

We hereby certify  
this to be a true copy  
of the original

*May Steel*

DATED 31 August 2005

3224870

MICHAEL JAMES THOMAS

ANTHONY JOHN BROWN

CHARLES JAMES PETER PHILLIPS

ROYAL BANK VENTURES INVESTMENTS LIMITED

- and -

LOMBARD RISK MANAGEMENT PLC

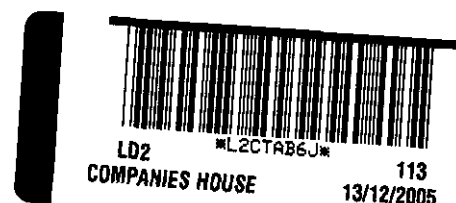
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**AGREEMENT**

- for the sale and purchase of the entire issued share capital of -

**STB SYSTEMS LIMITED**

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**MEMERY CRYSTAL**  
44 Southampton Buildings  
London  
WC2A 1AP  
Tel: 020 7242 5905  
Fax: 020 7242 2058  
Ref: DCW/417630v14

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**DATE:**

31 August

2005

**PARTIES:**

- (1) **THE PERSONS** whose names and addresses are set out in column 1 of Schedule 1 (the "Vendors"); and
- (2) **LOMBARD RISK MANAGEMENT PLC** (registered no. 3224870) whose registered office is at 21<sup>st</sup> Floor, Empress State Building, Empress Approach, Lillie Road, London SW6 1TR (the "Purchaser").

**WHEREAS**

- (A) STB Systems Limited is a company incorporated under the Companies Act 1985 with registered number 2342639 and having its registered office at India House, 45 Curlew Street, London SE1 2ND (the "Company"), further details of the Company being set out in Part 1 of Schedule 2.
- (B) The Vendors are or at Completion will be the registered holders and (save in the case of RBV for the RBV Option Shares) the beneficial owners of the numbers of Shares of the Company shown opposite their respective names in column (2) of Schedule 1, comprising in aggregate the whole of the issued and allotted share capital of the Company.
- (C) The Vendors have agreed to sell and the Purchaser has agreed to purchase the Shares on the terms and conditions of this Agreement.
- (D) On even date herewith the Plan Optionholders (as defined below) have:
  - (i) entered into an agreement (the "Sub-purchase Agreement") with the Vendor Warrantors (as defined below) providing for the sale to the Vendor Warrantors of a total of 230,768 STB Ordinary Shares to the Vendor Warrantors conditional upon Completion of this Agreement;
  - (ii) given notice to the Company exercising their Plan Options to subscribe for a total of 230,768 STB Ordinary Shares, such exercise to be conditional upon completion of the Sub-purchase Agreement.
- (E) By one or more letters of agreement dated on or before the date of this Agreement, the RBV Optionholders (as hereinafter defined) have given notice to RBV to exercise the RBV Options conditional upon completion of this

Agreement and authorising RBV to sell in accordance with this Agreement all of the Shares the subject of such options.

**IT IS AGREED** as follows

**1. INTERPRETATION**

1.1 In this Agreement and the Schedules hereto unless the context otherwise requires the following words and expressions shall have the following meanings:

"Accounting Standards"	FRS, SSAPs, GAAP and applicable requirements of CA;
"Accounts"	the audited consolidated balance sheet and profit and loss account of the Company and the Subsidiaries as at and for the 12 months to the Balance Sheet Date together with the relevant notes, reports and statements;
"Admission Document"	the document dated 17 September 2004 in connection with a placing of Ordinary Shares and the admission of the then issued and to be issued Ordinary Shares to trading on AIM;
"AIM"	the AIM market of the London Stock Exchange;
"AIM Rules"	the rules of AIM from time to time in force;
"Balance Sheet Date"	30 November 2004;
"Business"	the Group's business of developing, licensing, maintaining and supporting regulatory, anti-money laundering and compliance software systems;
"business day"	a day, other than a Saturday or a Sunday, on which clearing banks are open for all normal banking business in London;

"CA"	Companies Act 1985;
"CAA"	Capital Allowances Act 2001;
"Completion"	completion of the sale and purchase of the Shares in accordance with Clause 7;
"Completion Consideration Share Price"	10 pence per Ordinary Share;
"Completion Consideration Shares"	such number of Ordinary Shares (rounded down to the nearest whole number) as equals £732,677.79 divided by the Completion Consideration Share Price to be allotted to the Vendors credited as fully paid pursuant to Clause 3.1(a)(ii);
"Completion Date"	the date on which Completion takes place;
"Deeds of Variation"	the deeds of variation in agreed terms to be entered into on Completion between the Company, and each of the Vendor Warrantors and John Bartlett amending the terms of their respective service agreements with the Company;
	Please provide draft for JB
"Deferred Consideration Loan Notes"	loan notes which may be issued by the Purchaser to satisfy the deferred consideration in accordance with this Agreement and which shall have the following characteristics: <ul style="list-style-type: none"> <li>(a) be unsecured save that if at the date of their issue the Purchaser shall not be the ultimate holding company of the Purchaser's Group, then the obligations of the Purchaser under such notes shall be guaranteed by such ultimate holding company;</li> </ul>

- (b) be redeemable at par at the option of the holder at any date between one year and five years following the date of issue or by the Purchaser at any time after the expiry of such five years;
- (c) be transferable;
- (d) pay interest quarterly at a gross rate equal to the base rate of HSBC Bank Plc or such other UK clearing bank as may be approved by a Qualifying Majority subject only to deduction of tax as required by law; and
- (e) redemption to be accelerated on specified insolvency events of the Purchaser;

and such other characteristics as may be reasonably appropriate for loan notes issued as consideration in such circumstances, having regard to the tax position of the Vendors, the form of such loan notes to be agreed between the Purchaser and a Qualifying Majority, or, in default of such agreement, to be settled by a solicitor appointed in default of agreement by the President of the Law Society on the application of the Purchaser or a Qualifying Majority, the costs of such solicitor to be borne by the parties in such proportions as he shall decide having regard to the conduct of the parties in relation to such matter;

