


WE HEREBY CERTIFY THAT THIS IS
A TRUE COPY OF THE ORIGINAL

SIGNED 
mincoffs - Solicitors LLP
NEWCASTLE UPON TYNE NE2 1SQ

Dated

6th December

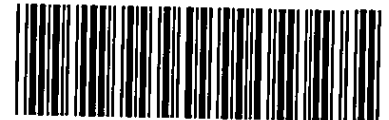
2006

5780581

S GRAY and others
and
NORTHERN BEAR PLC

AGREEMENT
for the sale and purchase of shares comprised in the capital of
MGM Ltd

TUESDAY



A18 31/07/2007 594
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

THIS AGREEMENT is made the 6th day of December

2006

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 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 £2,000 00 divided into
 - (i) 1,000 ordinary shares of £1 00 each, of which 549 have been issued and are paid or credited as fully paid, and
 - (ii) 1,000 A ordinary shares of £1 00 each, of which 200 have been issued and are paid or credited as fully paid
- (B) Each of the Vendors is legally and beneficially entitled to the Shares (as hereinafter defined) in the numbers set out against his name in column (3) of Schedule 1 and has the right to sell or procure the sale of them free from all liens charges and encumbrances.
- (C) The Vendors have agreed to grant an option to the Purchaser to purchase 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 30th April 2006,

1.1.2 'Accounts' means the accounts of the Company for the accounting reference period ended on the Accounting Date (a copy of which has been included in the Disclosure Letter) comprising, inter alia, a balance sheet, a profit and loss account, notes and directors' and auditor's reports prepared in accordance with Part VII of the Companies Act 1985;

1.1.3 'Admission' means admission of or permission for any of the equity share capital of the Purchaser to be dealt in on the Alternative Investment Market of the London Stock Exchange,

1.1.4 '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,

1.1.5 'Assignment' means the deed of assignment (of part of the land demised by the Lease) dated 10 August 2001 made between (1) Broderick Structures Limited and (2) MGM Ltd;

1.1.6 'Associate' means in relation to any Vendor

- (i) his spouse, issue, brother, sister or parent or other lineal ascendant or descendant;
- (ii) any company with which he or any of his relatives, as detailed in (i) above, is or may be associated, or

(iii) any partnership of which he is a member

(and for the purposes of (ii) above 'associated' shall have the meaning ascribed to it in the Companies Act 1985 Section 346),

1 1 7 '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 8 'CAA 2001' means the Capital Allowances Act 2001;

1 1 9 'Client Account' means the bank account of the Vendors' Solicitors as set out below

Bank.	Bank of Scotland
Address	41/51 Grey Street Newcastle upon Tyne
Sort Code	12-09-19
Account No .	00351982

1 1 10 'Company' means MGM Ltd, further details of which are set out in Schedule 2,

1 1 11 'Companies Acts' means the Companies Acts 1985 and 1989 and the Companies Consolidation (Consequential Provisions) Act 1985,

1 1 12 'Company's Accountants' means Haines Watts of Quayside House, 110 Quayside, Newcastle upon Tyne, NE1 3DX,

1 1 13 'Competent Authority' means any person (including any government or government agency) having enforcement powers and/or regulatory authority under Environmental Laws and/or any court of law or tribunal;

1 1 14 'Completion Accounts' means the balance sheet of the Company at the Completion Accounts Date and its 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 6 and Schedule 6;

1 1 15 'Completion Accounts Date' means the close of business on the day immediately prior to the Completion Date;

1 1 16 'Completion Date' means the date of actual completion of the matters provided for in clause 7.3 and 'Completion' shall be construed accordingly, — — —

1 1 17 'Completion Payment' means the sum of £1,300,201 00 less the amount of the Option Fee paid by the Purchaser;

1 1 18 'Compromise Agreement' means the compromise agreement between the Company and E Gray (a Vendor) in the Agreed Form;

1 1 19 'Consideration' means the sum of £2,000,201 00, less the amount of the Option Fee paid by the Purchaser, — — —

1 1 20 'Consideration Shares' means such number of ordinary shares of £0.01 each in the capital of the Purchaser as will have an aggregate value equal to £700,000 00, applying the Deemed Value to each such share to be allocated as set out in column 5 of Schedule 1;

1 1 21 'Deed of Surrender' means a deed of surrender dated 21 April 1991 made between (1) Ruberoid Company Limited and (2) The Lord Mayor Aldermen & Citizens of the City and County of Newcastle upon Tyne,

1 1 22 'Deemed Value' means the value of an ordinary share of £0 01 in the capital of the Purchaser as calculated from the average of the closing middle market prices of such shares for the five Business Days before the Completion Date as derived from the AIM section of the London Stock Exchange's Daily Official List,

- 1 1 23 **'Determination Date'** means the date upon which the Completion Accounts and Statement are agreed or determined in accordance with clause 6,
- 1 1 24 **'Disclosed'** means fairly disclosed to the Purchaser in the Disclosure Letter,
- 1 1 25 **'Disclosure Letter'** means the letter and its annexures (disclosing various matters relative to the Warranties contained in Parts II and III of Schedule 4) addressed by the Vendors to the Purchaser in the Agreed Form, save as to those sections of the letter disclosing specific matters relative to the Warranties contained in Parts II and III of Schedule 4 (commencing upon page 2 of the letter);
- 1 1 26 **'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 27 **'Environment'** means any and all organisms (including man), ecosystems, property and the following media air (including the air within buildings and the air within other natural or man-made structures whether above or below ground), water (including water under or within land or in drains or sewers and coastal and inland waters), and land (including land under water),
- 1 1 28 **'Environmental Laws'** means all national or local statutes codes or other laws or legislation concerning health, safety or matters related to pollution or protection of the Environment and all decisions, rules, regulations, ordinances, orders and directives of the European Community, the United Kingdom Parliament and other statutory bodies in the United Kingdom having jurisdiction in respect of such matters,
- 1 1 29 **'ICTA 1988'** means the Income and Corporation Taxes Act 1988;
- 1 1 30 **'IHTA 1984'** means the Inheritance Tax Act 1984,
- 1 1 31 **'ITEPA 2003'** means the Income Tax (Earnings and Pensions) Act 2003;
- 1 1 32 **'Initial Period'** means the period of 3 months commencing upon the date of this Agreement,
- 1 1 33 **'Lease'** means the lease, short particulars of which are set out in Schedule 3,
- 1 1 34 **'Management Accounts'** means the balance sheet of the Company as at 30th September 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 30th September 2006, in each case in the Agreed Form,
- 1 1 35 **'Net Asset Value'** means the total assets less the total liabilities of the Company, as set out in the Completion Accounts,
- 1 1 36 **'Option'** means the right granted by clause 2.1
- 1 1 37 **'Option Fee'** means the sum determined in accordance with clause 2.2,
- 1 1 38 **'Option Notice'** means a notice served in accordance with clause 2.4,
- 1 1 39 **'Option Period'** means together:
- (a) the Initial Period, and
 - (b) up to 3 further consecutive periods (subject in each case to the payment of the appropriate proportion of the Option Fee in accordance with clause 2.3.2) of 1 calendar month each (the first such period commencing forthwith upon expiry of the Initial Period) providing that payment of the relevant Option Fee is made,
- 1 1 40 **'Pension Schemes'** means agreements or arrangements (whether legally enforceable or not) for the payment of any pensions, allowances, lump sums or other like benefits

- 1 1 23 **'Determination Date'** means the date upon which the Completion Accounts and Statement are agreed or determined in accordance with clause 6,
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- 1 1 26 **'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 27 **'Environment'** means any and all organisms (including man), ecosystems, property and the following media air (including the air within buildings and the air within other natural or man-made structures whether above or below ground); water (including water under or within land or in drains or sewers and coastal and inland waters), and land (including land under water),
- 1 1 28 **'Environmental Laws'** means all national or local statutes codes or other laws or legislation concerning health, safety or matters related to pollution or protection of the Environment and all decisions, rules, regulations, ordinances, orders and directives of the European Community, the United Kingdom Parliament and other statutory bodies in the United Kingdom having jurisdiction in respect of such matters,
- 1 1 29 **'ICTA 1988'** means the Income and Corporation Taxes Act 1988,
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- 1 1 31 **'ITEPA 2003'** means the Income Tax (Earnings and Pensions) Act 2003,
- 1 1 32 **'Initial Period'** means the period of 3 months commencing upon the date of this Agreement,
- 1 1 33 **'Lease'** means the lease, short particulars of which are set out in Schedule 3;
- 1 1 34 **'Management Accounts'** means the balance sheet of the Company as at 31st August 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 31st August 2006, in each case in the Agreed Form,
- 1 1 35 **'Net Asset Value'** means the total assets less the total liabilities of the Company, as set out in the Completion Accounts;
- 1 1 36 **'Option'** means the right granted by clause 2 1
- 1 1 37 **'Option Fee'** means the sum determined in accordance with clause 2 2,
- 1 1 38 **'Option Notice'** means a notice served in accordance with clause 2.4,
- 1 1 39 **'Option Period'** means together
- (a) the Initial Period, and
- (b) up to 3 further consecutive periods (subject in each case to the payment of the appropriate proportion of the Option Fee in accordance with clause 2 3.2) of 1 calendar month each (the first such period commencing forthwith upon expiry of the Initial Period) providing that payment of the relevant Option Fee is made;
- 1 1 40 **'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 the Company or for the benefit of the dependants of any such persons;

