (c) material reports in respect of environmental and health and safety audits, investigations or other assessments;
  - (d) records of any material accidents, illnesses and reportable diseases;
  - (e) material correspondence between the Company or any of the Subsidiaries and any relevant enforcement authority, and
  - (f) copies or details of all waste disposal contracts;
- relating to the business of the Company or the Property have been Disclosed and all such statements, reports, investigations, assessments, records, correspondence and other information are complete and accurate and are not misleading
- 18.10 The Company has not given or received any warranties or indemnities in respect of, have any insurance in respect of, or have otherwise attempted to apportion any liabilities, duties or obligations that arise under Environmental Laws or Health and Safety Laws

19     **Vendors' interests**

- 19 1    No Vendor has any interest (direct or indirect) in any other company or business which competes or has a close trading relationship with any business now carried on by the Company
- 19 2    No person is entitled to receive from the Company any finder's fees brokerage or other commission in connection with the sale and purchase of the Shares under this agreement.
- 19 3    There is not now outstanding any contract or arrangement to which the Company is a party and in which any Vendor or any director of the Company is or has been interested whether directly or indirectly

20     **Good standing**

- 20 1    No receiver administrative receiver or administrator has been appointed nor any notice given petition presented or order made for the appointment of any such person over the whole or any part of the assets or undertaking of the Company or any of the Vendors
- 20 2    No petition has been presented no order has been made and no resolution has been passed for the winding up of the Company or for the appointment of a liquidator or provisional liquidator of the Company
- 20 3    No voluntary arrangement has been proposed or is in force under the Insolvency Act 1986 Part I in respect of the Company.
- 20 4    The Company has not stopped payment nor is it insolvent or unable to pay its debts as and when they fall due.
- 20 5    No unsatisfied judgment is outstanding against the Company and no demand has been served on the Company under the Insolvency Act 1986 Section 123(1)(a)
- 20 6    No distress execution or other process has been levied in respect of the Company which remains undischarged nor is there any unfulfilled or unsatisfied judgment or court order outstanding against the Company
- 20 7    So far as the Vendors are aware there are not pending or in existence any investigations or inquiries by or on behalf of any governmental or other body in respect of the affairs of the Company.
- 20 8    The Company has at all times carried on business and conducted its affairs in all respects in accordance with its memorandum and articles of association for the time being in force.

21     **Replies to enquiries**

The information contained in the Vendors' Solicitors written replies (copies of which are annexed to the Disclosure Letter) dated 16 November 2006, 22 February 2007, 26 February 2007, 5 April 2007 and 12 April 2007 to the enquiries made by the Purchaser's Solicitors was so far as the Vendors are aware when given true and accurate.

**Part III**

22     **Taxation**

22 1    **General**

- (a)    All notices, returns (including any land transaction returns), reports, accounts, computations, statements, assessments and registrations and any other necessary information submitted by the Company to any Taxation Authority for the purposes of Taxation have been made on a proper basis, were punctually submitted, were accurate

and complete in all material respects when supplied and remain accurate and complete in all material respects and none of the above is or, so far as the Vendors are aware, is likely to be the subject of any material dispute with any Taxation Authority