“Directors”

the directors of the Company specified in the Second Schedule;

“Dividend”

includes anything which is or is deemed to be a dividend or distribution for the purposes of any Taxation including under Section 209 ICTA;

<b>“Earn-Out Amount”</b>	has the meaning given to that term in Schedule 4;
<b>“Earn-Out Consideration Shares”</b>	has the meaning given to that term in Schedule 4;
<b>“Earn-Out Period”</b>	has the meaning given in Schedule 4;
<b>“Employment Income”</b>	as defined under Section 7 ITEPA or the equivalent income subject to tax in the USA, Hong Kong or Singapore;
<b>“Encumbrance”</b>	any interest or equity of any person (including any right to acquire, option or right of pre-emption) or any mortgage, charge, pledge, lien, assignment, hypothecation, security interest, title retention or any other security agreement or arrangement;
<b>“ERA”</b>	Employment Rights Act 1996;
<b>“Event”</b>	shall have the meaning set out in the Tax Schedule;
<b>“Expiry Date”</b>	30 June 2006 or, if later, the date on which the Second Earn-out Accounts are agreed or settled in accordance with Schedule 4;
<b>“FA”</b>	followed by a year means the finance act of that year;
<b>“First Admission”</b>	admission of the Completion Consideration Shares to trading on AIM and such admission becoming effective in accordance with rule 6 of the AIM Rules;
<b>“First Earn-Out Period”</b>	has the meaning given to that term in Schedule 4;
<b>“FRS”</b>	Financial Reporting Standards issued by the Accounting Standards Board;
<b>“FRSSE”</b>	Financial Reporting Standard for Smaller Entities



	issued by the Accounting Standards Board;
"GAAP"	generally accepted accounting principles in the United Kingdom;
"Group"	the Company and the Subsidiaries;
"HMRC"	HM Revenue and Customs;
"ICTA" or "Taxes Act"	the Income and Corporation Taxes Act 1988;
"IHTA"	the Inheritance Tax Act 1984;
"Indemnified Software Licences"	the Software Licences listed in Schedule 8 of this Agreement;
"ITEPA"	the Income Tax (Earnings and Pensions) Act 2003;
"Joint Election"	a joint election pursuant to sections 425, 430 or 431 ITEPA;
"LPPMA"	the Law of Property (Miscellaneous Provisions) Act 1994;
"Management Accounts"	the unaudited management accounts of the Company and the Subsidiaries for the period from the Balance Sheet Date to 31 July 2005;
"Maximum Consideration"	£3,000,000;
"MT Loan"	the monies advanced to the Company by Michael James Thomas pursuant to an agreement dated 16 April 2003 between Michael James Thomas and the Company;
"NIC"	national insurance contributions or equivalent charge levied in the USA, Singapore and Hong Kong including contributions to the Central Provident Fund in Singapore and the Mandatory Provident Fund in Hong Kong;

<b>"Ordinary Shares"</b>	ordinary shares of 0.5p each in the capital of the Purchaser;
<b>"Outstanding Plan Options"</b>	the Plan Options held by the Plan Optionholders to subscribe for a total of 230,768 STB Ordinary Shares;
<b>"Overseas Properties"</b>	<ul style="list-style-type: none"> <li>(i) Suite 2028, Lincoln Building, 60 East 42<sup>nd</sup> Street, New York 10165;</li> <li>(ii) Part of 902 Kinwick Centre, 32 Hollywood Road, Central Hong Kong; and</li> <li>(iii) Part of Caltex House, 30 Raffles Place, #23-00, Singapore 048622;</li> </ul>
<b>"PAYE"</b>	the pay-as-you-earn system as provided for under ITEPA;
<b>"Pension Schemes"</b>	means (a) the Company's pension scheme provided by Friend's Provident (FP1, 2 and 3) and (b) the following personal pension schemes into which the Company contributes: Virgin Money (VM1), Friends Provident Internet Scheme (FPIAR670), Friend's Provident Old Scheme (FP4), Standard Life (SL2 and 3), Commercial Union (CU1 and 2), Prudential (P1), Allied Dunbar (AD1), Equitable Life (EL4), Rothschild (R1) and Clerical Medical (CM2), all such references in parentheses being to the pension reference in the Company's Checklist of Employee Status dated 6 July 2005 provided by the Vendor Warrantors to the Purchaser;
<b>"Plan"</b>	the STB Systems Limited Enterprise Management Incentive Share Option Plan;
<b>"Plan Optionholders"</b>	John Bartlett, Stephen Baxter, John Heaps and Ian Donaldson, each being an employee of the Group;

"Plan Options"	options to acquire STB Ordinary Shares granted under the Plan;
"Property"	the UK Property and the Overseas Properties;
"Purchaser Warranties"	the warranties, representations and undertakings set out in Clause 5 and Schedule 7;
"Purchaser Warranty Claim"	any claim by the Purchaser under the Vendor Warranties;
"Purchaser's Auditors"	Grant Thornton UK LLP, Grant Thornton House, Melton Street, Euston Square, London NW1 2EP or such other firm of auditors as the Purchaser may appoint from time to time;
"Purchaser's Group"	the Purchaser, any subsidiary of the Purchaser from time to time, any holding company of the Purchaser from time to time and any subsidiary of such holding company;
"Purchaser's Solicitors"	Memery Crystal, 44 Southampton Buildings, London WC2A 1AP and any successor firm;
"Qualifying Majority"	any two or more of the Vendors who immediately prior to Completion together held 70% or more in nominal value of the Shares;
"RBV"	Royal Bank Ventures Investments Limited;
"RBV Optionholders"	David Thompson and Ken Barnes;
"RBV Option Shares"	<p>(i) 614,769 A Ordinary Shares registered in the name of RBV (and included in the total number of A Ordinary Shares shown opposite RBV's name in column (2) of Schedule 1) in respect of which RBV has granted to David Thompson an option to acquire the same; and</p> <p>(ii) 614,769 A Ordinary Shares registered in</p>