1141 **'Primary Period'** means the period of 12 months commencing upon the Completion Date,

1142 **'Property'** means the leasehold property demised (with other land) by the Lease and detailed more particularly in the Assignment but not including the land in the Deed of Surrender;

1143 **'Pro Rata Share'** means in respect of each Vendor the percentage set out opposite his name in column (6) of Schedule 1,

1144 **'Purchaser's Solicitors'** means Mincoffs Solicitors LLP of 5 Osborne Terrace, Newcastle upon Tyne, NE2 1 SQ,

1145 **'Purchaser's 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;

1146 **'Secondary Period'** means a period of 12 months commencing upon the expiry of the Primary Period;

1147 **'Service Agreements'** means the service agreements between the Company and each of S Gray, L Rainey and B Young (each being an employee of the Company at the date of this Agreement), in each case in the Agreed Form,

1148 **'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,

1149 **'Shares'** means together

(a) the 549 ordinary shares of £1 each, and

(b) the 200 A ordinary shares of £1 each;

together comprising the issued share capital of the Company,

1150 **'Statement'** means a statement of the Net Asset Value in the form set out in Schedule 7,

1151 **'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 governmental, state, federal, local, municipal or other body in the United Kingdom and also including any related penalty interest fine or surcharge;

1152 **'Taxation Authority'** means HM Revenue & Customs, Department of Social Security and any other governmental or other authority whatsoever competent to impose any Taxation in the United Kingdom,

~~1153 **'Tax Deed'** means a deed of tax indemnity in the Agreed Form;~~

1154 **'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;

- 1 1 55 'TCGA 1992' means the Taxation of Chargeable Gains Act 1992;
- 1 1 56 'Third Party Rights Act' means the Contracts (Rights of Third Parties) Act 1999,
- 1 1 57 'TMA 1970' means the Taxes Management Act 1970,
- 1 1 58 'Transfer' means any disposition of any legal or equitable interest in any share and whether by way of gift, sale, mortgage or otherwise,
- 1 1 59 'VATA 1994' means the Value Added Tax Act 1994,
- 1 1 60 'Vendors' Accountant' means Robson Laidler LLP of Fernwood House, Fernwood Road, Jesmond, Newcastle Upon Tyne NE2 1TJ,
- 1 1 61 'Vendors' Representative' means S Gray or such other person as the Vendors who own the majority in number of the Shares may by notice in writing to the Purchaser require;
- 1 1 62 'Vendors' Solicitors' means Robert Muckle LLP of Norham House, 12 New Bridge Street West, Newcastle upon Tyne NE1 8AS, and
- 1 1 63 'Warranties' means the warranties set out in clause 8 and Schedule 4 which are made and given at Completion
- 1 2 In this agreement, unless the context otherwise requires'
- 1 2 1 references to
- (a) 'SSAP's' are references to Statements of Standard Accounting Practice,
- (b) 'FRS's' are references to Financial Reporting Standards,
- (c) 'FRSSE's' are references to Financial Reporting Standards for Smaller Entities;
- (in each case issued or adopted by the Accounting Standards Board from time to time) and references to 'UITF Abstracts' are references to abstracts issued by the Urgent Issues Task Force of the Accounting Standards Board Limited,
- 1 2 2 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 initialed by or on their behalf for identification purposes;
- 1 2 3 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 judgement,
- 1 2 4 references to a base lending rate, if there is no such published or determinable rate at the appropriate time, mean such rate as the Purchaser shall select,
- 1 2 5 references to '**party**' and '**parties**' shall be construed as references to a party or the parties to this agreement,
- 1 2 6 references to '**recitals**', '**clauses**' and '**Schedules**' are references to recitals and clauses of and schedules to this agreement,
- 1 2 7 references within a Schedule to a '**paragraph**' are references to a paragraph within that Schedule,
- 1 2 8 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;

- 1.2.9 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), except to the extent that any amendment, re-enactment or modification made after the date of this agreement would increase the liability of any of the parties or create a liability or reduce the benefit where one would not otherwise exist or be so reduced, 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, and
- 1.2.10 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 In construing this agreement:
- 1.3.1 the contra proferentem rule shall not apply, and
- 1.3.2 the ejusdem generis rule shall not apply and accordingly the interpretation of general words shall not be restricted by being preceded by words indicating a particular class of acts, matters or things or being followed by particular examples
- 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 set out in Parts 11 and 111 of schedule 4 being breached) shall be deemed to be given undertaken or entered into by them jointly and severally (save as otherwise provided)
- 2 Grant of Option**
- 2.1 In consideration of the payment of the Option Fee, the Vendors grant the Purchaser the right, during the Option Period, to purchase all the Shares (but not some only of them) at a price equal to the Consideration
- 2.2 The fee payable by the Purchaser to the Vendors in consideration of the grant of the Option shall be an amount equal to the aggregate of:
- 2.2.1 the sum of £15,000 paid by the Purchaser to the Vendors ('the Initial Fee'), and
- 2.2.2 in respect of each consecutive period of 1 calendar month beyond the Initial Period, the sum of £5,000 per month (each an 'Additional Fee') provided always that it is agreed and acknowledged that the payment of any Additional Fee shall be at the sole discretion of the Purchaser
- 2.3 The Option Fee shall be paid
- 2.3.1 as to the Initial Fee, upon the date hereof by telegraphic transfer to the Client Account, and
- 2.3.2 as to any Additional Fee
- (a) in the case of the period of 1 calendar month comprised within the Option Period which shall next follow the Initial Period, prior to the expiry of the Initial Period by telegraphic transfer to the Client Account; and
- (b) in the case of any other additional period of 1 calendar month comprised within the Option Period, prior to the expiry of the preceding period of 1 calendar month by telegraphic transfer to the Client Account;

and the Vendors' Solicitors are irrevocably authorised to receive any payment made pursuant to the foregoing provisions of this clause

- 2 4 The Purchaser may, subject to Admission having occurred, exercise the Option by written notice served on the Vendor at any time during the Option Period

3 Agreement for sale

- 3 1 At Completion each of the Vendors shall, with full title guarantee, sell or procure the sale of and the Purchaser (relying on the 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

- 3 2 Each of the Vendors waives, and shall procure that any third party shall waive, 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.

- 3 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

4 Consideration

- 4 1 The aggregate consideration payable for the Shares shall be an amount equal to the Consideration

- 4 2 The Consideration shall be satisfied

4 2 1 as to the Completion Payment, by the payment by the Purchaser of the cash amounts to each Vendor set opposite his name in column (4) of Schedule 1 (less, in each case, the relevant Vendor's Pro-Rata Share of the Option Fee paid by the Purchaser) in accordance with clause 7 3 5(a), and

4 2 2 as to the balance, by the allotment and issue to certain of the Vendors of such number of Consideration Shares as will have an aggregate value equal to the amount set opposite their names in column (5) of Schedule 1 (applying the Deemed Value to each such share) such shares to be shown credited as fully paid

5 Consideration shares

- 5 1 Definitive share certificates in respect of the Consideration Shares shall be issued 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 Alternative Investment Market of the London Stock Exchange from 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 Alternative Investment Market of the London Stock Exchange in accordance with the provisions of this clause then the Purchaser shall (on written notice from the Vendors entitled to receive the Consideration Shares) satisfy in cash that part of the Consideration attributable to the Consideration Shares on a pound for pound basis by paying

5 1 1 £640,000 (six hundred and forty thousand pounds) to Steven Gray, and

5 1 2 £60,000 (sixty thousand pounds) to Brian Young.