- (b) All Taxation (whether of the United Kingdom or elsewhere) for which the Company is or has been liable or is liable to account for has been duly paid (insofar as such Taxation ought to have been paid)
- (c) The Company has not made any payments representing instalments of corporation tax pursuant to the Corporation Tax (Instalment Payments) Regulations 1998 in respect of any current or preceding accounting periods and is not under any obligation to do so
- (d) The Company has not paid within the past seven years ending on the date of this agreement or will become liable to pay any penalty, fine, surcharge or interest charged by virtue of the provisions of the TMA 1970 or any other Taxation Statute
- (e) The Company has not within the past 12 months been subject to any non-routine visit, audit, investigation, discovery or access order by any Taxation Authority and the Vendors are not aware of any circumstances existing which make it likely that a visit, audit, investigation, discovery or access order will be made in the next 12 months.
- (f) The amount of Taxation chargeable on the Company during any accounting period ending on or within the six years before Completion has not, to any material extent, depended on any concession, agreements or other formal or informal arrangement with any Taxation Authority.
- (g) All transactions in respect of which any clearance or consent was required from any Tax Authority have been entered into by the Company after such consent or clearance has been properly obtained, any application for such clearance or consent has been made on the basis of full and accurate disclosure of all relevant material facts and considerations, and all such transactions have been carried into effect only in accordance with the terms of the relevant clearance or consent.
- (h) The Company has duly submitted all claims, disclaimers and elections the making of which has been assumed for the purposes of the Accounts and none of such claims, disclaimers or elections are, so far as the Vendors are aware, likely to be disputed or withdrawn
- (i) Full particulars have been Disclosed of all matters relating to Taxation in respect of which the Company is or at Completion will be entitled to
  - (i) make any claim (including a supplementary claim), disclaimer or election for relief under any Taxation Statute or provision, and/or
  - (ii) appeal against any assessment or determination relating to Taxation; and/or
  - (iii) apply for a postponement of Taxation
- (j) The Company is and will not so far as the Vendors are aware become liable to make to any person (including any Taxation Authority) any payment in respect of any liability to Taxation of any other person where that other person fails to discharge liability to Taxation to which he is or may be primarily liable
- (k) The Company has sufficient records to determine the tax consequence which would arise on any disposal or realisation of any asset owned at the Accounts Date or acquired since that date but prior to Completion.

## 22.2 Chargeable gains

- (a) The book value shown or adopted for the purposes of the Accounts as the value 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 which on a disposal of such asset at the date of this agreement would be deductible under section 38 of TCGA 1992.

#### 22.3 *Capital allowances*

- (a) No balancing charge under the CAA 2001 (or any other legislation relating to capital allowances) would be made on the Company on the disposal of any pool of assets (that is, all those assets whose expenditure would be taken into account in computing whether a balancing charge would arise on a disposal of any other of those assets) or of any asset not in such a pool, on the assumption that the disposals are made for a consideration equal to the book value shown in or adopted for the purpose of the Accounts for the assets in the pool or (as the case may be) for the asset.
- (b) No event has occurred since the Accounts Date (otherwise than in the ordinary course of business) whereby any balancing charge may fall to be made against, or any disposal value may fall to be brought into account by the Company under the CAA 2001 (or any other legislation relating to capital allowances).

#### 22.4 *Distributions*

- (a) No distribution or deemed distribution within the meaning of sections 209, 210 or 211 of ICTA 1988 has been made (or will be deemed to have been made) by the Company on or after 1 December 2003 except dividends shown in their audited accounts and the Company is not bound to make any such distribution.
- (b) So far as the Vendors are aware no distribution or deemed distribution within the meaning of sections 209, 210 or 211 of ICTA 1988 has been made (or will be deemed to have been made) by the Company prior to 1 December 2003 except dividends shown in their audited accounts and the Company is not bound to make any such distribution
- (c) No rents, interest, annual payments or other sums of an income nature paid or payable by the Company or which the Company is under an existing obligation to pay in the future are or may be wholly or partially disallowable as deductions, management expenses or charges in computing profits for the purposes of corporation tax.
- (d) The Company has not within the period of seven years preceding Completion been engaged in, nor been a party to, any of the transactions set out in sections 213 to 218 (inclusive) of ICTA 1988, nor has it made or received a chargeable payment as defined in section 218(1) of ICTA 1988

#### 22.5 *Loan relationships*

All interests, discounts and premiums payable by the Company in respect of its loan relationships (within the meaning of section 81 of the Finance Act 1996) are eligible to be brought into account by the Company or the Subsidiaries as a debit for the purposes of Chapter II of Part IV of the Finance Act 1996 at the time and to the extent that such debits are recognised in the statutory accounts of the Company or the Subsidiaries

#### 22.6 *Close companies*

- (a) The Company has not in any accounting period beginning after 31 March 1989 been a close investment-holding company as defined in section 13A of ICTA 1988
- (b) No distribution within section 418 of ICTA 1988 has been made by the Company during the last six years ending at the Accounts Date, nor have such distributions been made between the Accounts Date and Completion