	the name of RBV (and included in the total number of A Ordinary Shares shown opposite RBV's name in column (2) of Schedule 1) in respect of which RBV has granted to Ken Barnes an option to acquire the same;
"Replies to Enquiries"	means the replies to CPSE 4 enquiries appended to the Disclosure Letter;
"Restricted Territories"	London, New York, Washington DC, Chicago, Hong Kong and Singapore;
"SDLT"	stamp duty land tax pursuant to the provisions of FA 2003;
"SDRT"	stamp duty reserve tax pursuant to the provisions of FA 1986;
"Second Earn-Out Period"	has the meaning given in Schedule 4;
"Shares"	<p>the entire issued and to be issued share capital of the Company at Completion comprising:</p> <p>(a) 20,000,000 ordinary shares of 1p each in the capital of the Company which at close of business on the day before the date of this Agreement were unconditionally issued and registered in the names of the persons listed in column (1) of Schedule 1 in the proportions indicated in column (2) of that Schedule, together with the 230,768 ordinary shares of 1p each in the capital of the Company which have been agreed to be sold to the Vendor Warrantors pursuant to the Sub-purchase Agreement conditional upon Completion taking place;</p> <p>(together the "STB Ordinary Shares");</p>

- (b) 18,461,538 'A' ordinary shares of 1p each in the capital of the Company (the "'A' Ordinary Shares");
- (c) 300,000 'B' ordinary shares of £1 each in the capital of the Company (the "'B' Ordinary Shares"); and
- (d) 50,000 convertible redeemable preference shares of £1 each in the capital of the Company (the "Preference Shares");

"SSAP"

a Statement of Standard Accounting Practice published by the Accounting Standards Board;

"STBHK"

means STB Systems (Asia Pacific) Limited (incorporated in Hong Kong) further details of which are contained in Schedule 2, Part 2;

"STB Singapore"

means STB Systems Solutions Pte Limited (incorporated in Singapore), further details of which are contained in Schedule 2, Part 2;

"STBUS"

means STB Systems Inc. (incorporated in Maryland, USA) further details of which are contained in Schedule 2, Part 2;

"Subsidiaries"

means STBHK, STB Singapore and STB US;

"Tax" or "Taxation"

any tax, charge, duty or levy imposed whether in the United Kingdom or elsewhere including (without prejudice to the generality of the foregoing):

- (a) in the United Kingdom, income tax including income tax to which the PAYE system applies, corporation tax, any liability under Section 601 ICTA, any liability under Section 559 ICTA (subcontractors scheme), tax arising in

respect of Employment Income, capital gains tax, value added tax, inheritance tax, NIC including both employer's and employee's contributions, stamp duty, SDLT, SDRT, VAT and excise duties; and

- (b) outside the United Kingdom on gross or net income, profits or gains, receipts, sales, use, occupation, franchise, value added, wealth, personal property or other taxes, employment tax, social security taxes, local, state and federal taxes, charges, duties levies, imposts or withholdings of any nature whatsoever; and

shall further include any penalty, fine, surcharge or interest payable in addition to or in connection with any such tax, charge, duty or levy and reference to "Taxation" in this Agreement shall be construed accordingly;

**"Tax Assessment"**

includes any claim, assessment, notice, demand, letter, counterclaim or other documentary or other similar formal notice issued or made by or action taken on behalf of a Taxation Authority in respect of the Company and whether issued or taken before or after the date hereof;

**"Taxation Authority"**

includes the HMRC and any other authority or body whether in the UK or elsewhere which have authority to impose Taxation including for the avoidance of doubt all equivalent authorities in the USA, Hong Kong and Singapore;

**"Taxation Statutes"**

any legislation regulation or order imposing a charge to Taxation including any equivalent US, Hong Kong or Singapore statutes;

"Tax Claim"	as defined in the Tax Schedule;
"Tax Covenant"	means the covenant under paragraph 2.1 of the Tax Schedule;
"Tax Schedule"	means the Fifth Schedule to this Agreement;
"TCGA"	the Taxation of Chargeable Gains Act 1992;
"TMA"	means the Taxes Management Act 1970;
"UK Property"	First Floor, India House, 45 Curlew Street, London SE1 2ND;
"VAT"	Value Added Tax or, in the case of the Subsidiaries, any equivalent sales tax;
"VATA"	the Value Added Tax Act 1994;
"Vendor Disclosure Letter"	the letter of the same date as this Agreement incorporating a bundle of documents in the agreed form (the "Disclosure Documents") from the Vendor Warrantors to the Purchaser disclosing certain exceptions to the Vendor Warranties;
"Vendors' Solicitors"	Tarlo Lyons, Watchmaker Court, 33 St. John's Lane, London EC1M 4DB and any successor firm;
"Vendor Warranties"	the warranties representations and undertakings set out in Clause 5.1 and Schedule 3; and
"Vendor Warrantors"	Michael James Thomas, Anthony John Brown and Charles James Peter Phillips.

1.2 References to statutory provisions shall be construed as including references to:

- (a) any statutory amendment, consolidation or re-enactment from time to time (whether before or after the date of this Agreement);

- (b) all statutory regulations, instruments or other subordinate legislation made under the relevant statute; and
  - (c) any statutory provisions of which a statutory provision is a consolidation, re-enactment or modification.
- 1.3 Any document stated to be in "agreed terms" means such document in the terms agreed between the parties prior to execution of this Agreement and for the purposes of identification signed on the execution hereof by the Purchaser's Solicitors and the Vendors' Solicitors as that document may be amended by agreement in writing between the parties from time to time for any reason.
- 1.4 The word "company" shall have the same meaning as in the definition in Section 735 of CA, the expressions "director" and "shadow director" shall have the meanings respectively ascribed to them by Section 741 of CA and the provisions of Section 736 of CA shall apply in determining whether one company is a subsidiary of another.
- 1.5 The Interpretation Act 1978 shall apply to this Agreement in the same way as it applies to an enactment.
- 1.6 Any reference to a clause, sub-clause or schedule (other than to a schedule to a statutory provision) is a reference to a clause or sub-clause of or schedule to this Agreement and the Schedules form part of and are deemed to be incorporated into this Agreement.
- 1.7 The headings used in this Agreement are inserted for convenience only and shall be ignored in construing this Agreement.
- 1.8 Save where the context specifically requires otherwise, words importing one gender shall be treated as importing any gender, words importing individuals shall be treated as importing corporations and vice versa, words importing the singular shall be treated as importing the plural and vice versa, and words importing the whole shall be treated as including a reference to any part thereof. References to persons shall include bodies corporate, unincorporated associations and partnerships, in each case whether or not having a separate legal personality. References to the word "include" or "including" (or any similar term) are not to be construed as implying any limitation and general words introduced by the word "other" (or any similar term) shall not be given



a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things.