- 5 2 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 for:

5 2 1 transfers made in the event of an intervening court order; or

- 5 2 2 transfers made in acceptance of a general offer made to all 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
- 5 2 3 a disposal by the personal representatives of any Vendor who shall die during the Primary Period (provided that the sale of any shares in the Purchaser by such personal representatives pursuant to this clause 5 2 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
- 5 2 4 transfers made 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
- 5 2 5 transfers made 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
- 5 2 6 transfers made for the purposes of satisfying the liability of the Vendors (or any part thereof) in respect of any Settled Claim (provided that the sale of any shares in the Purchaser by the Vendors pursuant to this clause 5 2 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 5.2.4 or 5.2.5 undertakes 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 5 2 and clause 5 3 whereupon the transferor will be released from any such liability or obligation

- 5 3 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 will during the Secondary Period transfer any Consideration Shares only.
 - 5 3 1 with the prior written consent of the Purchaser (not to be unreasonably withheld or delayed), or
 - 5 3 2 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

6 Completion Accounts

- 6 1 The Vendors shall procure that, promptly after Completion, the Vendors' Accountants are instructed to prepare, 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 procure that the draft Completion Accounts and the draft Statement~~ to be prepared by the Vendors' Accountants shall be delivered to the Purchaser within 40 Business Days of Completion
- 6 2 The Purchaser shall notify the Vendors' Representative within 40 Business Days of receipt of such draft Completion Accounts and the draft Statement whether or not he accepts them for the purposes of this agreement.
- 6 3 If the Purchaser notifies the Vendors' Representative that he does not accept such draft Completion Accounts and the draft Statement

- 6 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
- 6 3 2 the Vendors' Representative and the Purchaser 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
- 6 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) or if the Purchaser fails to notify the Vendors' Representative of its non-acceptance of the draft Completion Accounts and the draft Statement within the 40 Business Day period referred to in clause 6 2, 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.
- 6 5 If 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 6.3 then the matters in dispute (and only those) 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' Representative and the Purchaser or, failing agreement, to be selected, on the application of either the Vendors' Representative 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.
- 6 5 1 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,
- 6 5 2 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,
- 6 5 3 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); and
- 6 5 4 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
- 6 6 When the Vendors and the Purchaser reach (or pursuant to clause 6.4 are deemed to 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
- 6 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
- 6 6 2 the Net Asset Value as at the Completion Date shall be as set out in the Statement

6 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 Company 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 the Company, as the case may be, including access at all reasonable times to all the Company's employees, books and records, and all co-operation and assistance, as may in any such case be reasonably required to.-

6 7 1 enable the production of the Completion Accounts and the Statement; and

6 7 2 enable any independent firm of chartered accountants appointed pursuant to this clause to determine the Completion Accounts and the Statement

The Vendors and the Purchaser hereby authorise each other, their respective advisers and the Independent Firm appointed pursuant to this clause to take copies of all information which they have agreed to provide under this clause

6 8 If the Net Asset Value is

6 8 1 less than £600,000 00 then the Vendors shall within 5 Business Days of the Determination Date make a payment to the Purchaser of such amount as represents the amount by which the Net Asset Value is less than £600,000 00, or

6 8 2 more than the £600,000 00, then the Purchaser shall within 5 Business Days of the Determination Date make a payment to the Vendors (in their Pro-Rata Shares) of such amount as represents the amount by which the Net Asset Value is greater than £600,000 00.

6 9 Any amount payable by the Vendors to the Purchasers pursuant to clause 6.8 shall be treated as a reduction by that amount of the Consideration and any amount payable by the Purchaser to the Vendors pursuant to clause 6 8 shall be treated as an increase by that amount of the Consideration

7 Completion

7 1 Within 5 Business Days of the service of the Option Notice, the Vendors shall deliver or procure delivery to the Purchaser of the Disclosure Letter

7 2 The Purchaser may by notice in writing to the Vendors terminate this agreement within 5 Business Days of receipt by it of the Disclosure Letter in the event that the Disclosure Letter shall not be in a form acceptable to the Purchaser (at its absolute discretion) The Purchaser shall be entitled to waive its right to terminate under this clause by providing written notice of such waiver to the Vendors.

7 3 Provided that this agreement has not been terminated pursuant to either clause 7 2 or clause 10 4, completion of the sale and purchase of the Shares hereby agreed shall take place at the offices of the Vendors' Solicitors (or at such other place as the Vendors and the Purchaser may agree) on the 15th business day (or on such other date as agreed between the Vendors and the Purchaser) following the service of the Option Notice when

7.3.1 ~~the Vendors shall deliver to the Purchaser.~~

(a) transfers of the Shares, duly executed by the registered holders, in favour of the Purchaser (or as it in writing directs), 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) the certificate of incorporation, statutory books (including minute books), common seal and all books of account and other records of the Company, complete and (where appropriate) written up to date,
 - (d) all title documents relating to the Property,
 - (e) the written resignations of
 - (i) E Gray as a director of the Company,
 - (ii) S Gray as the secretary of the Company,
 - (f) a written acknowledgement in the Agreed Form from each of the Vendors that neither he nor any of his Associates has any claim whatever against the Company,
 - (g) the resignation of the existing auditors or reporting accountants (as appropriate) of the 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) a counterpart of the Compromise Agreement, duly executed by E Gray and by the qualified lawyer or relevant independent adviser,
 - (j) counterparts of the Service Agreements, duly executed by S Gray, L Raney and B Young,
 - (k) certificates from the Company's bankers certifying the current and deposit account balances of the Company at the close of business on the last Business Day prior to the Completion Date together with reconciliations to the date of Completion in respect of each such bank account,
 - (l) copies of all bank mandates and appropriate forms to amend the mandates given by the Company to its bankers,
 - (m) any cheques received by the Company not presented to its bank;
 - (n) deeds of release and letters of non-crystallisation, 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 Lloyds TSB Bank PLC;
 - (o) written confirmation from the Vendors that there are no subsisting guarantees given by the Company in their favour or in favour of their Associates and that after compliance with clause 7.3.4 none of the Vendors or their Associates will be indebted to the Company or vice versa, and
 - (p) a certified copy of any power of attorney under which any transfer or document referred to in this clause 7.3.1 is executed on behalf of a Vendor or any nominee;
- 7.3.2 the Vendors shall procure that a board meeting of the Company shall be held at which.
- (a) such persons as the Purchaser may nominate shall be appointed as directors and the secretary,
 - (b) there shall be submitted and accepted the resignations of the directors referred to in clause 7.3.1(e),
 - (c) the Company's Accountants shall be appointed auditors,
 - (d) the transfers of the Shares shall (subject to stamping) be approved for registration,

- (e) the existing bank mandates given by the Company shall be cancelled; and new mandates issued giving authority to persons nominated by the Purchaser,
 - (f) the registered office of the Company shall be changed as the Purchaser may direct; and
 - (g) 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,
- 7 3 3 the Vendors shall deliver to the Purchaser written resolutions, in such form 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,
- 7 3 4 the Vendors shall, and shall procure that their Associates shall, repay all money then owing by them to the Company (whether then due for payment or not),
- 7 3 5 subject to full compliance by the Vendors with the obligations incumbent upon them under the foregoing sub-clauses of this clause, the Purchaser shall:
- (a) pay or procure the payment of an amount equal to the Completion Payment (less the Option Fee paid) by telegraphic transfer to the Client Account (the Vendors' Solicitors being irrevocably authorised to receive the same) for the account of the Vendors,
 - (b) allot to the Vendors such number of Consideration Shares as are set out opposite their respective names in column (5) of Schedule 1,
 - (c) deliver, or procure the delivery, to the Vendors of
 - (i) a counterpart of the Tax Deed duly executed by the Purchaser,
 - (ii) a counterpart of the Compromise Agreements, duly executed on behalf of the Company; and
 - (iii) counterparts of the Service Agreements, duly executed on behalf of the Company.
-
- 7 4 If in any respect the provisions of clause 7 3 1 to 7 3 3 are not complied with on the date for Completion set by clause 7.3 the Purchaser may (in addition, and without prejudice to any other rights or remedies available to it)
- 7 4 1 terminate this agreement forthwith (without prejudice to any other rights or remedies it may have and without incurring any liability to the Vendors or any of them), or
- 7 4 2 defer Completion to a date not more than 28 days after the date set by clause 7.3 (and so that the provisions of that clause shall apply to Completion as so deferred) and if Completion does not take place as so deferred the Purchaser may terminate this agreement forthwith (without prejudice to any other rights or remedies it may have and without incurring any liability to the Vendors or any of them), or
- 7 4 3 proceed to Completion so far as practicable (without prejudice to its rights under this agreement)
- 7 5 The Purchaser shall, upon receipt of written notification from the Vendors given at any time during the period of 10 Business Days commencing upon the Completion Date, enter into a joint election with the Vendors (in such a form as the Vendors may reasonably require) under section 431 ITEPA 2003