- (c) Any loans or advances made or agreed to be made by the Company within sections 419 and 420 or 422 of ICTA 1988 have been Disclosed and the Company has not released or written off or agreed to release or write off the whole or any part of any such loans or advances

#### 22 7 *Group relief*

Except as provided in the Accounts, the Company is not and will not be obliged to make or be entitled to receive any payment for group relief as defined in section 402(6) of ICTA 1988 in respect of any period ending on or before the Accounts Date, or any payment for the surrender of the benefit of an amount of advance corporation tax or any repayment of such a payment.

#### 22 8 *Groups of companies*

- (a) The Company has not entered or agreed to enter into an election pursuant to section 171A or section 179A of TCGA 1992 or paragraph 66 of Schedule 29 to the Finance Act 2002
- (b) The execution or completion of this agreement or any other event since the Accounts Date will not result in any chargeable asset being deemed to have been disposed of and re-acquired by the Company for Taxation purposes pursuant to section 179 of TCGA 1992, paragraphs 58 or 60 of Schedule 29 to the Finance Act 2002 or as a result of any other Event (as defined in the Tax Covenant) since the Accounts Date
- (c) The Company has not ever been party to any arrangements pursuant to section 36 of the Finance Act 1998 (group payment arrangements)
- (d) The Company has not been, and is not, required by Schedule 28AA of ICTA 1988 to compute its profits or losses as if an arm's length provision had been made instead of any actual provision

#### 22 9 *Intangible assets*

- (a) For the purposes of this paragraph 22 9, references to 'intangible fixed assets' mean intangible fixed assets and goodwill within the meaning of Schedule 29 to the Finance Act 2002 to which the provisions of that Schedule apply (and references to an 'intangible fixed asset' shall be construed accordingly).
- (b) The Disclosure Letter sets out the amount of expenditure on each of the intangible fixed assets of the Company and provides the basis on which any debit relating to that expenditure has been taken into account in the Accounts or, in relation to expenditure incurred since the Accounts Date, will be available to the Company or any Subsidiary. No circumstances have arisen since the Accounts Date by reason of which that basis might change.
- (c) No claims or elections have been made by the Company or any Subsidiary under Part 7 of, or paragraph 86 of Schedule 29 to, the Finance Act 2002 in respect of any intangible fixed asset of the Company
- (d) Since the Accounts Date
  - (i) the Company does not own an asset which has ceased to be a chargeable intangible asset in the circumstances described in paragraph 108 of Schedule 29 to the Finance Act 2002;
  - (ii) the Company has not realised or acquired an intangible fixed asset for the purposes of Schedule 29 to the Finance Act 2002; and

- (iii) no circumstances have arisen which have required, or will require, a credit to be brought into account by the Company or any Subsidiary on a revaluation of an intangible fixed asset.

**22 10 Company residence and overseas interests**

- (a) The Company has within the past seven years been resident in the United Kingdom for corporation tax purposes and have not at any time in the past seven years been treated for the purposes of any double taxation arrangements having effect by virtue of section 249 of the Finance Act 1994, section 788 of ICTA 1988 or for any other tax purpose as resident in any other jurisdiction
- (b) The Company has not without the prior written consent of HM Treasury caused, permitted or entered into any of the transactions specified in section 765 of ICTA 1988 (migration of companies)
- (c) The Company does not hold shares in a company which is not resident in the United Kingdom and which would be a close company if it were resident in the United Kingdom in circumstances such that a chargeable gain accruing to the company not resident in the United Kingdom could be apportioned to the Company pursuant to section 13 of TCGA 1992
- (d) The Company is not holding and has not held in the past seven years any interest in a controlled foreign company within section 747 of ICTA 1988, and neither of them has any material interest in an offshore fund as defined in section 759 of ICTA 1988
- (e) The Company does not have a permanent establishment outside the UK