## **2. SALE OF SHARES**

- 2.1 Subject to the terms and conditions of this Agreement, each of the Vendors hereby severally agrees (but so that as regards the RBV Option Shares, RBV so agrees as agent for the RBV Optionholders) to sell to the Purchaser, on and with effect from Completion, the Shares registered in his name and specified against his name in Schedule 1 and the Purchaser, relying on the covenants, undertakings, warranties and indemnities contained in this Agreement and the Tax Schedule (to the extent the Vendor selling the same is party thereto), shall purchase such Shares free from any Encumbrance, and together with all rights now and hereafter attaching or accruing to such Shares including any Dividend declared, made or paid on such Shares on or after the date of this Agreement.
- 2.2 The Purchaser shall not be obliged to complete the purchase of any of the Shares unless the sale of all the Shares is completed simultaneously.
- 2.3 Without prejudice to Clause 2.1:
- (a) the Vendor Warrantors warrant that at Completion the Shares will constitute the whole of the issued and allotted share capital of the Company, that at Completion there will be no outstanding options or other interest or instrument capable of being converted into share capital of the Company (save for any option to acquire any of the Shares agreed to be sold by it pursuant to his Agreement that may have been granted by RBV or any predecessor in title to such Shares);
  - (b) RBV warrants that at Completion there will be no outstanding option or other interest in relation to any of the Shares agreed to be sold by it pursuant to this Agreement other than rights to receive an appropriate proportion of the consideration provided for by Clause 3 below; and
  - (c) each of the Vendors warrants that the Shares to be sold by him or it shall be sold with full title guarantee as referred to in LPMPA.
- 2.4 In addition to Clause 2.1, each of the Vendors, from time to time on or following Completion, on being required to do so by the Purchaser and at the cost and expense of the Purchaser, shall in relation to the Shares agreed to be

sold by him or it pursuant to this Agreement do or procure the doing of such acts and/or execute or procure the execution of such documents as may be reasonably 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 in respect of such Shares.

2.5 Each of the Vendors waives any pre-emption or other rights conferred on him or it under the Articles of Association of the Company or otherwise which restrict the transfer of the Shares in accordance with this Agreement.

2.6 RBV confirms that on Completion it will have no claim against the Company for dividend arrears or for any other matter whatsoever (save for monitoring fees not exceeding £60,000 plus applicable VAT).

2.7 The maximum liability of each Vendor to the Purchaser in respect of any warranty, covenant or undertaking given by him in Clauses 2, 10 and 11 of this Agreement shall not exceed:

(a) in the case of each of the Vendor Warrantors, the amount of consideration actually received by him for the sale of his Shares pursuant to this Agreement less at the relevant time any amount previously paid by him pursuant to the Vendor Warranties or the Tax Schedule together with, in the case of Michael Thomas, the amount of the MT Loan repaid to him at Completion; and

(b) in the case of any other Vendor, the amount of consideration actually received by him for the sale of his Shares pursuant to this Agreement,

and so that no claim may be made by the Purchaser under any such clause unless written notice giving reasonable details of the nature thereof is given to the relevant Vendor prior to the first anniversary of Completion.

2.8 For the purposes of Clause 2.7 above, the Completion Consideration Shares and the Earn-Out Consideration Shares shall be valued at the price per share at which such shares were allotted regardless of any subsequent change in the market price of such shares.

### 3. CONSIDERATION

3.1 The consideration for the sale of the Shares shall be:

- (a) the sum of £2,000,000 to be satisfied as to:
  - (i) £1,267,322.21 to be paid in cash on Completion to the Vendors in the proportions set out in column (3) of Schedule 1; and
  - (ii) £732,677.79 to be satisfied by issue and allotment of the Completion Consideration Shares to the Vendors on Completion in the proportions set out in column (4) of Schedule 1; and
- (b) subject always to and in accordance with Schedule 4, the issue by the Purchaser to the Vendors in the proportions set out in column (5) of Schedule 1 (or in such other proportions as may become applicable in accordance with Schedule 4), credited as fully paid, such number of Earn-Out Consideration Shares at the relevant Earn-Out Market Price equal to, or Deferred Consideration Loan Notes in an aggregate principal amount equal to the sum of:
  - (i) the First Earn-Out Amount; and
  - (ii) the Second Earn-Out Amount,

and being in any event subject to a maximum principal amount of £1,000,000 which, for the avoidance of doubt, shall be calculated in accordance with paragraph 8.1 of Part 2 of Schedule 4.

3.2 The Purchaser shall, on Completion, procure that the Company repays in full all outstanding amounts owed by the Company pursuant to the MT Loan (subject to a maximum of £40,000).

3.3 The Purchaser shall procure that the Company repays in full on Completion all outstanding amounts owed to RBV in respect of accrued monitoring fees subject to a maximum of £60,000, excluding Value Added Tax and subject further to receipt by the Company of one or more proper VAT invoices for the same.

3.4 The Completion Consideration Shares and Earn-Out Consideration Shares shall rank pari passu in all respects with the existing issued Ordinary Shares of the

Purchaser save that they shall not rank for any dividend declared by reference to a record date preceding their respective dates of issue.