8. **Warranties**

- 8 1 On Completion, the Vendors shall warrant to the Purchaser in respect of himself only 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, reasonable costs and reasonable expenses caused by any of the said Warranties in Part I of Schedule 4 being untrue
- 8 2 On Completion the Vendors warrant to the Purchaser in the terms set out in Parts II and III of Schedule 4
- 8 3 The Warranties shall be deemed to be given only as at Completion and to relate to the facts then existing.
- 8 4 The Warranties shall remain in full force and effect notwithstanding Completion.
- 8 5 For the avoidance of doubt the Warranties shall be separate and independent and save as expressly provided in this agreement shall not be limited by reference to any other clause or anything in this agreement or its Schedules
- 8 6 The rights and remedies of the Purchaser and the Vendors as appropriate in respect of the Warranties and those warranties in favour of the Vendors as set out in clause 8 11 below shall not be affected by
- 8 6 1 Completion,
- 8 6 2 its knowledge of any information it 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),
- 8 6 3 it failing to exercise or delaying the exercise of any right or remedy, or
- 8 6 4 by any event or matter whatever except a specific and duly authorised written waiver or release
- 8 7 None of the information supplied by the 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 shall be deemed a representation, warranty or guarantee of its accuracy by the Company to the Vendors and the Vendors waive any claims against the Company or its officers, employees, agents or representatives which they might otherwise have in respect of the same
- 8 8 Any of the Warranties which are qualified by the expressions 'to the best of the knowledge information and belief of the Vendors', 'so far as the Vendors are aware' or any similar expression shall be deemed to include an additional statement that they have been made after due and careful inquiry by the Vendors of
- 8 8 1 L Rainey, in respect only of those Warranties set out in Part II of Schedule 4;
- 8 8 2 the Vendors' Accountants, in respect only of those Warranties set out in paragraphs 2, 3, 4 and 5 of Part II of Schedule 4 and Part III of Schedule 4, and
- 8 8 3 the Company's insurance brokers, in respect only of those Warranties set out in paragraphs 7, 8 and 9 of part II of Schedule 4,
- and the Vendors shall only be deemed to have knowledge of facts or matters actually known to the Vendors having made due and careful enquiry of those persons detailed in clauses 8 8 1 to 8 8.3 and such expression shall not be deemed to have any wider meaning or to impose any need for the Vendors to have undertaken any other third party enquiry
- 8.9 The liability of the Vendors in respect of the Warranties set out in Parts I, II and III of Schedule 4 shall be limited if and to the extent that the limitations referred to in Schedule 5 apply

- 8 10 The Warranties contained in Parts II and III of Schedule 4 shall be qualified by such information as is Disclosed
- 8 11 On Completion, the Purchaser warrants to each of the Vendors that
- 8 11 1 it has the requisite power and authority to enter into and perform this agreement and all matters ancillary hereto and without prejudice to the generality of the foregoing the Purchaser has undertaken all action and obtained all authority necessary or appropriate for it to lawfully and properly issue the Consideration Shares,
- 8 11 2 the execution and delivery of and the performance by the Purchaser of its obligations under this agreement and documents ancillary hereto will not
- (a) result in the breach of any provision of its memorandum or articles of association or other constitutional documents;
- (b) result in the breach of or constitute a default under any agreement, arrangement or instrument of which the Purchaser is a party or by which the Purchaser is bound,
- (c) result in a breach of any applicable order, judgment or decree of any court or governmental authority, and
- 8 11 3 the person(s) executing this agreement and all documents ancillary thereto on behalf of the Purchaser is duly authorised to do so on behalf of the Purchaser under the terms of this agreement and the documents ancillary hereto binding the Purchaser
- 8 12 The Purchaser acknowledges that the Vendors are entering into the agreement and that certain of the Vendors have agreed to receive the Consideration Shares as part of the Consideration in reliance on each of the Purchaser's warranties set out in clause 8 11
- 8 13 The Purchaser acknowledges and agrees that the Vendors are not giving the Warranties as at the date of this Agreement.

9 Protection of Goodwill

- 9 1 Subject to clause 9.2 and without any joint and several liability the Vendors shall not (without the prior written consent of the Purchaser).

9 1 1 for a period of 2 years from the Completion Date be concerned any other business enterprise or venture which

- (a) is in competition, directly or indirectly, with the business of the Company as carried on at the Completion Date, and
- (b) which operates within 100 miles of the Property,

9 1 2 for a period of 2 years from the Completion Date, directly or indirectly solicit or endeavour to entice away from the Company any person who is engaged as a senior employee by it as at the Completion Date,

9 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 or supplier of the Company or a ~~prospective supplier or customer with whom the Company has entered negotiations:~~

- (a) for a period of 2 years from the Completion Date, in competition (whether directly or indirectly) with the business carried on by the Company as at the Completion Date, directly or indirectly canvass solicit or accept orders from or give any orders 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 the Company or restrict or vary the terms upon which it deals with the Company,

9 1 4 at any time after Completion use or (except as required by law or any regulatory authority) disclose to any person and shall use all reasonable endeavours to prevent the publication or disclosure of any information of a secret or confidential nature concerning the business or affairs of the Company or any of its customers or suppliers or prospective customers or suppliers whom they have had negotiations, or

9 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 the 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, this restriction shall only apply to use of that name in a geographic area where the Company or any member of the Purchaser's Group then uses such name

9 2 It is agreed and acknowledged that nothing in this clause 9 shall preclude

9 2 1 S Gray and B Young from carrying out his duties and activities as an employee of the Company, or

9 2 2 the Vendors from owning Shares in the Purchaser or any Member of the Purchaser's Group,

and such duties and activities shall not place the respective Vendors in breach of the covenants set out in this clause 9

9 3 For the purposes of this clause 9 a Vendor is concerned in a business if he carries it on as principal or agent or if

9 3 1 he has any financial interest (direct or indirect) in any person who is carrying on the business; or

9 3 2 he is a partner, director, employee, consultant or other agent in, of or to any person carrying on the business or any person having any financial interest (direct or indirect) in any person carrying on the business,

and disregarding any financial interest of a person in securities which are listed or dealt in on any generally recognised market if the relevant Vendor and any Associate ('the Investors') are together interested in securities which amount to less than 5% of the issued securities of that class and which in all circumstances carry less than 5% of the voting rights (if any) attaching to the issued securities of that class and provided that none of the Investors is involved in the management of the business of the issuer of the securities or of any person connected with it except by virtue of the exercise of any voting rights attaching to the securities

9 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

9 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

9 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.

10. **Conduct of the Company's affairs**

10.1 The Vendors covenant with the Purchaser that throughout the Option Period and, in the event of service of the Option Notice, during the period prior to Completion.

10.1.1 they will not

dispose of any interest in the Shares or any of them or grant any option over or mortgage charge or otherwise encumber the Shares or any of them,

10.1.2 they shall procure that (except with the prior written consent of the Purchaser such consent not to be unreasonably withheld or delayed) the Company shall

- (a) not depart in any way from the ordinary and normal course of the day-to-day conduct of its business, either as regards the scope or manner of conducting the same;
- (b) not sell or dispose of, or grant any option in respect of, any of its assets, save for the sale of assets in the ordinary course of day to day trading,
- (c) not incur capital expenditure exceeding £50,000 00 or enter into any commitment to do so,
- (d) not enter into any leasing, hire purchase or similar agreement or arrangement for the acquisition of assets with payment on deferred terms where the aggregate amount of the payments to be made pursuant to all of the agreements entered into exceeds £50,000 00,
- (e) not grant or issue or agree to grant or issue any mortgages, charges, debentures or other securities or give or agree to give any guarantees or indemnities except for guarantees and indemnities given in the ordinary course of the business of the Company;
- (f) not create issue or grant any option in respect of any class of share or loan capital or agree so to do, or
- (g) not permit any of its insurances to lapse or do or omit to do any thing which would make any policy of insurance void or voidable

10.2 The Vendors shall procure that the Purchaser and its agents, representatives and advisers will.

10.2.1 be given reasonable access (at all reasonable times and on giving reasonable prior notice) to:

- (a) the Property; and
- (b) all of the books and records of the Company; and

10.2.2 be provided with such information regarding the Company or the business carried on by it as they may reasonably request

10.3 The Vendors shall notify the Purchaser forthwith in the event that any of them becomes aware a breach of the provisions of clause 10.1

10.4 If, in the period from the date of this agreement to Completion a breach of the provisions of clauses 10.1 occurs then the Purchaser may by notice in writing to the Vendors terminate this agreement forthwith (but without prejudice to any other rights or remedies it may have)

11 **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

12 Notices

- 12.1 Any notice to be given for the purposes of this agreement shall either be delivered personally or sent by first class recorded delivery post or registered post.
- 12.2 The address for service of the Vendors shall be the address of the Vendors' Solicitors 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.
- 12.3 The address for service of the Purchaser shall be its registered office for the time being.
- 12.4 A notice shall be deemed to have been served as follows:
- 12.4.1 if personally delivered, at the time of delivery,
 - 12.4.2 if sent by recorded delivery post, at the expiration of 48 hours after the same was delivered into the custody of the postal authorities; and
 - 12.4.3 if sent by registered post, at the expiration of 48 hours after the same was delivered into the custody of the postal authorities.
- 12.5 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:
- 12.5.1 to the deceased party by name,
 - 12.5.2 to such party's personal representative by title,
- at the party's address as specified in clause 12.2 and is otherwise served in accordance with this agreement.
- 12.6 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.
- 12.7 Notice given to the Vendors pursuant to clause 12.2 above shall be deemed to be notice to all the Vendors and any notice by the Vendors shall only be given by their appointed representative or by the Vendor nominated by the Purchasers pursuant to clause 12.2.

13 Governing law and jurisdiction

- 13.1 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 ('Proceedings') which may arise out of or in connection with this agreement provided that nothing contained in this agreement shall be taken to have limited the right of the Purchaser to bring Proceedings in any other jurisdiction or jurisdictions whether concurrently or not.
- 13.2 The Vendors appoint the Vendors' Solicitors or such other person as is mentioned in clause 12.2 for the time being to accept service on their behalf of any Proceedings which may be commenced in England and Wales.

14 **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 the Vendors (whether to the press, employees, customers or otherwise) unless:

- 14 1 the content thereof and the manner and timing of its presentation and publication has been agreed between the parties, or
- 14 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.

15 **General**

- 15 1 This agreement shall (except for any obligation fully performed prior to or at the Completion Date) continue in full force and effect after the Completion Date, notwithstanding Completion
- 15 2 Each of the Vendors by executing this agreement appoints the Purchaser to be his attorney from and after 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 implement the terms of this agreement and 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
- 15 3 Without prejudice to clause 15.2, the Vendors shall, from time to time on being required to do so by the Purchaser, for a period of 12 months from the date of Completion 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 at the cost and expense of the Purchaser
- 15 4 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
- 15 5 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 ("Assignee") provided that should the Assignee cease to be a member of the Purchaser's Group it shall immediately reassign the rights and/or obligations to another member of the Purchaser's Group
- 15 6 Save as set out in clause 15 5 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.
- 15 7 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
- 15 8 No variations to this Agreement shall be effective unless in writing and signed by or on behalf of each party.

- 15 9 Time shall be of the essence of this agreement both as regards the dates and periods specifically mentioned and as to any dates and periods which may by agreement in writing between or on behalf of the Vendors and the Purchaser be substituted for them.
- 15 10 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 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
- 15 11 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
- 15 12 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.
- 15 13 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
- 15 14 This agreement may be executed in any number of counterparts or duplicates each of which shall be an original but such duplicates or 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
- 15.15 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) Completion Payment (£)	(5) Consideration Shares (£)	(6) Pro Rata Share
Steven Gray	Denewood, 1 Wooley Grange, Hexham, Northumberland, NE46 1TY	225 Ordinary Shares	179,672 14	640,000 00	40.99%
Elaine Gray	Denewood, 1 Wooley Grange, Hexham, Northumberland, NE46 1TY	224 Ordinary Shares 100 A Ordinary Shares	816,129 14		40.80%
Brian Young	102 Church Road, Gateshead, Tyne & Wear, NE9 5XE	100 Ordinary Shares 100 A Ordinary Shares	304,399 72	60,000	18.21%

SCHEDULE 2

The Company

Place Of Incorporation:	United Kingdom
Registered Number:	2682028
Registered Office:	Rhodes Street Walker Newcastle upon Tyne NE6 3LZ
Date of Incorporation:	28 January 1992
Directors:	S Gray E Gray L Rainey B Young
Secretary:	S Gray
Accounting Reference Date:	30 th April
Accountants:	Robson Laidler
Authorised Share Capital:	1,000 ordinary shares of £1 00 each 1,000 A ordinary shares of £1 00 each
Issued Share Capital:	549 ordinary shares of £1 00 each 200 A ordinary shares of £1 00 each
Mortgages/Charges:	Debenture in favour of Lloyds TSB Bank PLC dated 17 May 1993

SCHEDULE 3

The Lease

Address of Property:	Land at Station Road, Walker, Newcastle upon Tyne
Lease Date:	31 December 1914
Parties:	(1) The Lord Mayor Aldermen and Citizens of the City and County of Newcastle upon Tyne and (2) Sir W G Armstrong Whitworth and Company Limited
Term Commencement Date:	29 September 1912
Term:	99 years
Current Annual Rent:	£1,230 per annum
Rent Review Dates:	None
Permitted Use:	No specified permitted use but various prohibited uses

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 the recitals to this agreement and Schedule 2 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 all other statutory books and minute books of the Company.
- (a) have been properly kept,
- (b) are up-to-date, and
- (c) contain an accurate record of all matters required to be dealt with in them
- 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 an accurate copy of the current memorandum and articles of association of the Company, together with copies of all resolutions as are by law required to be attached together with copies of all resolutions setting out the rights attached to or the conditions of issue of any of the share capital of the Company
- 2 6 No allotment of share capital in the Company has been made in contravention of the provisions of the Companies Acts
- 2 7 The Company has not at any time acquired or taken a charge over any of its own shares
- 2 8 The Company has not entered into any arrangement involving the acquisition from or disposal to its directors or connected persons of non-cash assets
- 2 9 The Company has not in contravention of the provisions of the Companies Acts in relation to any of its directors or any person connected with such director.
- (a) granted any loan or quasi-loan or entered into any guarantee or credit transaction; or
- (b) provided any security in connection with any such loan quasi-loan guarantee or credit transaction

2 10 The Company has properly made and filed all returns particulars resolutions and documents required by the Companies Acts to be filed with the Registrar of Companies 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 11 The Company does not have, and never has had any subsidiaries or subsidiary undertakings

3 Share Capital

3 1 There are no agreements or other arrangements in force which:

- (a) provide for the present or future issue allotment or transfer of, or
 - (b) accord to any person the right (absolute or conditional) to call for the issue allotment or transfer of;
- any share or loan capital of the Company (including any option or right of pre-emption or conversion)

3 2 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 3 The Company has not at any time

- (a) reduced its share capital;
- (b) redeemed any share capital, or
- (c) purchased any of its shares

3 4 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 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 since the date of incorporation of the Company have been declared made and paid in accordance with law and its articles of association

4 Accounts

4.1 The accounting reference date of the Company for the purposes of the Companies Acts is 30th April and has not at any time been any other such date

4.2 The Accounts:

- (a) comply with the requirements of the Companies Acts,
- (b) have been prepared on a consistent basis in accordance with good accounting practice and comply with all current SSAPs, FRS's, FRSSE's and UITF Abstracts applicable to the Company,
- (c) show a true and fair view of the state of affairs, financial position, assets and liabilities of the Company as at the Accounting Date and of its results for the financial period ending on the Accounting Date, and