**22 11 Anti-avoidance**

- (a) All transactions or arrangements made by the Company have been made on fully arm's length terms and there are no circumstances in which section 770A of, or Schedule 28AA to, ICTA 1988 or any other rule or provision could apply causing any Taxation Authority to make an adjustment to the terms on which such transaction or arrangement is treated as being made for Taxation purposes
- (b) The Company has not at any time on or following 1<sup>st</sup> December 2003 been a party to or otherwise involved in a transaction or series of transactions in relation to which advisers considered that there was a significant risk that the Company could be liable to taxation as a result of the principles in *WT Ramsey Limited v IRC* (54 TC 101) or *Furniss v Dawson* (55 TC 324), as developed in subsequent cases
- (c) So far as the Vendors are aware, the Company has not at any time prior to 1<sup>st</sup> December 2003 been a party to or otherwise involved in a transaction or series of transactions in relation to which advisers considered that there was a significant risk that the Company could be liable to taxation as a result of the principles in *WT Ramsey Limited v IRC* (54 TC 101) or *Furniss v Dawson* (55 TC 324), as developed in subsequent cases.

**22 12 Inheritance tax**

- (a) The Company has not made any transfer of value within sections 94 and 202 of the IHTA 1984, nor has it received any value such that liability might arise under section 199 of the IHTA 1984, nor has it been a party to associated operations in relation to a transfer of value as defined by section 268 of the IHTA 1984
- (b) There is no unsatisfied liability to inheritance tax attached to or attributable to the Sale Shares or any asset of the Company and none of them are subject to any HM Revenue & Customs charge as mentioned in section 237 and 238 of the IHTA 1984

- (c) No asset owned by the Company, nor the Sale Shares are liable to be subject to any sale, mortgage or charge by virtue of section 212(1) of the IHTA 1984

22 13 *VAT*

- (a) The Company is a taxable person and are duly registered for the purposes of VAT with quarterly prescribed accounting periods, such registration not being pursuant to paragraph 2 of Schedule 1 to the VATA 1994 or subject to any conditions imposed by or agreed with HM Revenue & Customs and the Company is not (nor so far as the Vendors are aware are there any circumstances by virtue of which it may become) under a duty to make monthly payments on account under the Value Added Tax (Payments on Account) Order 1993
- (b) The Company has complied with all statutory provisions, rules, regulations, orders and directions in respect of VAT.
- (c) All supplies made by the Company are taxable supplies and the Company has not been and will not be denied full credit for all input tax by reason of the operation of sections 25 and 26 of the VATA 1994 and regulations made thereunder or for any other reasons and no VAT paid or payable by the Company is not input tax as defined in section 24 of the VATA 1994 and regulations made thereunder
- (d) The Company is not and has not been for VAT purposes a member of any group of companies and no act or transaction has been effected in consequence whereof the Company is or may be held liable for any VAT arising from supplies made by another company and no direction has been given nor will be given by HM Revenue & Customs under Schedule 9A to the VATA 1994 as a result of which the Company would be treated for the purposes of VAT as a member of a group
- (e) For the purposes of paragraph 3(7) of Schedule 10 to the VATA 1994, the Company or any relevant associates of the Company (within the meaning of paragraph 3(7) of Schedule 10 to the VATA 1994) has not exercised the election to waive exemption from VAT (pursuant to paragraph 2 of Schedule 10 to the VATA 1994) in respect of the Property.
- (f) The Company does not own and has not at any time within the period of ten years preceding the date hereof owned any assets which are capital items subject to the capital goods scheme under Part XV of the VAT Regulations 1995.
- (g) The Company has not made any claim for bad debt relief under section 36(z) of the VATA 1994 and accordingly there are no existing circumstances by virtue of which any refund of VAT obtained or claimed may be required to be repaid or there could be a claw back of input VAT from any Company under section 36(4) of the VATA 1994

