

DATED 14 May 1993

SC 75133

J RUBINS ESQ AND OTHERS

- and -

OSPREY COMMUNICATIONS PLC

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Agreement for the sale/purchase  
of the issued share capital of  
THE SMS COMMUNICATIONS GROUP LIMITED

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F I E L D · F I S H E R · W A T E R H O U S E

THIS AGREEMENT is dated ..... 1<sup>st</sup> July ..... 1993 and is made BETWEEN:

- (1) the persons whose names and addresses are set out in columns 1 and 2 of Schedule 1 ("the Vendors")
- (2) OSPREY COMMUNICATIONS PLC incorporated in Scotland under Number Sco 75133 whose registered office is at Burgh House, 7/9 King Street, Aberdeen AB2 3AA ("the Purchaser")

NOW IT IS HEREBY AGREED as follows:-

1. PURPOSE AND DEFINITION

1.1 This is an Agreement for the sale and purchase of the Sale Shares (as that term is defined in clause 1.02).

1.2 In this Agreement the following expressions have the following meanings:-

<u>Expression</u>	<u>Meaning</u>
"Accounts"	the audited accounts of the Company as at the Accounts Date
"Accounts Date"	31st October 1992
"Auditors"	Bright Grahame Murray Chartered Accountants of 124/130 Seymour Place, London W1H 6AA
"the Company"	The SMS Communications Group Limited (No 2251525) whose registered office is at 124/130 Seymour Place, London W1H 6AA
"the Circular"	the circular in the approved form
"Completion"	the performance by the parties of the several obligations contained in Clause 8
"Completion Date"	the date specified in Clause 5
"Connected Party"	any person connected with any of the Vendors as described in Section 839

	Taxes Act (including the meaning of "control" defined in Section 840 of that Act)
"Consideration Shares"	4,500,000 new Ordinary Shares of 25p each of the Purchaser credited as fully paid
"Disposal Agreement"	the agreement in the approved form proposed to be made between the Purchaser (1) and Templeco Six Limited (2) for the disposal by the Purchaser of the issued share capitals of Bryan, Constantinidi & Brightwell Limited, T.O.P. Counsel Limited and Communications in Business Limited
"Deed of Covenant"	the Deed in the form set out in Schedule 4
"Disclosure Letter"	the disclosure letter from the Vendors' Solicitors to the Purchaser's Solicitors in the approved form
"Loan Assignment"	the agreement (in the approved form) between Mr Rubins and the Purchaser for the assignment to the Purchaser by Mr Rubins of his loans totalling £250,000 to the Company
"Notice of Extraordinary General Meeting"	the Notice (in the approved form) of an Extraordinary General Meeting of the Purchaser
"Property"	the property short particulars whereof are set out in Schedule 6
"Purchaser Group"	the Purchaser and its subsidiaries and any holding company of the Purchaser and any subsidiaries of any holding company of the Purchaser from time to time (within the meaning of Section 736 Companies Act 1985)

"Purchaser's Solicitors"	Field Fisher Waterhouse of 41 Vine Street, London EC3N 2AA
"Relief"	any relief from corporation tax for trading losses or credit in respect of taxation or right to repayment of taxation
"Representations"	the representations, warranties and undertakings set out in Schedule 5
"Mr Rubins"	Jack Rubins of 34 Northwick Circle, Harrow, Middlesex HA3 0EE
"Sale Shares"	the 2,499,997 issued Ordinary Shares of 10p each of the Company and the 6,249,994 issued A Ordinary Shares of 1p each of the Company details of which are set out in Part A of Schedule 1
"the Service Agreement"	the Service Agreement in the approved form between the Purchaser (1) and Mr Rubins (2)
"the Subsidiaries"	the companies short particulars whereof are given in Schedule 3
"Vendors' Solicitors"	Rabin Leacock Lipman, 7-10 Chandos Street, London W1M 9DE
"the Underwriters"	Panmure Gordon & Co Limited
"the Underwriting Agreement"	the Underwriting Agreement in the approved form between the Underwriters (1) and the Purchaser(2)

1.3 References to clauses and schedules are to clauses of and schedules to this Agreement.

1.4 Any document expressed to be "in the approved form" means a document in a form approved by (and for the purpose of identification signed by or on behalf of) the parties hereto.

- 1.5 The headings to the clauses shall not affect their interpretation.
- 1.6 Words importing the singular include the plural and vice versa, words importing a gender include every gender and references to persons include bodies corporate or unincorporate.
- 1.7 Words and phrases the definitions of which are contained or referred to in part XXVI of the Companies Act 1985 shall be construed as having the meaning thereby attributed to them.
- 1.8 References to statutory provisions shall be construed as references to those provisions as respectively amended or re-enacted or as their application is modified by other provisions (whether before or after the date hereof) from time to time and shall include reference to any provisions of which they are re-enactments (whether with or without modification).

## 2. CONDITIONS PRECEDENT

### 2.1 This Agreement is conditional on:

- (a) the Council of The Stock Exchange admitting to the Official List the Consideration Shares subject only to the posting of a notice under Rule 520 of The Stock Exchange Rules;
- (b) the passing at an Extraordinary General Meeting of the Purchaser (or an adjournment thereof) of the Ordinary Resolutions which are numbered 1 and 2 in the Notice of Extraordinary General Meeting;
- (c) the unconditional exchange of the Underwriting Agreement by and between the parties thereto;
- (d) the unconditional exchange of the Disposal Agreement by and between the parties thereto.

### 2.2 Mr Rubins may, in his absolute discretion (on behalf of himself and the other Vendors), waive all or any or some of the above mentioned conditions (or any part thereof) except in relation to Clause 2.1(b) so far as it concerns the approval of this Agreement by the Shareholders of the Purchaser and such waiver(s) shall be made by notice in writing from Mr Rubins specifying the waivers or waiver concerned to the Purchaser.

- 2.3 In the event of all such conditions not being fulfilled or (in the case of the Conditions in Clauses 2.1(a), (c) and (d)) waived by Mr Rubins (acting in his complete discretion on behalf of himself and the other Vendors) and the Purchaser by forty business days after the date of this Agreement (or such later date as the parties shall agree) all liabilities of the parties hereunder shall cease and determine and no party shall have any claim against the other save for any claim of the Vendors (or any of them) against the Purchaser by reason of any breach of Clause 2.4 by the Purchaser.
- 2.4 The Purchaser undertakes with the Vendors and each of them:
- (a) to post the Circular not later than five business days after the date of this Agreement to all its members complying with the requirements of the Council of The Stock Exchange and incorporating the Notice of Extraordinary General Meeting;
  - (b) to procure that the Ordinary Resolutions set out in the Notice of Extraordinary General Meeting are proposed at and put to the said Meeting;
  - (c) at all times to recommend its members to vote in favour of such Resolutions;
  - (d) generally, to use its best endeavours at all times to procure that this Agreement becomes, without delay, unconditional;
  - (e) to comply with all its obligations under the Disposal Agreement and the Underwriting Agreement and to use its reasonable endeavours to:
    - (i) procure compliance with the obligations of each of the other parties to those agreements; and
    - (ii) ensure that each of those agreements remains in full force and effect and full effect is given thereto;
  - (f) not to amend or to agree to any amendment of the Disposal Agreement or the Underwriting Agreement or before Completion to waive or compromise or allow to be waived or compromised any of the Purchaser's rights thereunder or (so far as in the Purchaser's control) to permit either of the same to be cancelled or terminated;

- (g) that it will, at the request of Mr. Rubins, provide such evidence of the satisfaction of the conditions referred to in Clause 2.1 as Mr. Rubins or the Vendors' Solicitors may before Completion reasonably request.

