

3219963

STEP 47

DATED 16 November, 1999

AUSTRAL RECONSTRUCTIONS

- and -

DEVA GROUP LIMITED

- and -

GROSVENOR LIMITED

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TRANSFER AGREEMENT

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Slaughter and May  
35 Basinghall Street  
London EC2V 5DB  
JMF/HGLG

CE993060099



AA

THIS AGREEMENT is made on the 16 November, 1999 BETWEEN:

- (1) **AUSTRAL RECONSTRUCTIONS**, a company incorporated in England and Wales, with registered number 3680834 whose registered office is at 53 Davies Street, London W1Y 1FH (the "Company");
- (2) **DEVA GROUP LIMITED**, a company incorporated in England and Wales with registered number 3221116 and whose registered office is at 53 Davies Street, London W1Y 1FH; and
- (3) **GROSVENOR LIMITED**, a company incorporated in England and Wales with registered number 3219943 and whose registered office is at 53 Davies Street, London W1Y 1FH.



**WHEREAS**

- (A) This Agreement is entered into pursuant to, and to give effect to, a scheme of reconstruction of the Company pursuant to section 110 Insolvency Act 1986 (the "Scheme").
- (B) It is intended that, by written resolutions of all the members of the Company (the "Resolutions") inter alia, the Scheme will be approved, the Company will be placed in members' voluntary liquidation and Anthony James McMahon and Jeremy Simon Spratt will be appointed its joint liquidators for the purpose of such winding-up with the power to act jointly or alone in such winding-up (the "Liquidators").
- (C) Each of Deva Group Limited and Grosvenor Limited are willing to participate in the Scheme on the terms of this Agreement.
- (D) As at the date of this Agreement, the issued share capital of each of Deva Group Limited and Grosvenor Limited consists of one hundred ordinary shares of £1 each, fifty of which are held in respect of each company by J.R. Sclater, Sir John James, M.A. Loveday and J.H.M. Newsum and fifty of which are held in respect of each company by Sir John James, M.A. Loveday, J.H.M. Newsum and The Earl of Home and it is intended that following the issues of shares and transfers of assets as contemplated by clauses 2 and 3 of this Agreement, the issued share capital and shareholders of such companies will be as set out in the Schedule.
- (E) The sole assets of the Company are the legal and beneficial interest in the entire issued share capital of Deva Holdings Limited (the "Deva Shares") and the legal and beneficial interest in the entire issued share capital of Grosvenor Estate Holdings (the "GEH Shares").

NOW IT IS AGREED as follows:

**1. Effective Date**

This Agreement shall take effect upon the date (the "Effective Date") on which the Resolutions are passed.

**2. Transfer of the Deva Shares**

2.1 Subject to clause 5.1, on the Effective Date the Company, acting by the Liquidators, shall transfer the Deva Shares to Deva Group Limited.

2.2 Upon the transfer to Deva Group Limited of the Deva Shares, Deva Group Limited shall forthwith issue to the Liquidators or, at their direction, to the persons listed in the Schedule to this Agreement the number of ordinary, non-voting and 12 per cent. preference shares of £1 each in the capital of Deva Group Limited set out opposite the respective names of such persons in column (A) of the Schedule to this Agreement less, in the case of each of the following 2 persons:

(a) J.R. Sclater, Sir John James, M.A. Loveday, J.H.M. Newsum; and

(b) Sir John James, M.A. Loveday, J.H.M. Newsum The Earl of Home,

fifty ordinary shares in Deva Group Limited (representing the fifty ordinary shares in Deva Group Limited already held by each such person).

**3. Transfer of the GEH Shares**

3.1 Subject to clause 5.1, on the Effective Date the Company, acting by the Liquidators, shall transfer the GEH Shares to Grosvenor Limited.

3.2 Upon the transfer to Grosvenor Limited of the GEH Shares, Grosvenor Limited shall forthwith issue to the Liquidators or, at their direction, to the persons listed in the Schedule to this Agreement the number of ordinary, non-voting and 12 per cent. preference shares of £1 each in the capital of Grosvenor Limited set out opposite the respective names of such persons in column (B) of the Schedule to this Agreement less, in the case of each of the following 2 persons:

(a) J.R. Sclater, Sir John James, M.A. Loveday, J.H.M. Newsum; and

(b) Sir John James, M.A. Loveday, J.H.M. Newsum, The Earl of Home,

fifty ordinary shares in Grosvenor Limited (representing the fifty ordinary shares in Grosvenor Limited already held by each such person).