22 14 *Stamp duty and stamp duty land tax*

- (a) Any document that may be necessary or desirable in proving the title of the Company to any asset which is owned by the Company at Completion or any document which the Company may wish to enforce or produce in evidence is duly stamped for stamp duty purposes.
- (b) Neither entering into this agreement nor Completion will result in the withdrawal of any stamp duty or stamp duty land tax relief granted on or before Completion which will affect the Company.
- (c) Details have been Disclosed of any chargeable interest (as defined under section 48, Finance Act 2003) acquired or held by the Company before Completion in respect of

which the Vendors are aware or ought reasonably to be aware that an additional land transaction return will be required to be filed with a Taxation Authority and/or a payment of stamp duty land tax made on or after Completion

## **SCHEDULE 5**

### **Vendor Protection**

- 1 The Warranties contained in Schedule 4 and (to the extent expressly provided in this Schedule) the covenants contained in the Tax Deed shall be qualified by the provisions of this Schedule
- 2 The Vendors shall not be liable in respect of any claim under the Warranties contained in Parts II and III of Schedule 4 to the extent that the matter or matters giving rise to such claim are Disclosed
- 3 The liability of the Vendors in respect of any breach of the Warranties (and to the extent expressly so provided in this Schedule) of the covenants contained in the Tax Deed shall be limited as follows
  - (a) the aggregate maximum liability of the Vendors in respect of all and any claims under the Warranties contained in Parts II and III of Schedule 4 and under the Tax Deed shall in no event exceed the Consideration, and
  - (b) the Vendors shall not be liable
    - (i) in respect of any single claim made by the Purchaser under the Warranties contained in Parts II and III of Schedule 4 where the amount of such claim does not exceed £2,500 00, and
    - (ii) in respect of all and any claims made by the Purchaser under the Warranties contained in Parts II and III of Schedule 4 unless and until the aggregate cumulative liability of the Vendors in respect of all and any such claims exceeds £50,000 00 in which event the Vendors shall be liable for the entire amount of such liability
- 4 The Vendors shall not be liable in respect of any claim under the Warranties contained in Parts II and III of Schedule 4 or under the Tax Deed unless it shall have been made, in the case of the Warranties set out in Part III of Schedule 4 and the Tax Deed, before the expiry of 6 years from the end of the Company's current accounting period and, in the case of the Warranties set out in Part II of Schedule 4, before the expiry of 24 months from the Completion Date
- 5 No claim under the Warranties or under the Tax Deed shall be deemed to have been made unless notice of such claim was made in writing to the Vendors specifying in reasonable detail the event of default to which the claim relates and the nature of the breach.
- 6 Any claim in respect of which notice shall have been given in accordance with paragraph 5 above shall be deemed to have been irrevocably withdrawn and lapsed (not having been previously satisfied settled or withdrawn) if proceedings in respect of such claim have not been issued and served on the Vendors not later than the expiry of the period of 6 months after the date of such notice
- 7 Where the Purchaser recovers from some other person any sum in respect of any matter giving rise to a claim for breach of the Warranties contained in Parts II and III of Schedule 4 then the Purchaser shall procure that there shall be repaid to the Vendors an amount equal to the amount so recovered (less the reasonable costs and expenses of its recovery and any taxation payable by the Purchaser as a result of its receipt) or (if less) the amount paid by the Vendors in respect of such claim (less the reasonable costs and expenses of its recovery and any taxation payable by the Purchaser as a result of its receipt).