### 3. SALE OF SALE SHARES

- 3.1 Subject to the terms of this Agreement each of the Vendors shall sell or procure the sale of and the Purchaser shall purchase free from all liens charges and encumbrances and together with all rights attached thereto (including any accrued but unpaid dividend entitlement) the number of the Sale Shares set opposite his name in column 3 of Schedule 1.
- 3.2 Each of the Vendors hereby waives any rights of pre-emption conferred on him by the Articles of Association of the Company over Sale Shares hereby agreed to be sold by the other Vendors.
- 3.3 The Purchaser shall not be obliged to complete the purchase of any of the Sale Shares unless the purchase of all the Sale Shares are completed simultaneously.
- 3.4 Mr Rubins (for himself and the other Vendors) may rescind this Agreement in the event that the Underwriting Agreement is terminated pursuant to Clause 4 thereof and the Company shall promptly notify Mr Rubins and the Vendors' solicitors of such termination and of the details and information surrounding such termination. In the event of such termination, this Agreement shall lapse and all liabilities of the parties hereunder shall cease and determine and no party shall have any claim against any other party save for any claim that may arise by reason of any breach on the part of the Purchaser of any of its obligations under Clause 2.4 hereof or this Clause 3.4.

### 4. CONSIDERATION FOR SALE SHARES

The consideration payable for all the Sale Shares shall be:

- (i) £500,000 in cash to be paid to the Vendors in the proportions set out in column 4 of Schedule 1 on Completion; and
- (ii) the allotment and issue of the Consideration Shares to the Vendors in the proportions set out in column 5 of Schedule 1.

## 5. COMPLETION DATE

Completion of the sale and purchase referred to in clause 3 shall take place at the offices of the Purchaser's Solicitors on the day on which the conditions in Clause 2.1 are satisfied (or waived in accordance with the provisions of Clause 2.2)..

## 6. INTERVAL BEFORE COMPLETION DATE

6.1 During the interval between the signing hereof and the Completion Date (or the earlier rescission of this Agreement) the Vendors will use their best endeavours to procure that the Company shall carry on its business in the normal course and will not (without the consent of the Purchaser such consent not to be unreasonably withheld) do anything which is not of a routine or unimportant nature in relation thereto.

6.2 During such interval the Vendors will on a confidential basis answer fully and fairly all reasonable requests for information made by the Purchaser concerning the affairs of the Company and the Purchaser and all persons reasonably authorised by it will be given full access to the Company's premises and employees and all the books and records of the Company.

6.3 If completion of the Disposal Agreement in accordance with its terms (including full and unconditional payment of the consideration payable thereunder) has not taken place prior to Completion (and so that these provisions shall apply to Completion as may be deferred hereunder), Mr. Rubins (for himself and the other Vendors) may:-

- (a) defer Completion to a date not more than 28 days after the final date for Completion according to the terms of this Agreement; or
- (b) proceed to Completion so far as practicable but without prejudice to the rights of the Vendors under this Agreement generally; or
- (c) rescind this Agreement in which case such rescission shall be the sole right and remedy of the Vendors against the Purchaser on account of the above mentioned matters but without prejudice to any claim the Vendors may have against the Purchaser under Clause 2.3 above.

## 7. BREACH OR NON-FULFILMENT BEFORE COMPLETION

7.1 In the event that any serious breach or non-fulfilment of any of the Representations shall occur before Completion and as a result the Purchaser can



reasonably establish that its rights (if any) to an indemnity or damages under or in respect of this Agreement would not provide it with an adequate remedy and that the breach in question is so fundamental that it would not have signed this Agreement had the relevant item arisen or occurred and become known to the Purchaser before the signing of this Agreement the Purchaser shall be entitled by notice in writing to the Vendors' Solicitors given on or before Completion to rescind this Agreement without liability on its part.

- 7.2 The rights conferred upon the Purchaser by Clause 7.1 are in addition to and without prejudice to any other rights which it may have to make a claim against the Vendors and no failure to exercise any of such rights shall constitute a waiver of any of them, provided that if the Purchaser rescinds this Agreement under Clause 7.1 then such rescission shall exhaust all rights and remedies that the Purchaser may have had and the Purchaser shall have no other claim right or remedy against the Vendors or any of them on any account whatsoever.
- 7.3 Each of the Vendors hereby undertakes with the Purchaser that he will forthwith disclose in writing to the Purchaser on a confidential basis any event or circumstance which may arise or become known to him after the date hereof and prior to Completion which is materially inconsistent with any of the Representations.

## 8. COMPLETION

### 8.1 On Completion the Vendors shall:

- (a) deliver to the Purchaser:
  - (i) duly executed transfers in favour of the Purchaser (or as it may direct) in respect of all the Sale Shares and the share certificates therefor;
  - (ii) the Deed of Covenant duly executed by the Vendors;
  - (iii) the title deeds to the Property available to the Company;
  - (iv) all the statutory and other books (duly written up to date) of the Company and the Subsidiaries and their respective certificates of incorporation and common seals;

- (v) duly executed transfers (in favour of such person or persons as the Purchaser may direct) of all shares in the Subsidiaries not registered in the name of the Company together with the certificates therefor;
- (vi) a letter of resignation from the Auditors confirming that there are no circumstances which ought to be brought to the attention of the shareholders of the Company;
- (b) procure the transfers referred to in Clause 8.1(a)(i) to be registered notwithstanding any provision to the contrary in the Articles of Association of the Company;
- (c) procure M G Rands to be validly appointed as an additional director of the Company and of each of the Subsidiaries;
- (d) procure the appointment of N J Mugridge as the Secretary of the Company and of each of the Subsidiaries; and
- (e) procure so far as required by the Purchaser the revocation of all authorities to the bankers of the Company relating to bank accounts and authorise such persons as the Purchaser may nominate to operate the same.

8.2 On Completion the Purchaser shall:

- (a) deliver to the Vendors' Solicitors (whose receipt shall be an absolute discharge):
  - (i) a bankers draft (London Town Clearing Bank) for £500,000 in full in favour of the Vendors' Solicitors;
  - (ii) duly issued share certificates in respect of the Consideration Shares which shall rank pari passu in all respects with the ordinary shares of the Purchaser in issue at the date of Completion; and
  - (iii) a counterpart of the Deed of Covenant.

- (b) procure that Mr. Rubins is validly appointed as a director and as the Chairman and Chief Executive of the Purchaser.

8.3 On Completion Mr Rubins and the Purchaser shall exchange duly executed engrossments of the Service Agreement and the Loan Assignment.

8.4 If the Vendors or Mr Rubins or the Purchaser shall be unable to comply with any of their obligations under the preceding provisions of this Clause 8 on the Completion Date the Purchaser (if the Vendors are so unable) or Mr. Rubins or the Vendors (if the Purchaser is so unable) may:

- (a) defer Completion to a date not more than 28 days after the said date (and so that the provisions of this Clause 8.4(a) shall apply to Completion as so deferred); or
- (b) proceed to Completion so far as practicable but without prejudice to the rights of the Purchaser or of the Vendors as the case may be under this Agreement generally;
- (c) rescind this Agreement (which rescission shall exhaust any other rights to which it or they may be entitled).