#### 4. Title

- 4.1 The assets transferred under this Agreement are transferred free of all mortgages, charges, liens and encumbrances, but subject to and with the benefit of all and any rights, restrictions, obligations, conditions and agreements affecting the same or any part thereof, including the right to all income, dividends, distributions, interest and other rights and benefits attaching thereto or accruing therefrom.
- 4.2 The Company, acting by the Liquidators, shall comply with all reasonable requests made by Deva Group Limited or Grosvenor Limited, as the case may be, in relation to the assets to be transferred to it and shall in particular account to Deva Group Limited and Grosvenor Limited for all income, dividends, distributions, interest and other rights and benefits in respect of the Deva Shares and the GEH Shares respectively received on or after the Effective Date.
- 4.3 No representation, warranty, undertaking or condition is given nor is any to be implied on the part of the Liquidators in their personal capacity as Liquidators, as to the title of the Company to the assets transferred under clauses 2 and 3 of this Agreement, or that any such assets are free from mortgages, charges, liens or encumbrances.

#### 5. Completion

- 5.1 Upon completion of the transfer of any of the assets of the Company hereunder:
- (A) if any of the parties so require, the Company, acting by the Liquidators, shall give instructions to any person, firm or company holding any part of the Company's assets as nominee or on trust for the Company requiring such person, firm or company to transfer such assets to, or to execute a declaration of nominee ship or trust in favour of Deva Group Limited or Grosvenor Limited, as the case may be; and
  - (B) in the event of any part of the Deva Shares or the GEH Shares or any right or benefit relating thereto for whatever reason not being transferred to Deva Group Limited or Grosvenor Limited, respectively, in accordance with clauses 2.1 and 3.1 above, the Company, acting through the Liquidators, shall hold the same on trust for Deva Group Limited or Grosvenor Limited, as the case may be, and shall comply with all reasonable requests in respect thereof made by Deva Group Limited or Grosvenor Limited, as the case may be.
- 5.2 The Company, acting by the Liquidators, undertakes with Deva Group Limited and Grosvenor Limited to execute and deliver any documents and take any other steps as shall reasonably be required by Deva Group Limited and Grosvenor Limited to vest in them the Deva Shares and the GEH Shares respectively, and otherwise give the full benefit of this Agreement to Deva Group Limited and Grosvenor Limited.

## 6. Indemnity

Deva Group Limited and Grosvenor Limited agree jointly and severally to indemnify the Company against and pay on behalf of the Company all liabilities, losses, taxes, claims, actions, demands, fees, costs, expenses (including stamp duty and stamp duty reserve tax, if any, payable in relation to the transfer of assets which shall be paid by the transferee thereof), proceedings and judgments of whatsoever nature (together, "claims") that are at any time established against or suffered or incurred by the Company. Deva Group Limited and Grosvenor Limited agree as between themselves that any liability or obligation arising pursuant to the indemnity contained in this clause 6 shall be borne by the transferee of the asset (if any) to which the relevant claim relates, failing which by each of Deva Group Limited and Grosvenor Limited so far as possible in proportion to the value as at the Effective Date of the Deva Shares and the GEH Shares respectively.

## 7. General

- 7.1 Deva Group Limited and Grosvenor Limited shall be entitled to act and rely upon any certification, opinion, advice or information furnished by the Company, the registrars or the auditors of the Company and shall not be liable or responsible for any loss suffered as a result thereof.
- 7.2 This Agreement shall, in so far as it remains to be performed, continue in full force and effect.
- 7.3 This Agreement supersedes any previous agreement between the parties in relation to the matters dealt with herein and represents the entire understanding of the parties in relation thereto and none of the parties to this Agreement is relying on any other representations or statements made by any of the other parties to this Agreement.