**4. VENDOR WARRANTIES**

- 4.1 The Vendor Warrantors jointly and severally represent, warrant and undertake to the Purchaser and its permitted assigns and successors in title in the terms set out in Schedule 3.
- 4.2 The Vendor Warrantors acknowledge that the Purchaser has been induced to enter into this Agreement and to purchase the Shares on the basis of and in reliance upon (among other things) the Vendor Warranties.
- 4.3 Where any Vendor Warranty is qualified by the expression "so far as the Vendor Warrantors are aware" or "to the best of the knowledge information and belief of the Vendor Warrantors", or any similar expression, that statement shall save as otherwise expressly provided be deemed to include an additional statement that it has been made after due and careful enquiry by the Vendor Warrantors.
- 4.4 The Vendor Warranties are given subject only to the matters fully and fairly disclosed to the Purchaser in the Vendor Disclosure Letter.
- 4.5 Save as otherwise expressly provided in this Clause 4 or in any paragraph of Schedule 3 each of the Vendor Warranties set out in each sub-paragraph of Schedule 3 shall be separate and independent and shall not be limited by the terms of any of the other Vendor Warranties.
- 4.6 Each Vendor Warranty which is expressed to be given in relation to the Company shall also be deemed to be given separately in relation to each of STBUS, STBHK and STB Singapore as if it had been repeated with respect to each such Subsidiary in place of the Company throughout subject as follows:
- (a) the Vendor Warranties in the following paragraphs of Schedule 3 shall be deemed to be given only in relation to the Company and not in relation to any of the Subsidiaries:
- 5.1(a), 9.1 - 9.9 (inclusive), and 17.3 - 17.12 (inclusive) and 21.11.
- (b) subject as aforesaid references in any paragraphs or sub paragraphs of Schedule 3 which apply in relation to any of the subsidiaries to the

United Kingdom or any part thereof or to legislation of the United Kingdom or any part thereof shall be construed as references as follows:

- (i) in the case of STBUS, to the United States of America and the State of Maryland and to the corresponding laws of the State of Maryland and federal laws of the United States of America (if any);
- (ii) in the case of STBHK to Hong Kong and to the corresponding laws of Hong Kong (if any);
- (iii) in the case of STB Singapore, to Singapore and to the corresponding laws of Singapore (if any),

and so that where in any such relevant jurisdiction legislation or other law equivalent to that referred to in any such paragraph does not exist, that paragraph shall not apply to the relevant Subsidiary.

- 4.7 Each of the Vendor Warranties are given at the date hereof and shall be deemed to be repeated on each subsequent day up to and including the time immediately prior to Completion with reference to the facts then existing.
- 4.8 Any information supplied by the Company or its officers, employees, agents or professional advisers, to the Vendor Warrantors or their agents, representatives or advisers in connection with, or which forms the basis of, any of the Vendor Warranties or the Tax Schedule or the Vendor Disclosure Letter or otherwise in relation to the business and affairs of the Company or the Subsidiaries shall be deemed not to be, or have been, a representation, warranty or guarantee of the accuracy thereof by the Company to the Vendor Warrantors and shall not constitute a defence to any claim by the Purchaser under this Agreement, and each of the Vendor Warrantors hereby waives any and all claims against the Company or its officers, employees or agents in respect thereof.
- 4.9 The Vendor Warranties shall remain in full force and effect after Completion for the respective periods specified in relation thereto.
- 4.10 Save as expressly provided otherwise in this Agreement or the Disclosure Letter, the Vendor Warranties shall not be affected by any investigation made

by or on behalf of the Purchaser into the affairs of the Company, or by any matter of which the Purchaser has knowledge (actual or constructive).

- 4.11 Where as a result of or in connection with any breach of any of the Vendor Warranties the net assets of the Company are diminished or are less than they would have been had there been no such breach, or any payment is made or required to be made by the Purchaser to remedy such breach, the Purchaser shall be entitled to elect that the amount of such diminution or shortfall or payment, together with any costs and expenses incurred in connection therewith, shall be taken to be the loss suffered by the Purchaser by reason of such breach. If in respect of or in connection with any breach of any of the Vendor Warranties any sum payable to the Purchaser by the Vendor Warrantors by way of compensation (whether under this sub-clause or otherwise) is subject to Taxation, then such further amount shall be paid to the Purchaser by the Vendor Warrantors so as to secure that the net amount received by the Purchaser is equal to the amount of compensation due to it as aforesaid.
- 4.12 The Vendor Warrantors jointly and severally covenant with the Purchaser and its permitted assigns and successors in title in the terms of Schedule 5.
- 4.13 The obligations of the Vendor Warrantors under this Clause 4 shall be subject to the provisions of Schedule 6.
- 4.14 The Vendor Warrantors undertake to disclose to the Purchaser in writing any matter occurring prior to Completion which constitutes a breach of or is inconsistent with any of the Vendor Warranties or which renders any of the Vendor Warranties inaccurate or misleading (or which would constitute a breach of or be inconsistent with any of the Vendor Warranties, or render any of the Vendor Warranties inaccurate or misleading, if the Vendor Warranties were given at the time of such occurrence) forthwith and upon becoming aware of the same.
- 4.15 If prior to Completion it shall be found that:
- (a) there has been a breach of the Vendor Warranties; or

- (b) the Vendor Warrantors have failed to comply with any of their undertakings pursuant to Clause 6 (Action Pending Completion) during the period up to Completion,

which, in either case, in the reasonable opinion of the Purchaser, is material in the context of the Group, then the Purchaser shall not be bound to complete the purchase of the Shares and the Purchaser may, by notice served on the Vendors at any time before Completion, rescind this Agreement.

- 4.16 If the Purchaser elects to rescind this Agreement pursuant to Clause 4.15 no party shall have any liability to any other party hereunder (save in respect of any prior breach) and this Agreement shall cease to have any effect (save for Clauses 13 - 24 (inclusive) which shall remain in effect in accordance with their terms). In the event that the Purchaser does not elect to rescind this Agreement where, pursuant to Clause 4.15 it is entitled to do so, the Vendor Warrantors shall have no further liability to the Purchaser for the breach of the Vendor Warranties or undertakings referred to in Clause 6 which gave rise to such entitlement to rescind.