## 9. REPRESENTATIONS

9.1 In consideration of the Purchaser entering into this Agreement the Vendors hereby severally represent and warrant to the Purchaser in the terms set out in Schedule 5 provided that each Vendor shall only be liable under this Clause 9 (including but not limited to liability under Clause 9.4) and under the Deed of Covenant for the percentage of the liability as specified against his name in column 6 of Schedule 1.

9.2 It is hereby expressly agreed and declared that each of the Representations shall be construed as a separate and independent representation, or warranty (as the case may be) to the intent that a separate claim and right of action shall arise in respect of each breach of any Representation.

9.3 The Representations shall remain in full force and effect after and notwithstanding Completion.

9.4 The Vendors shall each use their reasonable endeavours to procure that neither the Company nor either of the Subsidiaries shall do or permit or procure any act or omission before Completion which would constitute a breach of any of the

Representations if they were given at Completion or which would make any of such Representations inaccurate or misleading in any material respect if they were so given.

- 9.5 The Purchaser shall be entitled to treat the Vendors as having repudiated this Agreement in the event of any material breach of Clause 9.1 or 9.5 prior to Completion.

10. CLAIMS/LIMITATIONS

- 10.1 No claims shall be brought by the Purchaser in respect of any breach of the Representations or of the covenants contained in the Deed of Covenant unless notice in writing of such claim (containing full details so far as then available of the facts and circumstances concerning the claim together with the Purchaser's estimate of the amount of the claim) has been given to the Vendors (with a copy given to the Vendors' Solicitors) not later than the expiration of the period of one year from the date hereof save that in respect of paragraph 15 of the Representations and the covenants contained in the Deed of Covenant the period within which such claim shall be made shall be six years.

- 10.2 (a) The Vendors shall only be liable in respect of any claim brought by the Purchaser for a breach of the Representations or of the covenants contained in the Deed of Covenant if the liability of the Vendors exceeds £2,000 and if the aggregate liability (under this Agreement and the Deed of Covenant) for all such claims arising otherwise than out of any failure to deduct, pay or account for PAYE or National Insurance exceeds in aggregate £25,000 and then only for the excess.

- (b) The Vendors shall only be liable in respect of any claim brought by the Purchaser for a breach of the Representations or of the covenants in the Deed of Covenant arising out of any failure to deduct, pay or account for PAYE or National Insurance if the liability of the Vendor exceeds £2,000 and if the aggregate liability (under this Agreement and the Deed of Covenant) for all such claims exceeds in aggregate £10,000 and then only for the excess.

- 10.3 The total liability of the Vendors arising by reason of any and all claims under the Representations or the covenants contained in the Deed of Covenant shall not exceed the aggregate amount of £1,625,000.

- 10.4 The Vendors shall have no liability under this Clause 9 or under the Deed of Covenant unless and until the full cash sum of £500,000 referred to in Clause 4(i) hereof has been unconditionally received in full by the Vendors in accordance with the terms of this Agreement and the full cash consideration of £250,000 referred to in the Loan Assignment has been unconditionally received by Mr Rubins on the date for payment stated in Clause 2 of the Loan Assignment or such later date as may be mutually agreed between the parties thereto.
- 10.5 Each of the Vendors shall only be liable under Representation 7.2 set out in Schedule 5 in respect of a breach concerning the Sale Shares listed opposite his name in Schedule 1 hereto but such Vendor shall be liable in respect of 100 per cent of such claim.
- 10.6 No claim may be made by the Purchaser or the Company or any of the Subsidiaries under Clause 9 of this Agreement for or in respect of or in relation to any fact, matter or circumstance disclosed in or apparent from the Disclosure Letter and the Representations are subject to and qualified by the terms and contents of the Disclosure Letter. The Deed of Covenant is subject to and no liability shall arise thereunder in respect of the matters referred to in paragraph 8.17 of the Disclosure Letter.
- 10.7 The Purchaser shall (and shall procure that the Company and each of the Subsidiaries shall) take all reasonable steps to mitigate its loss in respect of any breach of the Representations and shall first take all reasonable steps to recover any sums recoverable in respect of the same or related loss from any third party. If any of the Vendors has satisfied his liability (in whole or in part) under the Representations or the Deed of Covenant, and the Purchaser or the Company or any of the Subsidiaries recovers any sum from a third party in respect of the matter the subject of such claim then the Purchaser shall account to that Vendor for the sum recovered (less reasonably associated expenses) to the extent of the amount originally paid by that Vendor.
- 10.8 In the case of any claim arising by reference to paragraph 5 of Schedule 5, the Purchaser shall procure that against payment in full of the amount of the claim, the Company or the relative Subsidiary shall assign to the Vendors (or as they direct), without any additional payment, the debt in question.
- 10.9 Neither the Purchaser, nor the Company nor any of the Subsidiaries shall be entitled to recover (whether under this Agreement or the Deed of Covenant)

more than once in respect of claims relating to the same subject matter, facts or circumstances.

10.10 None of the Vendors shall be liable (whether to the Purchaser or the Company or any of the Subsidiaries and whether under this Agreement or the Deed of Covenant) as follows:-

- (a) to the extent that any claim consists of or concerns the loss or disallowance (or the like) of any Relief which was or may have been available as at the Accounts Date and so that no warranty, representation or other commitment is directly or indirectly given or incurred by any of the Vendors as to the future use or availability of any such Relief;
- (b) to the extent that a claim arises or is increased as a result of any increase in the rates of taxation after the date of this Agreement or the passing after the date of this Agreement of any enactment or other governmental regulation with or without retrospective effect;
- (c) to the extent that any claim or liability for taxation would not have arisen but for the fact that any treatment of assets or liabilities or of the taxation attributable to the timing differences (including but not limited to capital allowances) in any future accounts of the Company or of any of the Subsidiaries is difference from the treatment in the Accounts;
- (d) to the extent that any provision or reserve for taxation not being a provision for deferred taxation contained in the Accounts proves to be excessive (except as a result of a change in the rates of taxation after the date of this Agreement) the amount of such excess shall be set off against the liability of any of the Vendors under this Agreement or the Deed of Covenant and if any Vendor shall already have paid any claim in whole or in part then the Purchaser shall or shall procure that the Company or the relative Subsidiary shall promptly account to such Vendor for such excess (up to the amount so paid by such Vendor);
- (e) for a claim in respect of stamp duty or stamp duty reserve tax on the transfer of the Sale Shares pursuant to this Agreement;

- (f) to the extent that any claim was discharged (whether by payment or otherwise) prior to Completion;
- (g) to the extent that any claim would not have arisen but for a cessation of trade or a change in the nature or conduct of trade on or after the date hereof;
- (h) until all claims for relief of losses incurred in all periods up to the Accounts Date which are applicable to set against the claim and which are capable of being made have been exhausted;
- (i) to the extent that the claim or the subject matter thereof gives rise to a compensating accretion to the assets of the Purchaser and/or the Company and/or any of the Subsidiaries and/or the financial position of the Company or of either of the Subsidiaries is in respect of any other matter better than warranted hereunder.

10.11 Any sums paid or payable by any of the Vendors pursuant to any claim under Clause 9 of this Agreement or under the Deed of Covenant shall be treated as a proportionate reduction in the consideration for the Sale Shares.

10.12 The Purchaser undertakes to procure compliance with this Agreement and the Deed of Covenant by the Company and each of the Subsidiaries.

#### 11. COSTS AND EXPENSES

Each party shall bear its own costs and expenses incidental to the negotiation preparation and carrying into effect of this Agreement.