- (d) are not affected by any unusual extraordinary or non-recurring items
- 4 3 The Accounts set out correctly all such reserves or provisions for Taxation, including deferred taxation as defined in FRS19, as are necessary on the basis of the rates of tax now in force to cover all Taxation (present and future) in respect of any transaction occurring prior to the Accounting Date liable to be assessed on the Company or for which the Company is accountable up to such date
- 4 4 All liabilities or outstanding capital commitments of the Company as at the Accounting Date have been included in the Accounts by way of
- (a) full provision or reserve, or
- (b) (in the case of such a liability as was contingent, unquantified or disputed) note stating the maximum amount which has been or could be claimed and the best estimate of the directors (after taking all relevant professional advice) of the likelihood of such a claim materialising or being successful.
- 4 5 The profits of the Company for the three financial periods ended on the Accounting Date 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 6 No asset of the Company has been acquired for any consideration in excess of its market value at the date of its acquisition or otherwise than by way of bargain at arm's length
- 4.7 The Management Accounts are accurate in all material respects
- 4 8 The accounting and financial records of the Company.
- (a) are in the possession of the Company, and
- (b) do not contain or reflect any material inaccuracies or discrepancies.
- 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, liability under acceptances (otherwise than in respect of normal trade bills) or any acceptance credit (including any amounts due to any present or former directors or to members of the Company other than remuneration accrued due or for reimbursement of business expenses),
- (b) any Encumbrance, guarantee (other than a guarantee given in the ordinary and usual course of the Company's business, as carried on immediately prior to Completion); 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 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 So far as the Vendors are aware, 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 The

- Company has no other bank or deposit accounts (whether in credit or overdrawn) not included in such statements
- 5.4 In relation to any Encumbrances or guarantees (other than a guarantee given in the ordinary and usual course of the Company's business, as carried on immediately prior to Completion) detailed in the Disclosure Letter and in relation to any other financial facilities available to the Company
- (a) material details and accurate copies of all relevant documents are annexed to the Disclosure Letter,
 - (b) so far as the Vendors are aware, there has been no contravention of or non-compliance with any provision of any such document,
 - (c) no steps for the enforcement of any Encumbrances have been taken or threatened,
 - (d) there has not been any alteration in the terms and conditions of any of the arrangements or facilities all of which are in full force and effect,
 - (e) so far as the Vendors are aware the Company has not done anything whereby the continuance of the arrangements and facilities might be affected or prejudiced, and
 - (f) none of the arrangements is dependent on the guarantee of or on any security provided by a third party
- 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 written notice from any lenders of money to it requiring repayment or intimating enforcement of any Encumbrance and there are no circumstances likely to give rise to any such notice
- 5.6 Details of all grants made to the Company in the last six years are contained in the Disclosure Letter. 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 has given any guarantee of or security for any overdraft, loan or loan facility granted to the Company
- 6 Assets**
- 6.1 The Company has Legal and Beneficial Title to all assets of the Company which are included in the Accounts 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.
- 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 in reasonable repair and condition having regard to their age and usage,
 - (b) are capable in the reasonable opinion of the Vendors of doing the work for which they were designed or purchased, and
 - (c) 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 Maintenance contracts are in full force and effect in respect of all assets of the Company which it is normal or prudent to have maintained by independent or specialist contractors

6 5 Details of all contracts entered into by the Company for the maintenance of any of the Company's assets are included in the Disclosure Letter

6 6 Save as set out in the Disclosure Letter 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 7 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 reasonably necessary for the continuation of the business of the Company as carried on at Completion

7 **Insurances**

7 1 There are existing valid policies of insurance for full replacement values against all liabilities risks and losses (including but not limited to the losses caused by any unlawful act on the part of any person) against which it is normal or prudent to insure in respect of all property owned by and in the business carried on by the Company

7 2 All premiums due in respect of the Company's insurance policies have been paid in full

7 3 So far as the Vendors are aware nothing has been done or has been omitted to be done which could result in any of the Company's insurance policies being or becoming void or voidable

7 4 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 So far as the Vendors are aware, the Company has not supplied any products which were, at the time they were supplied, faulty or defective or did not comply with warranties or representations expressly made or implied by or on behalf of the Company.

8 2 No proceedings have been started and so far as the Vendors are aware, there are no outstanding liabilities or claims pending against the Company in respect of any services supplied by the Company for which the Company is liable and no dispute exists between the Company and any of their respective customers or clients

9 **Disputes/litigation**

9 1 The Company is not engaged (whether as claimant or defendant or otherwise) in any litigation, criminal or arbitration proceedings before any court, tribunal, statutory or governmental body, department, board or agency (other than as claimant in relation to the collection of unpaid debts arising in the ordinary course of business and not exceeding in the aggregate, £20,000.00) and, so far as the Vendors are aware, 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 judgement 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 judgement 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 is 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 or European Communities 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, so far as the Vendors are aware, 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 There is no 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 So far as the Vendors are aware, 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
- 9 6 So far as the Vendors are aware there has been no default by the Company under any agreement to which the Company is a party and so far as the Vendors are aware no threat or claim of default has been made and is outstanding and there is nothing which could cause
- (a) any such agreement to be terminated or rescinded by any other party, or
 - (b) their terms to be worsened or the Company prejudiced
- as a result of anything done or omitted or permitted to be done by the Vendors or the Company
- 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) reasonably 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 the Vendors know of no reason or of any 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 of the United Kingdom
- 10 3 The Company has registered or applied to register 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 principles and 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 so far as the Vendors are aware 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 material 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 fixtures and fittings vehicles and office equipment shall be deemed to be not in the ordinary course of business), and
 - (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 not provided for in the Accounts which is not in the ordinary course of business and without any material interruption or alteration in the nature, scope or manner of its business, and
 - (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 received payment in full on their due dates of all debts owing to the Company shown in the Accounts (subject to any provision for bad and doubtful debts made in the Accounts), has not released any debts in whole or in part and has not written off debts in an amount exceeding £5,000 00 in the aggregate; and
 - (g) has paid its material 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 turnover of the Company's business to date is not materially less than it was for the corresponding period in the financial year ending on the Accounting Date (treating the turnover in that corresponding period as increased by the same proportion as the prices charged by the Company have increased since that period) and to the extent that the business of the Company is seasonal the patterns of trading of the Company is not materially different to the pattern of trading observed during each of the 3 years ending on the Accounting Date

- 11 3 The value of work-in-progress and the value of orders received by the Company in respect of which work has not yet commenced or a contractual obligation to perform has not yet been entered into are not materially less than those values for the corresponding time in the financial year ending on the Accounting Date (treating those values as increased by the same proportion as the prices charged by the Company have increased since that corresponding time)
- 11 4 The overheads of the Company's business (including the direct costs of materials purchases and manufacturing) to date are not materially greater as a proportion of turnover than the proportion in the corresponding period in the financial year ending on the Accounting Date
- 11 5 The Company's business has not been materially and adversely affected in the 12 months preceding the Completion Date by the loss of any important customer or source of supply.
- 11 6 The Company does not carry on its business under any name other than its corporate name
- 11 7 The Company is not and has not been a party to any agreement, arrangement, understanding or practice restricting the freedom of the Company to provide and take goods and services by such means and from and to such persons and into or from such place as it may from time to time think fit.
- 11 8 There are in force no powers of attorney given by the Company other than to the holder of an Encumbrance (details of which are set out in the Disclosure Letter) solely to facilitate its enforcement nor any other authority (express, implied or ostensible) 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 the normal course of their duties
- 11 9 Neither the Company nor any officer has been prosecuted for any criminal, illegal or unlawful act connected with the Company.
- 11 10 So far as the Vendors are aware the Company has not committed or omitted to do any act or thing which could give rise to any fine or penalty nor is the Company party to any agreement practice or arrangement which in whole or in part
- (a) contravenes the provisions of the Trade Descriptions Acts 1968 and 1972
 - (b) would or might constitute a domestic or a Community infringement within the meaning of Part 8 of the Enterprise Act 2002.
 - (c) contravenes any provisions of the EEC Treaty or any regulation or other enactment made under that Treaty or
 - (d) contravenes any other anti-trust anti-monopoly or anti-cartel legislation or regulations
- 11 11 No agreement arrangement or other practice of the Company is or has been the subject of an investigation report or decision by the Office of Fair Trading, the Monopolies and Mergers Commission, Competition Commission or the Commission of the European Communities or has been the subject of a judgment from the Competition Appeals Tribunal nor has the Company received any process notice communication or request for information by or on behalf of the Office of Fair Trading, the Monopolies and Mergers Commission, the Competition Commission, the Secretary of State for Trade and Industry or the Commission of the European Communities relating to any aspect of the business of the Company.
- 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 contract which is for a term of more than 6 months;
 - (b) any contract not made in the ordinary course of business,
 - (c) any joint venture consortium or other partnership arrangement or agreement,