## **5. PURCHASER WARRANTIES**

- 5.1 The Purchaser warrants to the Vendors and their respective permitted assigns and successors in title in the terms set out in Schedule 7.
- 5.2 The Purchaser acknowledges that each of the Vendors has been induced to enter into this Agreement and to sell the Shares on the basis of and in reliance upon (among other things) the Purchaser Warranties.
- 5.3 Where any Purchaser Warranty is qualified by the expression "so far as the Purchaser Warrantors are aware" or "to the best of the knowledge information and belief of the Purchaser" or any similar expression that statement shall be deemed to include an additional statement that it has been made after due and careful enquiry by the Purchaser.
- 5.4 Each of the Purchaser Warranties set out in each sub-paragraph of Schedule 7 shall be separate and independent and shall not be limited by the terms of any of the other Purchaser Warranties.

- 5.5 Each of the Purchaser Warranties is given at the date hereof and shall be deemed to be repeated on each subsequent day up to and including the time immediately prior to Completion with reference to the facts then existing.
- 5.6 The Purchaser Warranties shall remain in full force and effect after Completion.
- 5.7 Save as expressly provided otherwise in this Agreement the Purchaser Warranties shall not be affected by any investigation made by or on behalf of any of the Vendors into the affairs of the Purchaser, or by any matter of which any Vendor has knowledge (actual or constructive).
- 5.8 The provisions of Schedule 6 shall apply mutatis mutandis, to the extent appropriate, to any breach of the Purchaser Warranties save that the total maximum amount payable to each Vendor in respect of a claim under the Purchaser Warranties shall not exceed the aggregate of:
- (a) the amounts listed against the name of such Vendor in column (4) of Schedule 1; and
  - (b) any Earnout Amount which becomes due to such Vendor at any time (or would have become so due but for any reduction or set off pursuant to paragraph 7 of Schedule 4).
- 5.9 The Purchaser undertakes to disclose to the Vendors in writing any matter occurring prior to Completion which constitutes a breach of or is inconsistent with any of the Purchaser Warranties or which renders any of the Purchaser Warranties inaccurate or misleading (or which would constitute a breach of or be inconsistent with any of the Purchaser Warranties, or render any of the Purchaser Warranties inaccurate or misleading, if the Purchaser Warranties were given at the time of such occurrence) forthwith and upon becoming aware of the same.
- 5.10 If prior to Completion it shall be found that there has been a breach of the Purchaser Warranties which, in the reasonable opinion of a Qualifying Majority, is material to the value or prospective value of the Completion Consideration Shares and/or the Earn-Out Consideration Shares, then the Vendors shall not be bound to complete the sale of the Shares and a Qualifying



Majority on behalf of the Vendors may, by notice served on the Purchaser at any time before Completion, rescind this Agreement.

- 5.11 If the Vendors elect to rescind this Agreement pursuant to Clause 5.10, no party shall have any liability to any other party hereunder (save in respect of any prior breach) and this Agreement shall cease to have any effect (save for Clauses 13 - 24 (inclusive) which shall remain in effect in accordance with their terms). In the event that the Vendors do not elect to rescind this Agreement where, pursuant to Clause 5.10 they are entitled to do so, the Purchaser shall have no further liability to the Vendors for the breach of the Purchaser Warranties which gave rise to such entitlement to rescind.

**6. ACTION PENDING COMPLETION**

- 6.1 The Vendor Warrantors shall not do and, so far as they are able, shall procure that each member of the Group shall not do or allow or procure, any act or omission which would render any of the Vendor Warranties untrue, inaccurate or misleading if repeated at any time before Completion by reference to the circumstances then subsisting.
- 6.2 Notwithstanding anything to the contrary or inconsistent contained before this Clause 6, during the period from the date hereof to Completion the Vendor Warrantors shall procure that, unless the Purchaser has given its prior written consent, such consent not to be unreasonably withheld or delayed, no member of the Group shall:
- (a) undertake any business which is new to it in nature;
  - (b) undertake any material transaction which is not in the ordinary course of its business;
  - (c) make any commitment in the name or on behalf of the Purchaser;
  - (d) in any way change the remuneration or terms of employment of any director, employee or secretary of the Group or dismiss any such person;
  - (e) enter into any agreement, amend any existing agreement (whether written or oral) or exercise any options in each case for the acquisition

of any land or interest in land or enter into any agreement for the sale of any land or interest in land;

- (f) make any commitment (or series of commitments) involving capital expenditure of £10,000 or more by the Group;
- (g) create any mortgage, charge or other encumbrance over any of the property or assets of the Group nor repay in whole or in part any loan;
- (h) (save as contemplated by this Agreement) modify any of the rights attached to any shares in the Group or create or issue any shares or grant or agree to grant any option over any shares or uncalled capital of the Group or issue any securities convertible into shares;
- (i) capitalise or repay any amount standing to the credit or any reserve of the Group or redeem or purchase any shares or undertake any other reorganisation of the share capital of the Group;
- (j) admit any person (other than a party to this Agreement) whether by subscription or transfer or transmission as a member of the Group;
- (k) otherwise than to another member of the Group sell or dispose of any part of the undertaking or any material assets of the Group;
- (l) declare or pay any Dividend or other distribution;
- (m) alter its Memorandum or Articles of Association;
- (n) give any guarantee or indemnity other than by virtue of any general terms of trade in the ordinary course of its business;
- (o) acquire any shares of any other company or participate in any partnership or joint venture;
- (p) borrow any money (other than daily fluctuations within agreed overdraft limits) or incur any other indebtedness other than in the ordinary course of business;
- (q) appoint any person as a director or senior executive of the Group or engage any person as a consultant to the Group;
- (r) pass any resolution in general meeting;

- (s) enter into or amend any contract or commitment which is not capable of being terminated without compensation at any time with three months notice or less or which is not in the ordinary course of business or which involves or may involve total annual expenditure in excess of £10,000;
- (t) discontinue or amend the Pension Schemes or cease contributions in the amounts disclosed to any material extent or commence to wind any of them up or cause them to cease to admit new members or communicate to any employee any material plan, proposal or intention to amend, wind-up, terminate or exercise any discretion other than in the ordinary course of business in relation to the Pension Schemes;
- (u) pay any benefits under the Pension Schemes other than in accordance with the terms of the documents governing such arrangements and not under any discretionary power;
- (v) take steps to procure payment by any debtor in advance of the date on which book and other debts are usually payable in accordance with the standard terms of business of any member of the Group or (if different) the period extended to any particular debtor in which to make payment;
- (w) delay making payment to any trade creditor generally beyond the date on which payment of the relevant trade debt should be paid in accordance with the credit period authorised by the relevant creditors (or (if different) the period extended by creditors in which to make the payment);
- (x) amend any insurance contract, fail to notify any insurance claim in accordance with the provisions of the relevant policy or settle any such claim below the amount claimed.