#### 12. FURTHER ASSURANCES

Notwithstanding Completion each of the Vendors hereby covenants with the Purchaser promptly to execute and do all such documents, acts and things at (save where a matter is expressly stated in this Agreement to be at the cost and expense of the Purchaser) his own cost and expense as the Purchaser may from time to time reasonably require on and after the Completion Date in order to assist the Purchaser to perfect the right, title and interest of the Purchaser to and in the Sale Shares owned by him and to obtain for the Purchaser the full benefit intended to be conferred upon the Purchaser pursuant to and by reason of the performance by him of this Agreement.

13 NOTICES

13.1 Any notice claim or demand required to be given or made for any purpose of or connected with this Agreement may be given or made by sending the same by prepaid first class post, telex or facsimile to, or by delivering the same by hand at, the relevant address shown in this Agreement or such other address as shall have been notified (in accordance with this clause) by the party concerned to the other parties.

13.2 Any notice so sent by post shall be deemed to have been served 48 hours after posting and, in proving such service it shall be sufficient to prove that the notice was properly addressed stamped and put into the post and any notice sent by cable or facsimile shall be deemed to have been served on the date next following the date of despatch thereof which is a business day.

14. ENFORCEABILITY AFTER COMPLETION

14.1 This Agreement shall remain in full force and effect notwithstanding Completion except in respect of those matters then already performed.

14.2 This Agreement shall be binding upon and ensure for the benefit of the successors of the parties.

14.3 The benefit of this Agreement is strictly personal to the Purchaser.

15. ANNOUNCEMENTS/CONFIDENTIALITY

15.1 Save as may be required by law or by The International Stock Exchange no party shall publish or make any announcement or public statement regarding the subject matter of this Agreement without the prior agreement in writing between Mr. Rubins and the Purchaser (such agreement not to be unreasonably withheld.)

15.2 The Purchaser undertakes that if this Agreement shall be rescinded for any reason then it will keep strictly confidential all information supplied to it by or for any of the Vendors or the Company or any of the Subsidiaries and shall not make any use (directly or indirectly) of any such information (save in respect of any such information which shall come into the public domain other than by reason of a breach by the Purchaser of this Clause 15.2) and this obligation shall survive rescission of this Agreement and shall continue for five years thereafter. The Purchaser shall use its reasonable endeavours to procure compliance with this obligation by its directors and employees and agrees that the Vendors receive the



benefit of these obligations for themselves and as trustees for each of the Company and each of the Subsidiaries.

16. RELEASES

Any liability to the Purchaser under this Agreement may in whole or in part be released compounded or compromised or time or indulgence given by the Purchaser in its absolute discretion as regards any of the Vendors under such liability without in any way prejudicing or affecting its rights against any other of the Vendors in respect of the same or a like liability whether joint and several or otherwise.

17. ENTIRE AGREEMENT

17.1 This Agreement sets forth the entire agreement and understanding between the parties or any of them in connection with the Company and the sale and purchase described herein.

17.2 No purported variation of this Agreement shall be effective unless made in writing.

17.3 No party has relied on any warranty or representation of any other party except as expressly stated or referred to in this Agreement.

18. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with English Law.

IN WITNESS whereof this Agreement has been entered into the day and year first above written.

## SCHEDULE 1

## The Vendors

Part A

(1) <u>Name</u>	(2) <u>Address</u>	(3) <u>No. of Sale Shares</u>	(4) <u>Cash Consideration</u>	(5) <u>No of Consideration Shares</u>	(6) <u>Percentage Liability</u>
Jack Rubins	34 Northwick Circle Harrow Middlesex HA3 0EE	1,639,773 Ordinary Shares 6,000,001 "A" Ordinary Shares	£436,559	3,929,031	87.31%
Munir Samji	Greenacres Camlet Way Hadley Wood Herts	365,347 Ordinary Shares	£20,887	187,893	4.18%
Colin David Watts	2C Park Road West Ham London E15 3QP	99,997 Ordinary Shares 249,993 "A" Ordinary Shares	£19,999	179,995	4.00%
James Harold Penny	Oakfield Horsley Road Downside Cobham Surrey KT11 3N7	394,880	£22,565	203,081	4.51%

## SCHEDULE 2

## The Company

1.	<u>Share Capital</u>	<u>Authorised</u>	<u>Issued</u>
	Ordinary Shares of 10p each	£500,000	2,499,997
	A Ordinary Shares of 1p each	£100,000	6,249,994
2.	<u>Directors</u>		
	J Rubins		
	J H Penny		
3.	<u>Secretary</u>		
	J H Penny		

**SCHEDULE 3****The Subsidiaries****Part A****Syndicated Media Services Limited**

1..	<u>Share Capital</u>	<u>Authorised</u>	<u>Issued</u>
	Ordinary Shares of £1 each	£1,000	£2
2.	<u>Directors</u>		
	J Rubins		
	J H Penny		
3.	<u>Secretary</u>		
	J H Penny		

Part B

## Shop By Post Limited

1.	<u>Share Capital</u>	<u>Authorised</u>	<u>Issued</u>
	Ordinary Shares of £1 each	£1000	£2
2.	<u>Directors</u>		
	J Rubins		
	J H Penny		
	D C Hughes		
3.	<u>Secretary</u>		
	<u>J H Penny</u>		

SCHEDULE 4  
Deed Of Covenant

DATED \_\_\_\_\_ 1993

J RUBINS ESQ AND OTHERS

- and -

OSPREY COMMUNICATIONS PLC

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DEED OF COVENANT

Relating to taxation in respect of  
THE SMS COMMUNICATIONS GROUP LIMITED  
and its subsidiaries

---

FIELD FISHER WATERHOUSE  
41 Vine Street  
London EC3N 2AA

THIS AGREEMENT is dated ..... 1993 and is made BETWEEN:

- (1) the persons whose names and addresses are set out in columns 1 and 2 of Schedule 1 ("the Vendors")
- (2) OSPREY COMMUNICATIONS PLC incorporated in Scotland under Number Sco 75153 whose registered office is at Burgh House, 7/9 King Street, Aberdeen AB2 3AA ("the Purchaser")

WHEREAS this Deed is made in pursuance of an Agreement of even date for the sale and purchase of shares in The SMS Communications Group Limited (No 2251525) whose registered office is at 124/130 Seymour Place, London W1H 6AA ("the Company") made between the Vendors (1) and the Purchaser (2) ("the Agreement").

NOW THIS DEED WITNESSETH as follows:

1. DEFINITIONS AND INTERPRETATIONS

- 1.1 Where the context so admits terms defined in the Agreement shall bear the same meaning in this Deed and the following further terms shall have the following meanings:

Expression

Meaning

"claim"

includes any assessment notice demand letter or other document issued or action taken by or on behalf of the Inland Revenue H.M. Customs & Excise or any other governmental person authority body or agency whatsoever and of whatever country from which it appears that the Company or either of the Subsidiaries is liable or is sought to be made liable to make any payment of taxation

"taxation"

includes all forms of taxation duties imposts levies and rates whenever and howsoever imposed and whether of the United Kingdom or elsewhere and whether statutory governmental state provincial local governmental or

municipal including (but not by way of limitation) corporation tax advance corporation tax income tax capital gains tax inheritance tax capital transfer tax value added tax import duties excise duties customs duties PAYE national insurance social security or similar contributions stamp duty stamp duty reserve tax any withholding tax and any payment whatsoever which the Company or either of the Subsidiaries may be or become bound to make to any revenue customs or fiscal authority whether of the United Kingdom or elsewhere and all penalties charges fines costs and expenses and interest incidental or relating to any claim for taxation

"voluntary act"

means a voluntary act or transaction carried out after the date hereof (otherwise than in the ordinary course of business) either by the Company either of the Subsidiaries or by the Purchaser

"excluded voluntary act"

means a voluntary act carried out by the Company either of the Subsidiaries or the Purchaser with the approval of all the Vendors (or Mr. Rubins) (and for the purposes of this definition the Vendors shall be deemed to have approved a voluntary act if any of them exercised any of his powers rights or authorities as a director or shareholder of the Company or either of the Subsidiaries in favour of or to procure the performance of such a voluntary act).