## 8. Law and Jurisdiction

- 8.1 This Agreement and the rights and obligations of the parties shall be governed by and construed in accordance with the laws of England and Wales.
- 8.2 The parties hereby submit to the non-exclusive jurisdiction of the Courts of England and Wales in respect of any claim, dispute or difference arising out of or in connection with this Agreement.

## 9. Notices

- 9.1 Any notice, consent, agreement, request, demand, approval or other communications, required or permitted to be given or served under this Agreement shall be in writing and shall be given or served either:

- (A) personally by giving it to any director or the secretary of any company which is a party; or
- (B) by leaving it at the recipient's registered office for the time being or, if another address in England shall have been notified by the recipient to all the other parties for the purposes of this clause 9.1 by notice given in accordance with this paragraph, then to the address of such party which shall have been so notified, for which purpose the latest notification shall supersede all previous notifications.

9.2 All such notices, consents, requests, demands, approvals and other communications shall be effective on the date of such leaving or giving.

AS WITNESS the hands of the duly authorised representatives of the parties the day and year first before written.



SIGNED by  
for and on behalf of  
AUSTRAL RECONSTRUCTIONS  
in the presence of:

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SIGNED by  
for and on behalf of  
DEVA GROUP LIMITED  
in the presence of:

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SIGNED by  
for and on behalf of  
GROSVENOR LIMITED  
in the presence of:

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# **SCHEDULE**

## **Shareholdings in Austral Reconstructions, Deva Group Limited and Grosvenor Limited**

| <u>Shareholder</u>   | <u>Number and description of shares held/to be held in:</u>    |  |  |  | <u>(D)</u><br><u>%</u> |
|--|--|--|--|--|------------------------|
|  | <u>(A)</u><br><u>Deva Group Limited</u>                        | <u>(B)</u><br><u>Grosvenor Limited</u>                         | <u>(C)</u><br><u>Austral Reconstructions</u>                   |  |                        |
| J.R. Sclater, Sir John James,<br>M.A. Loveday, J.H.M. Newsum     | 1,443,429 Ords<br>11,547,432 Non Voting<br>1,443,429 12% Prefs | 1,443,429 Ords<br>11,547,432 Non Voting<br>1,443,429 12% Prefs | 1,443,429 Ords<br>11,547,432 Non Voting<br>1,443,429 12% Prefs |  | 25.87                  |
| J.R. Sclater, M.A. Loveday,<br>J.H.M. Newsum, The Earl of Home   | 1,061,267 Ords<br>8,490,136 Non Voting<br>1,061,267 12% Prefs  | 1,061,267 Ords<br>8,490,136 Non Voting<br>1,061,267 12% Prefs  | 1,061,267 Ords<br>8,490,136 Non Voting<br>1,061,267 12% Prefs  |  | 19.02                  |
| Sir John James, J.M. Marshall & A.H. Clowes                      | 313,458 Ords<br>2,507,664 Non Voting<br>313,458 12% Prefs      | 313,458 Ords<br>2,507,664 Non Voting<br>313,458 12% Prefs      | 313,458 Ords<br>2,507,664 Non Voting<br>313,458 12% Prefs      |  | 5.62                   |
| Sir John James, J.R. Sclater, The Earl of Home,<br>J.H.M. Newsum | 155,085 Ords<br>1,240,680 Non Voting<br>155,085 12% Prefs      | 155,085 Ords<br>1,240,680 Non Voting<br>155,085 12% Prefs      | 155,085 Ords<br>1,240,680 Non Voting<br>155,085 12% Prefs      |  | 2.78                   |
| M.A. Loveday, Sir John James,<br>J.H.M. Newsum, The Earl of Home | 2,572,302 Ords<br>20,578,416 Non Voting<br>2,572,302 12% Prefs | 2,572,302 Ords<br>20,578,416 Non Voting<br>2,572,302 12% Prefs | 2,572,302 Ords<br>20,578,416 Non Voting<br>2,572,302 12% Prefs |  | 46.10                  |
| The Duke of Westminster, OBE TD DL                               | 34,000 Ords<br>272,000 Non Voting<br>34,000 12% Prefs          | 34,000 Ords<br>272,000 Non Voting<br>34,000 12% Prefs          | 34,000 Ords<br>272,000 Non Voting<br>34,000 12% Prefs          |  | 0.61                   |