6.3 The Vendors shall allow the Purchaser full access promptly upon request to all records of the Company and to the Property for the purpose of confirming their compliance with the undertakings given in Clauses 6.1 and 6.2. The Purchaser's representatives shall be accompanied by representatives of the Vendors during all such visits.

## 7. COMPLETION

7.1 Completion is subject only to and conditional upon the following (the "Conditions"):

- (a) the Ordinary Shares currently in issue remaining admitted to trading on AIM and there being no suspension or termination of such trading;
- (b) First Admission;
- (c) the Sub-purchase Agreement becoming unconditional in all respects (save for any condition relating to completion of this Agreement);
- (d) the Purchaser not having become entitled to and invoked its right to terminate this Agreement pursuant to Clause 4.15; and
- (e) the Vendors not having become entitled to and invoked their rights to terminate this Agreement pursuant to Clause 5.10.

7.2 The Purchaser undertakes to use all reasonable endeavours to obtain at its own cost Admission of the Completion Consideration Shares for which purpose the Vendors shall furnish all information reasonably requested by the Purchaser which may be required by the AIM Rules.

7.3 In the event that the Conditions have not been fulfilled by 12 noon on the sixth business day following the day on which this Agreement is entered into (or such later time and date as a Qualifying Majority may approve) then a Qualifying Majority shall be entitled by written notice to all parties forthwith to terminate this Agreement (save for Clauses 13 - 24 (inclusive) which shall remain in effect in accordance with their terms).

Upon any such termination all documents previously delivered pursuant to Clauses 7.5 and 7.7 below, and all monies delivered pursuant to Clause 7.7 shall be returned to the party who provided the same; and all other action taken pursuant to such clauses shall cease to have effect.

7.4 Unless this Agreement is previously terminated in accordance with its terms, completion of this Agreement shall take place in two stages. The first stage ("Escrow Completion") shall take place immediately upon the signing hereof. The second stage ("Completion") shall take place on the First Admission taking place.

7.5 At Escrow Completion there shall be caused to be delivered to the Purchaser's Solicitors the following:

- (a) by each of the Vendors, a duly executed (but undated) transfer in respect of the Shares hereby agreed to be sold by him or it in each case in favour of the Purchaser (or as it may in writing direct) accompanied by the relevant certificates (including certificates for the shares held in the Subsidiaries) or in the case of any lost certificate an indemnity in a form satisfactory to the Purchaser together with (if applicable) any power of attorney or other authority under which such transfers have been executed;
- (b) by the Vendor Warrantors, duly executed transfers in respect of the shares of each Subsidiary, to the extent that such shares are not registered in the name of the Company;
- (c) by the Vendor Warrantors, the original certificate of incorporation, any certificate of incorporation on change of name, the seal and the statutory books of the Company complete and up-to-date;
- (d) by the Vendor Warrantors, the duly executed (but undated) written resignation in agreed terms of Stephen Hiscock as Chairman of the Company together with a letter of appointment in the agreed terms in respect of his continuing as non executive director of the Company;
- (e) by the Vendor Warrantors, the duly executed (but undated) resignation without compensation of any nature of the auditors of the Company and the Subsidiaries in agreed terms containing a written statement from the auditors of the Company expressed to be for the purposes of Section 394(1) of CA that there are no circumstances connected with their resignation which they consider should be brought to the notice of the members or creditors of the Company;
- (f) by each of the Vendors, evidence in agreed form that all debts, claims and accounts between himself and the Company and each of the Subsidiaries (other than in respect of current salary and expenses and in the case of Michael Thomas entitlement to a 5% share of the profit of the Group as more particularly referred to in the Deed of Variation) have been fully paid and satisfied;

- (g) by RBV, a letter in agreed form acknowledging receipt of payment in full for all outstanding amounts owed by the Company and any of the Subsidiaries to RBV;
- (h) by the Vendor Warrantors, all cheque books relating to any bank accounts held by the Company or confirmation as to the whereabouts of the same, together with a bank reconciliation statement prepared by the Vendor Warrantors showing the bank position of the Company at the close of business on the business day before Escrow Completion (the "Reconciliation Date") adjusted to reflect credits since the Reconciliation Date to Completion inclusive and a list of unpresented cheques as at the Reconciliation Date and of cheques drawn since the Reconciliation Date to Completion inclusive and of standing orders payable from the Reconciliation Date to Completion inclusive;
- (i) by the Vendor Warrantors, a statement of the indebtedness of the Company and the Subsidiaries to HSBC Bank Plc at the close of business on the business day next before the date of Escrow Completion; and
- (j) by each party to the Deeds of Variation, a copy thereof duly executed (but undated),

all such documents delivered at Escrow Completion pursuant to this Clause 7.5 to be held in escrow until Completion.

7.6 At Escrow Completion, the Vendor Warrantors shall procure the passing of resolutions of the board of the Company and each Subsidiary:

- (a) approving the registration of the transfers referred to in Clauses 7.5(a) and 7.5(b) (subject only to stamping);
- (b) revoking all existing authorities to bankers in respect of the operation of all bank accounts and giving authority in favour of such persons as the Purchaser shall prior to the date hereof have nominated to operate such accounts save that the existing signatories shall be authorised by such resolutions to have authority over such bank accounts (subject to a maximum single transaction value of £20,000) for a period of five Business Days following Completion;

- (c) appointing John Michael Wisbey as a director of the Company;
- (d) accepting the resignations of the Auditors and such of the Directors and secretary as the Purchaser shall require to resign;
- (e) approving the Accounts; and
- (f) changing the accounting reference date of the Company to 31 March so that its current accounting period runs for a 16 month period from 1 December 2004 to 31 March 2006,

all such resolutions to be expressed to be conditional upon Completion taking place.