1.2 Reference to income profits or gains earned accrued or received on or before a particular date or in respect of a particular period shall include income profits or



gains which have been deemed or treated by any applicable law to have been earned accrued or received at or before that date or in respect of that period for the purposes of any claim.

- 1.3 References to any claim for taxation shall include (but not by way of limitation) any claim whether made before or after the date hereof and whether satisfied or unsatisfied at the date hereof and shall also include the loss of any relief allowance or credit granted by or pursuant to any legislation or otherwise for taxation purposes arising after Completion which would (were it not for the claim in question) have been available to the Purchaser or the Company or either of the Subsidiaries and the nullifying or cancellation of a right to a repayment of taxation arising after Completion which would have been so available and in such cases the amount of taxation which would otherwise have been relieved allowed or credited by the relief allowance or credit so lost or other amount of repayment which would otherwise have been obtained shall be treated as an amount of taxation for which a liability has arisen and fallen due.
- 1.4 The liability of the Vendors shall be several only.
- 1.5 This Deed shall be binding on the Vendors and their respective successors assigns and personal representatives.
- 1.6 The whole or any part of the benefit of this Deed may not be assigned by the Purchaser and is strictly personal to the Purchaser.
- 1.7 References to statutory provisions shall be construed as references to those provisions as respectively replaced amended consolidated or re-enacted or as their operation is modified by other provisions (whether before or after the date hereof) and shall include (where appropriate any provisions of which they are re-enactments (whether with or without modification).
- 1.8 The headings to Clauses are for convenience only and have no legal effect.
- 1.9 This Deed is subject to the provisions of Clause 10 of the Agreement as if the same were fully set out herein and the liability of the Vendors hereunder is limited and qualified accordingly.

## 2. COVENANT BY THE VENDORS

- 2.1 Subject as hereinafter provided the Vendors shall make payments to the Purchaser equal to the amount of each claim for taxation or any depletion or

reduction in value of the assets or other increase in the liabilities of the Company and/or either of the Subsidiaries as a result of any claim for taxation which results from or is calculated by reference to:

- (a) any income profits or gains earned accrued or received or the supply or deemed supply of any goods or services on or before Completion; or
- (b) any event or omission on or before (or deemed or treated to be effected on or before) Completion; or
- (c) the disposal by the Vendors of the Company

whether alone or in conjunction with other circumstances and whether or not such taxation is also chargeable against or attributable to any other person firm or company.

2.2 In the event that any sum payable to the Purchaser under this Deed by way of covenant or otherwise or under any of the Representations is taxable (including but not by way of limitation any deduction or withholding in respect of taxation the Vendors are required to make) then the amount so payable shall be grossed up to such an amount ("the grossed up amount") as will ensure that after payment of the taxation (or other amounts) required to be paid with respect to the grossed up amount there shall be left a sum equal to the amount that would otherwise have been received and retained if the payment by way of indemnity or otherwise or under such Representation had not been so taxable Provided that if the payment is initially made on the basis that it is not taxable on the recipient and it is determined that it is such adjustment shall be made as the Purchaser may certify as appropriate in order to restore the after taxation position of the Purchaser to that which it would have been had the payment been made on the correct basis initially.

2.3 For the avoidance of doubt it is agreed and declared that save as otherwise provided in this Deed the Vendors shall be liable under the covenant notwithstanding any losses reliefs allowances credits rights of set-off or other rights or claims of a similar nature which are or may be available to the Company, either of the Subsidiaries or the Purchaser to set against or otherwise mitigate any claim for taxation so that the covenant shall take effect as though such losses reliefs allowances credits rights or set-off or other rights or claims of a similar nature are not available.

### 3 LIMITS OF COVENANT

3.1 The covenants given by this Deed and the liability hereunder of the Vendors do not cover or extend to any claim for taxation:

- (a) to the extent that specific provision or reserve in respect thereof has been made in the Accounts (not being a provision for deferred taxation);
- (b) for which the Company is or may become liable arising out of the ordinary course of the normal trading of the Company or either of the Subsidiaries after the Accounts Date;
- (c) which would not have arisen but for a voluntary act not being an excluded voluntary act;
- (d) in respect of interest received after the Accounts Date;
- (e) in respect of value added tax in relation to supplies made and inputs received since the Accounts Date but so that this paragraph shall not apply to claims in respect of penalties fines surcharges and interest relating to value added tax.

### 4. COSTS AND EXPENSES

The covenants given by this Deed shall cover all reasonable costs and expenses properly payable and reasonably incurred by the Purchaser or the Company or either of the Subsidiaries in connection with any claim.

### 5. RELEASE

The Purchaser may release or compromise the liability of any of the Vendors hereunder or grant to any Vendors time or other indulgence without affecting the liability of any other Vendor hereunder.

### 6. ACTION TO RESIST A CLAIM

6.1 If the Purchaser shall become aware of any claim relevant for the purposes of this Deed it shall within 30 business days give notice thereof to the Vendors (but not as a condition precedent to the liability of the Vendors hereunder) and shall (if the Vendors shall indemnify the Purchaser and the Company and the Subsidiaries to the Purchaser's reasonable satisfaction against any liability costs damages and

expenses which may reasonably be incurred thereby) procure that the Company or the relevant Subsidiary takes such action as the Vendors may reasonably and promptly by notice request to avoid resist or compromise the claim or to recover all or any part of the amount thereof from any third party provided that:

- (a) the Purchaser shall not be obliged to procure that the Company or the relevant Subsidiary takes any such action if the claim in question is for or in respect of an amount originally less than £2,000 (or the equivalent in another currency);
- (b) if the Purchaser receives instructions to appeal against or otherwise resist any claim it may thereafter give notice to the Vendors to provide to the Purchaser a written opinion of legal advisers (to be approved by the Purchaser such approval not to be unreasonably withheld) to the effect that there are reasonable and proper grounds for resisting such claim and if no such opinion is received by the Purchaser within 21 days after the service of such notice the Purchaser shall thereupon be released from any obligations which it would otherwise have under this clause and notwithstanding clause 7 shall be entitled to immediate indemnification by the Vendors in respect of such claim and if such an opinion is so received but there is a change in the basis on which it is given then the Purchaser may give further notice under this Clause;
- (c) the Purchaser shall not be required to procure that the Company or either of the Subsidiaries compromises any claim if in the reasonable opinion of the Purchaser such compromise would have adverse long term or consequential implications for the Company or either of the Subsidiaries or for the Purchaser in which event the Vendors/Covenantors shall if they so desire be discharged from all liability under this Deed in respect of such claim upon paying to the Purchaser the amount which the relevant authority is prepared to accept in settlement or compromise thereof and all costs and expenses incurred or accrued prior to such a payment which are payable under this Deed in respect of the claim;
- (d) all communications pertaining to the claim with the person authority or body whatsoever making the claim as are made by the Vendors (if any) shall first be approved by the Purchaser such approval not to be unreasonably withheld.