- 8 The Vendors shall have no liability in respect of any claim for breach of any of the Warranties contained in Parts II and III of Schedule 4 or any claim under the Tax Deed.
- 8.1 if and to the extent that specific provision or reserve for or in respect of the liability or other matter giving rise to such claim has been made in the Accounts or the Completion Accounts,
- 8.2 if and to the extent that such claim occurs or is increased as a result of any change in legislation after the date of this agreement (or any legislation not in force at the Completion Date) which takes effect retrospectively or the withdrawal after the date of this agreement of any published concession or published general practice previously made by any Taxation Authority,
- 8.3 if and to the extent that such claim occurs or is increased as a result of any increase in the rate of Taxation in force at the Completion Date,
- 8.4 if the amount claimed is the recoverable under any policy of insurance provided that any such recovery does not and will not increase the level of premiums payable or result in the imposition of any additional adverse policy terms,
- 8.5 if and to the extent that such claim is attributable to any voluntary act or omission of or transaction or arrangement carried out by the Purchaser after the Completion Date (otherwise than in the ordinary course of business) and which the Purchaser knew would give rise to such claim, or
- 8.6 if and to the extent such claim would not have arisen but for a change of accounting policy of the any Group Company after the Completion Date other than as may be necessary to comply with generally accepted accounting principles applicable to United Kingdom companies.
- 9 Nothing in this Schedule shall derogate from the Purchaser's obligation to mitigate any loss which it suffers in consequence of a breach of the Warranties
- 10 For the avoidance of doubt the Purchaser shall not be entitled to recover damages in respect of any claim for breach of the Warranties and/or of the covenants contained in the Tax Deed where to do so would involve recovery more than once in respect of the same loss or damage
- 11 Any amount payable by the Vendors to the Purchaser in satisfaction of any claim made under the Warranties or under the Tax Deed shall be treated as a reduction by that amount of the Consideration
- 12 If in respect of any claim under the Warranties or under the Tax Deed the liability of the Vendors or of the Company is contingent only then the Vendors shall not be under any obligation to make any payment to the Purchaser or the Company until such time as the contingent liability ceases to be contingent and becomes actual provided that the provisions of paragraph 6 of this Schedule shall not apply for so long as the liability remains contingent
- 13 No claim whatever on the part of the Purchaser or the Company shall be in respect of any breach of the Warranties or under the Tax Deed if and to the extent that such breach has arisen in respect of any act or omissions stipulated to be carried out or omitted pursuant to the terms of this agreement
- 14 The following provisions shall apply in respect of any matter or event ("**the Matter**") which might give rise to a claim under the Warranties
- 14.1 The Purchaser shall upon it or the Company becoming aware of any Matter as soon as is reasonably practicable, give notice in writing to the Vendors' Representative of the Matter.

- 14.2 The Purchaser shall provide and shall procure that the Company will provide to the Vendors and the Vendors' professional advisers reasonable access to premises and personnel and to any relevant assets documents and records within their power possession or control for the purpose of investigating the Matter and enabling the Vendors to take such action as is referred to in paragraph 14.3 below and shall allow the Vendors and their advisers to take copies of any relevant documents or records
- 14.3 The Purchaser shall, and shall procure that the Company shall, take such action and institute and constitute such proceedings as the Vendors' Representative may reasonably request to dispute resist appeal compromise defend remedy or mitigate the Matter or to enforce against any third party the rights of the Company in relation to the Matter (including, for the avoidance of doubt and without limitation to the generality of this paragraph 14, pursuing any entitlement of the Company or of the Purchaser to recover from its insurers any sum in respect of the Matter) The Vendors shall secure (to the Purchaser's reasonable satisfaction) and fully indemnify the Purchaser and the Company against all liabilities, claims, costs and expenses incurred as a result of any action taken by the Purchaser or Company pursuant to this sub-paragraph.
- 14.4 The Purchaser shall not, and shall procure that the Company shall not, admit liability in respect of or compromise any Matter without the prior written consent of the Vendors' Representative (such consent not to be unreasonably withheld or delayed)

## **SCHEDULE 6**

### **Accounting Policies and Procedures for the Completion Accounts**

#### **1 General Requirements**

The Completion Accounts shall -

- 1 1 State the assets and liabilities of the Group Companies in accordance with applicable SSAP's and FRS's and FRSSE's
- 1 2 Be prepared in accordance with Generally Accepted Accounting Standards, Principles and Policies in the United Kingdom
- 1 3 Be prepared on a basis consistent with those accounting policies applied in the preparation of the statutory accounts for the three financial periods ended on the Accounting Date, save in circumstances where this shall conflict with the provisions of paragraphs 1 1 or 1.2 (in which event the provisions of paragraphs 1 1 and 1 2 shall override the provisions of this paragraph)
- 1 4 Not re-appraise the value of any of the assets of the Company as a result of the change in ownership of the share capital of the Company (or any changes in the business of the Group since Completion following such change in ownership) except only as specifically set out in this Schedule
- 1 5 Disregard the effect of any matter occurring after the Completion Date
- 1 6 Be prepared in accordance with the specific directions set out in paragraph 2 below and so that, in the case of any conflict, such directions shall override the provisions of paragraphs 1 1 to 1 4 (inclusive) of this Schedule.