- (d) any written contractual arrangement 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 the shareholders of the Company,
 - (e) any contract of agency or distributorship,
 - (f) (excepting guarantees or warranties implied by law with respect to goods or 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, or
 - (i) 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
- 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 and, so far as the Vendors are aware, there are no circumstances likely to give rise to a default by the Company 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 services supplied by the Company and no such claims are threatened or anticipated and so far as the Vendors are aware, there is no matter or fact in existence in relation to services supplied by the Company which might give rise to the same.
- 12.4 The Vendors have 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.
- 12 5 There are no actual or purported contracts which are material to the business carried on by the Company and under which the Company purports to have enforceable rights by virtue only of the Third Party Rights Act
- 12 6 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, save for any outstanding offer, tender or the like given or made by the Company in the ordinary course of business
- 12 7 The Vendors have no knowledge information or belief that since the Accounting Date 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 has substantially reduced or will 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 has materially reduced or will materially reduce its business with it
- 13 **Intellectual property rights**
- 13 1 All patents, trade marks, registered designs, design rights, applications for any of the foregoing, copyrights, trade or business names, website addresses, domain names, inventions, processes, know-how and other industrial property rights ('IPR') purported to be used or

required by the Company are in full force and effect and are vested in and beneficially owned by the Company free from Encumbrances

- 13 2 The Disclosure Letter lists all such IPR in respect of which the Company has been registered as proprietor or in respect of which application for registration has been made.
- 13 3 There is no IPR owned or used by the Company capable of registration which have not been so registered or in respect of which application for registration has been made and is pending
- 13 4 So far as the Vendors are aware none of the IPR owned or used by the Company is the subject of any claim, opposition, attack, assertion or other arrangement of whatever nature which does or may impinge upon their use validity enforceability or ownership by the Company and, so far as the Vendors are aware, there are no grounds or other circumstances which may give rise to the same
- 13 5 No licences or registered user or other rights have been granted or agreed to be granted to any third party in respect of such IPR.
- 13 6 So far as the Vendors are aware no disclosure has been made to any person other than the Purchaser of any of the industrial know-how or the financial or trade secrets of the Company except properly and in the ordinary course of business and on the footing that such disclosure is to be treated as being of a confidential nature
- 13 7 No act has been done or has been omitted to be done to entitle any authority or person to cancel forfeit or modify any Intellectual Property Rights

14 Employees

- 14 1 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 (including accrued holiday pay), participation in benefit schemes (such as permanent health insurance, pension, 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 set out in the Disclosure Letter

14.2 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 (whether or not legally binding) 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.

- 14.3 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 12 months 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

- 14.4 The Company, during the preceding 12 months, has complied with the Employment Rights Act 1996 as amended in relation to its employees and the Company is not under any present, or so far as the Vendors are aware future or contingent liability to pay compensation for loss of office or employment to any ex-officer or ex-employee and no payments are now due by the Company under the Employment Rights Act 1996

- 14 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 or likely to take place within 6 months after Completion.
- 14 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.
- 14 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.
- 14 8 So far as the Vendors are aware the Business has at all times been conducted in compliance with all applicable legislation concerning health and safety matters and all and any regulations or orders made or issued under any such legislation ('Health and Safety Legislation').
- 14 9 There are no events, states of affairs, conditions, circumstances, activities, practices, incidents or actions which have occurred and have not been remedied or are occurring or have been or are in existence in connection with the conduct of the Business which are liable to give rise to liability under the Health and Safety Legislation.
- 14.10 So far as the Vendors are aware no works, repairs, construction, remedial action or expenditure is or may be required in relation to the Health and Safety Legislation in order to carry on lawfully its business at the Property.
- 14 11 At no time in the previous 24 months have or has the Vendors or the Company had knowledge of and/or received any notice, claim or other communication alleging any contravention of or actual or potential liability under the Health and Safety Legislation.

15 Pension Schemes

- 15 1 Details of the Pension Schemes are set out in the Disclosure Letter, including (but without limitation)
- (a) copies of all documentation governing the Pension Scheme and explanatory booklets and accounts relating to it,
 - (b) a list of all past or present officers or employees of the Company who are members of the Pension Scheme with all details relevant to their membership and necessary to establish their entitlements under the Pension Scheme.
- 15.2 All contributions, insurance premiums, Tax and expenses due to and in respect of each Pension Scheme have been duly paid and so far as the Vendors are aware, there are no liabilities outstanding in respect of a Pension Scheme at the date of this agreement.
- 15 3 Each Pension Scheme is registered with HM Revenue & Customs for the purposes of Chapter 2 of Part 4 of the Finance Act 2004 and there is no reason why HM Revenue & Customs would de-register the Pension Scheme.
- 15 4 If a Pension Scheme is a contracted-out scheme within the meaning of the Pension Schemes Act 1993, there is in force a contracting-out certificate covering the Company and, so far as the Vendors are aware, there is no reason why the certificate might be cancelled.

- 15 5 No proposal or announcement has been made to any Employee or to any officer of the Company about the introduction, continuance, increase or improvement of any pension, lump sum, death, ill-health, disability or accident benefit
- 15 6 Each Pension Scheme has been designed to comply with, and has been administered in accordance with, all applicable legal and administrative requirements and the Company (in so far that it has any obligations in relation to the Pension Schemes) and, so far as the Vendors are aware, the trustees of each Pension Scheme have complied in all material respects with their obligations under and in respect of the relevant Pension Scheme
- 15 7 No discrimination on grounds of sex, disability, marital status, hours of work, fixed-term or temporary agency workers, sexual orientation, religion or belief is, or has at any stage been, made in the provision of pension, lump sum, death, ill-health, disability or accident benefits by the Company in relation to any of the Company's past or present officers and employees
- 15 8 No claims or complaints have been made or are pending or threatened in relation to the Pension Scheme or in respect of the provision of (or failure to provide) pension, lump sum, death, ill-health, disability or accident benefits by the Company in relation to any of the Pensionable Employees and there is no fact or circumstance likely to give rise to such claims or complaints
- 15 9 So far as the Vendors are aware, no acts, omissions or other events have been reported to the Pensions Regulator under section 70 of the Pensions Act 2004 and so far as the Vendors are aware, there is no fact or circumstance likely to give rise to such reports
- 15 10 The Company has complied with all obligations imposed by the Welfare Reform and Pensions Act 1999 and any regulations made under it regarding facilitating access to all of its relevant employees (as defined in the Welfare Reform and Pensions Act 1999) to a stakeholder pension arrangement
- 15 11 There is no obligation on the Company to pay contributions to a stakeholder pension arrangement in respect of any employee or officer of the Company
- 15.12 There are no claims or actions in progress or so far as the Vendors are aware, pending, nor any reason so far as the Vendors are aware for such claims or actions involving any employee or officer of the Company in connection with a stakeholder arrangement.
- 16 The Property**
- 16 1 The Property comprises all the leasehold property owned by the Company or occupied by it under licence or in which the Company has any other interest
- 16 2 The Company has sole legal and beneficial title to the Property.
- 16 3 The Property is not subject to the payment of any outgoings (except the usual rents, rates, taxes and utility charges) nor are there any persons in unlawful possession or occupation of or who have or claim any rights or easements of any kind in respect of the Property or any part of them adverse to the estate interest right or title of the Company.
- 16 4 So far as the Vendors are aware there is not in respect of the Property.
- (a) any outstanding notices or orders issued by or agreement with any local or other authority;
 - (b) any proceedings in respect of any infringement of the building bye-laws or any monetary claim or liability (contingent or otherwise) under Town & Country Planning legislation or regulations or otherwise,
 - (c) any enforcement or stop notice under the Town and Country Planning legislation or relevant regulations, or

- (d) 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

16 5 The Company

- (a) has paid all rent, insurance, service charges and other outgoings that so far as the Vendors are aware are payable in respect of the Property, and
- (b) has so far as the Vendors are aware 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

16 6 The Company has not at any time assigned or otherwise disposed of any leasehold property of which it was first or subsequent lessee

17 **Environmental matters**

17 1 So far as the Vendors are aware there has been and is no breach by the Company of any Environmental Laws

17.2 No notice order judgement demand or letter requiring the taking of remedial or other action under or pursuant to Environmental Laws has been served on or received by the Company

18 **Vendors' interests**

18.1 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 or intends to acquire any such interest

18 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

18.3 There is not now outstanding and there has not at any time been 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

18 4 The Company is not a party to nor has its profits or financial position been affected by any contract or arrangement which was not of an entirely arm's length nature

19 **Good standing**

19 1 No receiver administrative receiver or administrator has been appointed nor any notice given or 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

19 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

19.3 No voluntary arrangement has been proposed or is in force under the Insolvency Act 1986 Section 1 in respect of the Company

19 4 The Company has not stopped payment nor is it insolvent or unable to pay its debts as and when they fall due

19 5 No unsatisfied judgement is outstanding against the Company and no demand has been served on the Company under the Insolvency Act 1986 Section 123(1)(a).