6.2 The provisions of Clause 6.1 above shall not apply to any claim arising out of any failure or any alleged failure by the Company to deduct, pay or account for PAYE or National Insurance.

7. The Purchaser shall procure that the Vendors at their cost and expense (who may act through a duly authorised agent or agents for the purposes of this claim) shall have the full and exclusive conduct of all negotiations, correspondence and actions (including authority to dispute or agree on behalf of the Company and to take or defend proceedings before the Commissioners of Inland Revenue or the Courts) relating to any claim arising out of the failure or any alleged failure by the Company to deduct, pay or account for PAYE or National Insurance and that such assistance and access to the books, records and staff of the Company is afforded as may be required or desired to enable the Vendors to have such conduct. The Vendors shall keep the Purchaser informed throughout and the Vendors shall supply to the Purchaser copies of all documents relevant to such conduct. If the Purchaser shall become aware of any claim relevant for the purposes of this Clause 7 it shall within 30 business days give notice thereof to the Vendors.

8. PAYMENT

The Vendors shall make payment under this Deed on the date the Company or the relevant Subsidiary has or would but for the availability of some relief allowance or credit have become liable to pay the whole or any part of the taxation the subject of the claim in question or (in the case of any matter which does not involve an actual payment of taxation) forthwith upon service of a notice from the Purchaser that a liability for a determinable amount under this Deed has arisen provided that in relation to any claim against which there is an appeal no liability on any of the Vendors shall arise until there is either an agreement under the Taxes Management Act 1970 Section 54 or any legislative provision corresponding to that provision or otherwise a decision of a Court or Tribunal from which either no appeal lies or in respect of which no appeal is made within the prescribed time limit.

9. TIME OF THE ESSENCE

Time shall be of the essence in this Deed.

10. INTEREST

If a payment due to be made by the Vendors is not made on the due date for payment thereof under this Deed the same shall carry interest from such due date of payment until and including the day of actual payment at the rate of 2 per cent above the Base Rate from time to time of the Midland Bank PLC.

11. NOTICES

Any notice or demand required to be given or made for any purpose of or connected with this Deed shall be given or made by sending the same by pre-paid first class post or facsimile to or by delivering the same by hand at the relevant address shown in this Deed or such other address as shall have been notified (in accordance with this Clause) by the party concerned to the other party. Any notice so sent by post shall be deemed to have been served 48 hours after posting and in proving such service it shall be sufficient to prove that the notice was properly addressed, stamped and put into the post. Any notice so sent by facsimile shall be deemed to have been served on the next day following the date of despatch thereof which is a business day in the place in which is situated the address to which the same is sent. Any notice so delivered by hand shall be deemed to have been served when delivered.

12. GOVERNING LAW

This Deed shall be governed by and construed in accordance with English Law.

IN WITNESS whereof this Deed has been entered into the day and year first before written.

## SCHEDULE

## The Vendors

Name	Address
Jack Rubins	34 Northwick Circle Harrow Middlesex HA3 0EE
Munir Samji	Greenacres Camlet Way Hadley Wood Herts
Colin David Watts	2c Park Road West Ham London E15 3QP
James Harold Penny	Oakfield Horsley Road Downside Cobham Surrey KT11 3N7

SIGNED as a DEED  
by JACK RUBINS  
in the presence of:

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SIGNED as a DEED  
by MUNIR SAMJI  
in the presence of:

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SIGNED as a DEED  
by COLIN DAVID WATTS  
in the presence of:

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SIGNED as a DEED  
by JAMES HAROLD PENNY  
in the presence of:

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.....

SIGNED as a DEED  
by MARTIN GRAHAM RANDS  
for and on behalf of OSPREY  
COMMUNICATIONS PLC  
in the presence of:

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)  
)  
)

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## SCHEDULE 5

## Representations

The Vendors represent warrants and undertake to the Purchaser that subject to any matter or thing disclosed in the Disclosure Letter:

1. ACCOUNTS

The Accounts:

- (a) have been prepared in accordance with good accounting practice and show a true and fair view of the affairs of the Company as at the Accounts Date and of the results of the Company for the accounting reference period ended on the Accounts Date and comply with the requirements of the Companies Acts and no changes in the bases of accounting have been made by the Company during the accounting reference period ending on the Accounts Date;
- (b) have not (except as therein disclosed) to a material extent been affected by any extraordinary or exceptional item or by any arrangements of an uncommercial nature favourable to the Company or by any other factor rendering its profits for all such periods unusually high;
- (c) fully disclose (to the extent required by generally accepted accountancy principles as they apply to the Company) all the assets and liabilities (actual or contingent) of the Company as at the Accounts Date;
- (d) fully disclose all capital commitments in existence as at the Accounts Date; and
- (e) make reasonably adequate provision and/or reserve for all bad and doubtful debts.

2. THE PROPERTY

- 2.1 The Property comprises all the land and buildings owned by the Company or used or occupied by it or in which it has any interest and the Property is so owned used or occupied free from any mortgage, licence, rent charge, overriding interest (as defined in the Land Registration Act 1925 Section 70) charge, lien,

lease, underlease, tenancy, right, privilege, covenant, encumbrance, restriction, option, right of pre-emption, stipulation, easement or other agreement or arrangement affecting the Property and the Company has received no notification that such use or occupation contravenes any requirement or restriction having the force of law.

- 2.2 The Company has a good and marketable title to the Property and the covenants that would be implied on the part of the Company if the Property were conveyed or assigned to a purchaser by conveyance or assignment for valuable consideration by the Company being expressed therein to convey or assign as beneficial owner shall be implied herein as if the Property were being so conveyed or assigned by the Vendors to the Purchaser.
- 2.3 The Company has in its possession or under its control all relevant deeds and documents concerning title to the property.
- 2.4 The Company has not received any notification that any covenant or condition affecting the Property have not been complied with.
- 2.5 No notices or orders affecting the Property have been served or made by any body or person and there are no circumstances known to the Vendors which are likely to result in any such notice or order being served or made.
- 2.6 The Property is not (so far as the Vendors are aware) affected by any agreement with the planning authority regulating the use or development thereof and the Company has not received any notice that its use of the Property does not comply with any planning and other legislation and any regulations orders or bye-laws made thereunder.
- 2.7 All instalments of rent, all insurance premiums and all outgoings and other sums payable under the lease of the Property have been paid and there are no arrears thereof and the Company has not received notification that any covenant under the said lease has not been complied with.
- 2.8 There are no material disputes existing or anticipated between the Company and the landlords under the lease of the Property or between the Company and any other tenant on the land or in the buildings of which the Property forms part.
- 2.9 Without prejudice to the generality of the foregoing no material alterations, improvements or changes of use of the Property have been made by the Company without the written consent of the landlord under the lease.

- 2.10 The Company is not and has not become liable whether as original landlord, original tenant, guarantor of original landlord, guarantor of original tenant, successor in title to original landlord, successor in title to original tenant, guarantor of successor in title to original landlord, guarantor of successor in title to original tenant, or otherwise under any covenants or provisions contained in any agreement, tenancy, lease, sub-tenancy or sub-lease or any deed or document relating to the creation or assignment of a leasehold estate or interest or any deed or document relating to the consent to the creation or assignment of a leasehold estate or interest so that the Company will remain liable under such covenants or provisions on and after Completion.

### 3. COMPUTERS, OFFICE EQUIPMENT AND VEHICLES

- 3.1 All computers and office equipment of the Company are in satisfactory working order.
- 3.2 All the computers, office equipment and vehicles used in connection with the business of the Company are the absolute property of the Company.