#### **2 Specific Directions**

The following assumptions and accounting policies shall be applied:-

- 2 1 No value will (for the avoidance of doubt) be attributed in the Completion Accounts to intangible assets.
- 2 2 Full provision shall be made for all liabilities of the Company arising under any lease, hire purchase or conditional sale agreement, bill of sale or other agreement for payment on deferred terms to which the Company is a party.



## **SCHEDULE 7**

### **Form of Statement**

To **David Jay**  
Mulberry House  
Pinfold Lane  
Kirksmeaton  
West Yorkshire  
WF8 3JT

And **Northern Bear PLC**  
Unit 1  
Station House  
Station Road  
Chester-le-Street  
County Durham  
DH3 3DU

[date]

Dear Sirs

**Chirmarn Holdings Limited ('the Company')**

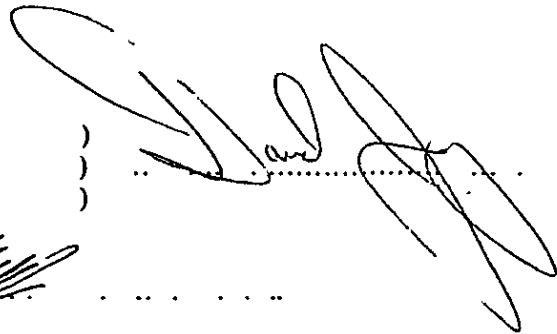
We refer to the agreement dated [date] between David Jay & Others (1) and Northern Bear PLC (2) for the sale and purchase of the entire issued share capital of the Company ('the Agreement')

In our opinion:

- (i) the Completion Accounts (as defined in the Agreement) have been prepared in accordance with its terms; and
- (ii) the Net Asset Value (as defined in the Agreement) derived from the balance sheet contained within the Completion Accounts is £[amount]

Yours faithfully

SIGNED as a DEED by  
David Jay  
in the presence of:-



Witness signature . . . . .

Name . . . JAMES NIGHTINGALE . . .

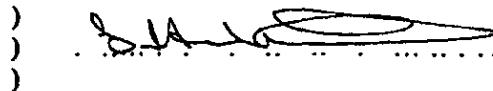
Address . . . 1 CITY SQUARE . . . . .

LEEDS . . . . .

LS1 2ES . . . . .

Occupation . . . SOLICITOR . . . . .

SIGNED as a DEED by  
Steven Hampton  
in the presence of -



Witness signature . . . . .

Name . . . JAMES NIGHTINGALE . . . . .

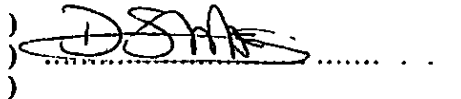
Address . . . 1 CITY SQUARE . . . . .

LEEDS . . . . .

LS1 2ES . . . . .

Occupation . . . SOLICITOR . . . . .

SIGNED as a DEED by  
David John Wales  
in the presence of:-



Witness signature . . . . .

Name . . . JAMES NIGHTINGALE . . . . .

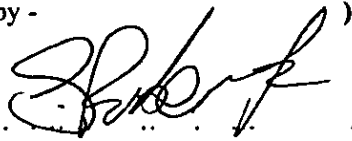
Address . . . 1 CITY SQUARE . . . . .

LEEDS . . . . .

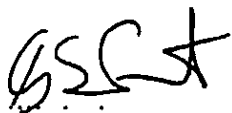
LS1 2ES . . . . .

Occupation . . . SOLICITOR . . . . .

SIGNED as a DEED by )  
Northern Bear PLC )  
acting by - )



Director



.....  
Director/Secretary