- 19.6 No distress execution or other process has been levied in respect of the Company which remains undischarged nor is there any unfulfilled or unsatisfied judgement or court order outstanding against the Company
- 19.7 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.
- 19.8 None of the activities or contracts or rights of the Company is ultra vires unauthorised invalid or unenforceable or in breach of any contract or covenant

20 Replies to enquiries

The information relating to the Company given in writing by the Vendors' Solicitors by way of replies to those enquiries made by the Purchaser's Solicitors, as annexed to the Disclosure Letter, was when given accurate in all material respects

Part III

21 Taxation

21.1 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 when supplied and so far as the Vendors are aware, remain accurate and complete in all material respects and none of the above is the subject of any material dispute with any Taxation Authority
- (b) All Taxation 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, within the past 7 years paid, 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 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 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 and so far as the Vendors are aware, 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 likely to be disputed or withdrawn
- (i) The Disclosure Letter contains particulars 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 not 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) So far as the Vendors are aware, 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

21.2 *Chargeable gains*

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

21.3 *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)

21.4 *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 since its incorporation except dividends shown in their audited accounts and the Company is not bound to make any such distribution
- (b) 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
- (c) 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

21.5 *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 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.

21.6 *Close companies*

- (a) The Company has not in any accounting period beginning upon its incorporation 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
- (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 in the Disclosure Letter 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

21.7 *Intangible assets*

For the purposes of this paragraph 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

- (a) 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. No circumstances have arisen since the Accounts Date by reason of which that basis might change
- (b) No claims or elections have been made by the Company 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.
- (c) 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 on a revaluation of an intangible fixed asset

21.8 *Company residence and overseas interests*

- (a) The Company has been resident in the United Kingdom since its incorporation for ~~corporation tax purposes and has not at any time during that period 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 since its incorporation 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
- (c) The Company does not have a permanent establishment outside the UK

21 9 *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

21 10 *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 Shares or any asset of the and none of them are subject to any Inland Revenue charge as mentioned in section 237 and 238 of the IHTA 1984
- (c) No asset owned by the Company is liable to be subject to any sale, mortgage or charge by virtue of section 212(1) of the IHTA 1984.

21 11 *VAT*

- (a) The Company is a taxable person and is 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 Customs & Excise and the Company is not (nor 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 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 Customs & Excise 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, neither the Company nor any relevant associate the Company (within the meaning of paragraph

3(7) of Schedule 10 to the VATA 1994) has 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 since its incorporation 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 of the VATA 1994 and 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 the Company under section 36(4) of the VATA 1994

21 12 *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) The Disclosure Letter sets out details 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 in the Disclosure Letter
- 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 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 or under the Tax Deed 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;
 - (b) the aggregate maximum liability of each Vendor in respect of all and any claims under the Warranties contained in Parts I, II and III of Schedule 3 and under the Tax Deed shall in no event exceed an amount equal to the cash amount of the Completion Payment which he has received as set out in column 4 of Schedule 1 , adjusted by
 - (i) deducting the relevant Vendor's Pro Rata Share of such sum as may be paid to the Purchaser pursuant to clause 6 8.1, or
 - (ii) adding the relevant Vendor's Pro Rata Share of such sum as may be paid by the Purchaser pursuant to clause 6 8 2
- 4 The Vendors shall not be liable in respect of any claim under the Warranties contained in Parts I, 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 Parts I and II of Schedule 4 before the expiry of 18 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 legal 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 in relation to any matter which has been the subject of a claim for breach of the Warranties contained in Parts II and III of Schedule 4, the Purchaser and/or the Company shall become entitled to recover or obtain the benefit of any sum under any insurance policy

the Purchaser or the Company shall notify the Vendors in writing as soon as is reasonably practicable and take all reasonable steps to recover or obtain the same. Where the Purchaser and/or the Company recovers from some other person any sum (including any sum under any insurance policy) 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 or the Company 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 or the Company as aforesaid)

- 8 The Vendors shall have no liability (or such liability shall be reduced) 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, reserve or allowance 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 change in the basis or method of calculation of Taxation or of any increase in the rate of Taxation in force at the Completion Date;
 - 8.4 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 or the Company after the Completion Date otherwise than in the ordinary course of business and which the Purchaser knew would give rise to such claim or in the case of any claim under the Tax Deed or the Warranties contained in Part III of Schedule 4, ought reasonably to have known would give rise to such claim, or
 - 8.5 if and to the extent such claim would not have arisen but for a change of accounting policy of the 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 or the Company 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 The Vendors shall not be liable under this agreement in respect of any claim for breach of any of the Warranties contained in Parts I, II and III of Schedule 4 or any claim under the Tax Deed which is contingent only unless and until such contingent liability becomes an actual liability and is due and payable provided that the provisions of paragraph 6 of this schedule shall not apply for so long as the liability remains contingent.

- 13 Payment of any sum in respect of a claim for breach of the Warranties contained in Parts I, II and III of Schedule 4 shall to the extent of such payment satisfy and preclude any other claim which is capable of being made in respect of the same subject matter
- 14 In the event that the Purchaser shall become aware of any fact, matter or event which is likely to give rise to a claim under the Warranties set out in Parts I, II and III of Schedule 4 and which it elects to pursue against the Vendors (a 'Third Party Matter'), the Purchaser shall after having notified the Vendors of the claim pursuant to paragraph 4
- 14 1 keep the Vendors informed on a reasonably regular basis of all material developments and communications relating to the Third Party Matter,
- 14 2 not make any admission of liability, agreement or compromise with any person, body or authority in relation to the Third Party Matter without prior consultation with and the agreement of the Vendors (such agreement not to be unreasonably withheld or delayed), and
- 14 3 providing that the Vendors provide an indemnity and/or security to the reasonable satisfaction of the Purchaser in relation to all costs, claims and expenses incurred or likely to be incurred by the Purchaser or the Company, the Purchaser shall take or procure that the Company takes such action as the Vendors may reasonably request to avoid, dispute, resist, compromise, defend, pursue or prosecute any claim, threat, right, demand or mitigate any event or fact or prevent the occurrence of any fact, matter or circumstance which has or may give rise to any claim or affect the amount of any claim against the Vendors hereunder

SCHEDULE 6

Accounting Policies and Procedures for the Completion Accounts

1 General Requirements

The Completion Accounts shall:-

- 1 1 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 2 to 1 4 (inclusive) of this Schedule;
- 1 2 to the extent not covered by paragraph 1 1 above, 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 Accounts Date, save in circumstances where this shall conflict with the provisions of paragraphs 1.1 or 1 3 (in which event the provisions of paragraphs 1 1 and 1 3 shall override the provisions of this paragraph);
- 1 3 to the extent not covered by paragraphs 1 1 and 1 2 above, be prepared in accordance with Generally Accepted Accounting Standards, Principles and Policies in the United Kingdom;
- 1 4 state the assets and liabilities of the Company in accordance with applicable SSAP's and FRS's and FRSSE's,
- 1 5 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 Company since Completion following such change in ownership) except only as specifically set out in this Schedule,
- 1 6 disregard the effect of any matter occurring after the Completion Date.

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 no provision shall be made in the Completion Accounts for the fees and expenses to be incurred by the Company relating to the preparation of the Completion Accounts,
- 2.3 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; and
- 2 4 a provision in the sum of £200,000 shall be included in the Completion Accounts as a liability of the Company (representing the contingent liabilities of the Company pursuant to guarantees given by it to customers in the ordinary course of its business) provided that, for the avoidance of doubt, this provision shall not include any actual liability of the Company pursuant to guarantees given by it to customers in the ordinary course of its business (which shall be provided for separately)

SCHEDULE 7

Form of Statement

To •

And •

[date]

Dear Sirs

MGM Ltd ('the Company')

We refer to the agreement dated [date] between S Gray and others (1) and Northern Bear Limited (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
Steven Gray
in the presence of -

)
)
)

Witness signature

Name

Address

Occupation

SIGNED as a DEED by
Elaine Gray
in the presence of -

)
)
)

Witness signature

Name

Address

Occupation

SIGNED as a DEED by
Brian Young
in the presence of -

)
)
)

Witness signature

Name

Address

Occupation

SIGNED as a DEED by
Northern Bear PLC
acting by -



..
Director



..
Director/Secretary