### 4. WORK IN PROGRESS

- 4.1 In the Accounts the basis of valuation for stock-in-trade and work in progress is in accordance with normally recognised accounting principles and practice for the kind of business in which the Company is engaged

### 5 BOOK DEBTS

The debts outstanding in favour of the Company at Completion will in the ordinary course of collection realise not less than 90 per cent of the nominal amounts thereof within 4 months of completion.

### 6 CORPORATE ORGANISATION

- 6.1 The print of the Memorandum and Articles of Association of the Company filed at the Companies Registry is true and up to date and incorporates all documents and information required to be annexed thereto or contained therein.
- 6.2 The Register of Members of the Company contains true and accurate records of the members from time to time of the Company and the Company has not received notice of an application or intended application for the rectification of the Register of Members.

- 6.3 The Company has filed or will before Completion file all returns and other documents required by law and has complied with all statutory requirements with regard to the holding of Annual General Meetings, the presentation of accounts and the filing of particulars and records and has recorded in duly signed minutes all resolutions and proceedings which ought to be so recorded.
- 6.4 As far as the Vendors are aware the Company is not in breach of any of the provisions of the Companies Acts.
- 6.5 All current books of account of the Company are written up to date and all such documents and other necessary material, records, deeds, agreements and documents relating to the Company and its business are in the possession of the Company or under its control and all such documents which attract Stamp Duty in the United Kingdom or elsewhere have been properly stamped.

## 7. SHARES

- 7.1 The Company's authorised and issued share capital is as set out in Schedule 2.
- 7.2 All of the Company's issued shares are fully paid and are beneficially owned by the Vendors free from all liens, charges and encumbrances or interests in favour of any other person.
- 7.3 There are no options or other agreements outstanding which call for the issue of or accord to any person the right to call for the transfer or issue of any shares or loan capital of the Company.
- 7.4 No further share or loan capital of the Company will pending Completion be created or issued or agreed to be issued.
- 7.5 There has been no exercise, purported exercise or claim of any charge, lien, encumbrance or equity over any issued or unissued share or loan capital of the Company.

## 8. CONTRACTS

- 8.1 The Company is not a party to any long term (that is to say not being capable of being terminated without compensation before 1 July 1994) onerous or unusual contract or arrangements or any contract or arrangement not made in the ordinary course of business and pending Completion no such contract or obligations will be entered into or assumed without the express written consent of the Purchaser.

- 8.2 So far as the Vendors are aware the Company is not a party to any agreement or arrangement registerable under or in contravention of the Restrictive Trade Practices Acts 1956 to 1976, the Resale Prices Act 1964, the Fair Trading Act 1973, the Competition Act 1980 or Article 85 or 86 of the Treaty of Rome. or any other anti-trust legislation.
- 8.3 The Company is not under any continuing liability (whether actual or contingent) in respect of any written guarantee, indemnity, , warranty..
- 8.4 There is not in force any contract or arrangement by which any person is entitled to any right or interest in or to any payment by way of commission or otherwise arising from or in connection with the profits of or sales by the Company.
- 8.5 There are in force no agency, manufacturing, marketing, distribution, purchasing or licensing agreements to which the Company is a party.
- 8.6 Save as disclosed in the Accounts there are no loans made nor debts due to the Company owing by the Vendors and/or any Connected Person other than debts which have arisen in the ordinary course of business or securities therefore.
- 8.7 There are no existing contracts or engagements to which the Company is a party and in which the Vendors and/or any Connected Person is or are interested other than loans referred to in the Disclosure Letter and contracts of employment.

## 9 CHARGES

There is no option, right to acquire, mortgage, charge, pledge, lien or other form of security or encumbrance or equity (other than that arising at law) on over or affecting the whole or any part of the undertaking and assets of the Company and there is no agreement or commitment to give or create any of the foregoing and no claim has been made by any person to be entitled to any of the foregoing.

## 10. LITIGATION

Save for the collection of debts in the ordinary course of business the Company is not engaged or concerned in any litigation (including prosecution for any criminal offence) or arbitration proceedings whether as plaintiff or defendant or otherwise and there are no law suits pending or threatened either by or against the Company or any proceedings in respect whereof the Company is or may be liable to indemnify any party concerned therein or any claim already made which if pursued might result in proceedings of any character against the Company and

there are no facts known to any of the Vendors which are likely to give rise to any litigation (including prosecution for any criminal offence) or arbitration proceedings and furthermore the Company has not received any notification that it has not conducted its business in all material respects in accordance with all applicable laws and regulations of the United Kingdom and there is to the Vendors' knowledge no violation of or default in respect of any statute, regulations, order, decree or judgment of any Court or any governmental agency of the United Kingdom which could have a material adverse effect upon the assets or business of the Company.

11. INSURANCE

11.1 So far as the Vendors are aware all insurances effected by the Company are in full force and effect and not void or voidable. There is no insurance claim by the Company pending or outstanding and the Vendors are not aware of any matter which could give rise to any such claim.

11.2 So far as the Vendors are aware none of the Company's insurances will be terminated invalidated or adversely affected by the sale of the Company to the Purchaser.

12. EMPLOYMENT AND REMUNERATION

12.1 The employees specified in the Disclosure Letter are all employed full-time in connection with the Company's business and comprise all of the persons so employed at the date of this Agreement and the age, commencement of employment and salary details shown opposite their respective names in the Disclosure Letter is correct in all material respects.

12.2 There is not in existence:

- (a) any obligation (whether legal or otherwise) of the Company to make any payments (other than emoluments) to or on behalf of any of its directors or employees;
- (b) any contract of service between the Company and any person which is not determinable by the Company by 12 weeks' notice or less without payment of compensation (save as provided by statute) nor is the Company under any contractual obligation to increase the rates of remuneration of or to make any bonus or incentive payments or

any payments under a profit-sharing scheme to or on behalf of any of its employees at any future date.

- 12.3 The Company does not have in existence or participate in and is not proposing to introduce or participate in any share incentive scheme, share option scheme or profit-sharing scheme for all or any part of its directors or employees.
- 12.4 No claim is outstanding against the Company by any person who is now or has been an officer or employee of the Company nor is there any dispute between the Company and any employee nor is the Company a party to any contract, agreement or arrangement with any trade union or association or body representing its employees.
- 12.5 The Company has not made loans to any of its employees and is not otherwise owed monies by any of its employees.
- 12.6 Mr Rubins does not have any outstanding claims against the Company in respect of remuneration or expenses.

13. PENSIONS

There is no superannuation, retirement benefit or other fund, scheme or arrangement to which the Company contributes or could become liable to contribute under which any employee of the Company is entitled to benefits of any kind upon retirement, death or disability or on the attainment of a specified age or the completion of a specified number of years of service.

14. BUSINESS NAMES

The Company does not carry on business under any name other than its own corporate name and the Vendors are not aware of any matter or thing which might prevent the Company from continuing to carry on business under its corporate name.

15. TAX WARRANTIES

15.1 Provision for Taxation in Accounts

Full provision or reserve (on the basis of the rates of tax current at the date hereof) has been made in the Accounts for all taxation of any nature and in any jurisdiction liable to be assessed on the Company or for which it is accountable in respect of income profits or gains (as computed for taxation purposes) earned

accrued or received on or before the Accounts Date and in respect of any distribution made or transaction entered into on or before the Accounts Date in accordance with, in each case, generally accepted accounting policies and principles as they apply to the Company .

## 15.2

Returns and Administration

- (a) All necessary information, notices, computations and returns or computations in lieu of returns (all of which are materially true and accurate and none of which is disputed by the Inland Revenue or other appropriate authority) required to have been submitted prior to the date hereof have been properly and duly submitted by the Company to the Inland Revenue and any other relevant taxation or excise authorities in respect of taxation for all applicable periods down to the date of this Agreement and there is no reason to suppose that any of such computations and returns which have not yet been accepted as true and accurate by the Inland Revenue or other taxation or excise authorities will not in due course be accepted as true and accurate by the Inland Revenue or such authorities.
- (b) The Company has (to the extent required by law prior to the date hereof) properly operated the Pay As You Earn system deducting tax as required by law from all payments to or treated as made to employees and ex-employees of the Company and accounting to the Inland Revenue for all tax so deducted and all tax chargeable on benefits provided for employees of the Company.
- (c) The Company has paid all national insurance and graduated pension contributions for which it is liable and has kept proper books and records relating to the same.
- (d) The Company is a registered and taxable person for the purposes of and has complied with all the requirements of the Value Added Tax Act 1983 and the regulations made thereunder in respect of Value Added Tax and has maintained or obtained full complete correct and up to date records, invoices and other documents (as the case may be) appropriate or requisite for the purposes thereof and has not been required by H.M. Customs and Excise to give security under such legislation and all Value Added Tax duties and other sums payable to



H.M. Customs and Excise due and payable by the Company at the date hereof have been paid.

15.3 Payment and Interest

All taxation of any nature whatsoever whether of the United Kingdom or elsewhere for which the Company is liable has, if and insofar as such taxation ought to have been paid prior to or on the date hereof, been so paid.

15.4 Distribution and Payments

No distribution within the meaning of Sections 209 and 210 of the Income and Corporation Taxes Act 1988 has been made by the Company since incorporation except dividends shown in its audited accounts nor is the Company bound to make any such distribution.

15.5 Employee Shares

In so far as the Company has granted shares or rights in respect of shares to its employees or to any persons treated as its employees it has complied with and observed all relevant legislation regarding employee share schemes including but not by way of limitation Sections 185-187 and Schedules 9, and 10 Income and Corporation Taxes Act 1988.

15.6 Overseas Provisions

- (a) The Company has never been the legal or beneficial owner of any share capital, securities or interest in another company or body resident or likely in the future to be resident under the United Kingdom revenue law in any country outside the United Kingdom.
- (b) The Company has no income, profits or gains which are subject to taxation in any country other than the United Kingdom.

15.7 Value Added Tax

- (a) The Company has always been entitled to credit for the full amount of input tax (as defined by Section 14(3) Value Added Tax Act 1983) incurred by it under Section 15(1)(a) Value Added Tax Act 1983.

- (b) The Company has never been a member of any group of companies for the purposes of Value Added Tax and no act or transaction has been effected in consequence whereof the Company is or may be held liable for any Value Added Tax chargeable against some other company.

#### 15.8 Stamp Duty

All documents in the enforcement of which the Company may be interested have been duly stamped.

#### 16. MATERIAL CHANGES

Since the Accounts Date:

- (a) the business of the Company has been carried on in the normal and proper course and the Company has not disposed of or parted with possession of any of its assets except in the ordinary course of business;
- (b) the Company has not been involved in any significant dispute with a client where such client has sought to withhold or refuse payment in respect of any invoice submitted by the Company.
- (c) no dividend or other distribution (within the meaning of that expression given in Sections 209 and 210 of the Income and Corporation Taxes Act 1988) has been declared, paid or made by the Company;
- (d) the Company has not entered any outstanding capital commitment nor engaged in any scheme or project requiring the expenditure of capital;
- (e) no resolution has been passed or consent given by the shareholders of the Company;

#### 17. INTELLECTUAL PROPERTY

The Company has no interest in any patents, trade marks, registered designs or copyrights nor (so far as the Vendors are aware) does the Company require any patent, trade mark, registered design, copyright or licence for any of the operations of its business as presently carried on.

18 INTERESTS IN OTHER ORGANISATIONS

- 18.1 The Company has not at any time had a holding company or a subsidiary (other than the Subsidiaries) as those terms are defined in Sections 736 and 744 of the Companies Act 1985.
- 18.2 The Company is not a member of any partnership or other unincorporated association nor a party to any joint venture, consortium or other like arrangement or agreement.
- 18.3 The Company has no branch or place of business or any assets situate in any country other than the United Kingdom and the Company is resident for tax purposes exclusively in the United Kingdom.

19. POWERS OF ATTORNEY

The Company has not given any power of attorney or any other authority (express, implied or ostensible) which is still outstanding or effective to any person to enter into any contract or commitment or do anything on its behalf other than any authority given to any of the Company's employees to enter into routine trading contracts in the normal course of their duties.

20. INSIDER CONTRACTS

Other than loans referred to in the Disclosure Letter and contracts of employment, there is not outstanding any contract or arrangement to which the Company is a party and in which any of the Vendors or any Connected Party is interested whether directly or indirectly and the Company is not party to nor have its profits or financial position during such period been affected by any contract or arrangement which is not of an arms-length nature.

21. GENERAL

Completion of this Agreement will not render the Company in breach of any agreement, mortgage, lease, lien, judgment, decree, undertaking or order or other obligation to which the Company is subject.

22. SUBSIDIARIES

- 22.1 Each of the Subsidiaries are wholly owned subsidiaries of the Company and are dormant companies with no assets or liabilities or encumbrances whatsoever.

- 22.2 All the issued shares in the capital of each of the Subsidiaries is beneficially owned by the Company.
- 22.3 The Representations given in paragraphs 2.10, 6, 7, 8, 9, 10, 12.4, 13, 15, 16(c), (d) and (e), 17, 18, 19, 20 and 21 of this Schedule in respect of the Company shall apply mutatis mutandis in relation to each of the Subsidiaries.

23. WARRANTIES AT COMPLETION

The Vendors will each use their reasonable endeavours to procure that the foregoing representations, warranties and undertakings will also be true and accurate as if repeated as at the Completion Date and on the basis that a reference to the Completion Date is substituted for any express or implied reference to the date of this Agreement and on the Completion Date the Vendors shall be deemed to have repeated the same on such basis accordingly and the same shall have effect as if given accordingly at the Completion Date as well as at the date hereof.

24. HEADINGS

The headings to the paragraphs of this Schedule are for convenience of reference only and shall not affect the meaning or constructions of any of such paragraphs.

## SCHEDULE 5

Property

1. Third floor offices at 1/3 Crawford Place, London W1 as the same are more particularly described in a lease dated 1st April 1992 which was made between Lexington Securities Limited (in receivership) and The SMS Communication Group Limited; and
2. First floor offices at 3 Greenock Road, Acton as the same are more particularly described in a lease dated 2nd February 1989 which was made between Morgan-Bryant Marketing Limited (1) Syndicated Media Services Limited (2) and James Harold Penny (3).

SIGNED  
by JACK RUBINS

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)



SIGNED by JACK RUBINS  
for and on behalf of  
MUNIR SAMJI :

)  
)  
)  
)



SIGNED by JACK RUBINS  
for and on behalf of  
COLIN DAVID WATTS :

)  
)  
)  
)



SIGNED by JACK RUBINS  
for and on behalf of  
JAMES HAROLD PENNY

)  
)  
)  
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SIGNED by FREDERICK JOHN FRENCH  
for and on behalf of  
OSPREY COMMUNICATIONS PLC

)  
)  
)



Director