7.7 Against satisfaction of the items set out in Clauses 7.5 and 7.6, the Purchaser shall at Escrow Completion:

- (a) pay by electronic transfer to the Vendors' Solicitors (Tarlo Lyons Client Account: Allied Irish Bank, 629/635 Holloway Road London N19 5SU; Account Number: 93802268 Sort Code: 23-83-98) the sum of £1,267,322.21 to be held by such solicitors to the order of the Purchaser (or the Purchaser's Solicitors) until fulfilment of the Conditions;
- (b) conditional upon fulfilment of the Conditions, issue and allot to the Vendors the Completion Consideration Shares in the proportions set out opposite each Vendor's name in column (4) of Schedule 1;
- (c) deliver to the Vendors' Solicitors a certified copy of board minutes of the Purchaser (or of a duly authorised committee thereof) allotting the Completion Consideration Shares to the Vendors;
- (d) through its Nominated Broker, submit an AIM Application Form to the London Stock Exchange for Admission of the Completion Consideration Shares.

7.8 Upon fulfilment of the Conditions the following shall occur:

- (a) all documents delivered in escrow pursuant to Clause 7.5 shall be deemed delivered to the Purchaser;

- (b) the funds transferred to the Vendors' solicitors pursuant to Clause 7.7 and the Completion Consideration Shares shall be released forthwith to be held to the order of the relevant Vendors in the relevant amounts or proportions; and
- (c) the Purchaser shall procure the delivery of share certificates in respect of the Completion Consideration Shares.

7.9 The Vendors acknowledge that, with effect from Completion until such time as the transfers of the Shares have been registered in the register of members of the Company, the Vendors will hold the Shares on trust for and as nominee for the Purchaser (or its nominees) and undertake to the Purchaser to hold all Dividends and distributions and exercise all voting rights available in respect of the Shares in accordance with the directions of the Purchaser (or its nominees). If any of the Vendors is in breach of the undertakings contained in this Clause 7.9, that Vendor irrevocably authorises the Purchaser to appoint some person or persons to execute all instruments or proxies (including consents to short notice) or other documents which the Purchaser (or its nominees) may reasonably require and which may be necessary to enable the Purchaser (or its nominees) to attend and vote as that Vendor's proxy at general meetings of the Company and to do any thing or things necessary to give effect to the rights contained in this Clause 7.9 and subject to payment by the Purchaser of all stamp duty or stamp duty reserve tax applicable to this Agreement or the transfer of Share pursuant thereto to procure that the Purchaser or its nominee be registered as the holder of the Shares.

## **8. RESTRICTIONS ON SALE OF CONSIDERATION SHARES**

8.1 Each of the Vendors covenants with the Purchaser that:

- (a) he will not:
  - (i) prior to the Expiry Date dispose or take any steps to dispose of or disclose to any third party an intention to dispose of any of the Completion Consideration Shares;
  - (ii) prior to the Expiry Date dispose or take any steps to dispose of or disclose to any third party an intention to dispose of any of



the Earn-Out Consideration Shares in respect of the First Earn-Out Period (if any); and

- (iii) prior to the Expiry Date dispose or take any steps to dispose of or disclose to any third party an intention to dispose of any of the Earn-Out Consideration Shares in respect of the Second Earn-Out Period (if any),

without the consent of the board of directors of the Purchaser, such consent:

- (1) not to be unreasonably withheld in the case of a sale or a transfer by way of gift or settlement to any person or persons (including trustees of any trust) who undertake to the Purchaser by deed in a form reasonably acceptable to it to comply with all liabilities and obligations of the transferor under this Clause 8 (subject to any relevant limitations thereon) whereupon the transferor shall be released from any such liability or obligation;
  - (2) otherwise to be given or withheld in the absolute discretion of such directors, and
- (b) after the Expiry Date shall sell Completion Consideration Shares and Earn-Out Consideration Shares only through the Company's broker from time to time (and in the case of the Vendor Warrantors who remain employees of the Company, always in compliance with the Purchaser's policies on dealing in closed periods in order to comply with the rules of the London Stock Exchange plc) in order to ensure an orderly market in the Purchaser's Ordinary Shares.

8.2 For the purposes of this Clause 8:

- (a) "dispose" includes a sale or transfer or any disposition whatsoever, including an agreement to effect any of the foregoing or the creation of an option which could lead to any of the foregoing, and the expression "dispose of" shall be construed accordingly; and
- (b) the Completion Consideration Shares and Earn-Out Consideration Shares shall be treated as including any shares or other securities of the

Purchaser issued to the Vendors by way of capitalisation of reserves or profits on or in respect of the Completion Consideration Shares or Earn-Out Consideration Shares and all shares or securities arising in respect of the Completion Consideration Shares or Earn-Out Consideration Shares from any subdivision, consolidation or conversion of the whole or any part of the share capital of the Purchaser but shall not include any shares or other securities subscribed by any of the Vendors for a new consideration, whether or not by way of rights or open offer or similar arrangement on or in respect of Completion Consideration Shares or Earn-Out Consideration Shares.

8.3 The restrictions contained in Clause 8.1 shall not prohibit the disposal of Completion Consideration Shares and Earn-Out Consideration Shares:

- (a) by any Vendor in acceptance of a general offer for the whole of the issued equity share capital of the Purchaser (other than any equity share capital held by or committed to the offeror and/or persons acting in concert with the offeror) which has either been recommended by the directors of the Purchaser or has become unconditional in all respects;
- (b) by any Vendor in the execution of an irrevocable commitment to accept a general offer for the whole of the issued share capital held by or committed to the offeror (and/or persons acting in connection with the offeror) which has been or is recommended by the directors of the Purchaser or where the irrevocable commitment is expressed to be conditional upon such general offer being so recommended;
- (c) by any Vendor pursuant to any compromise or arrangement under CA Section 425 providing for the acquisition by any person (or group of persons acting in concert) of 50% or more of the equity share capital of the Purchaser and which compromise or arrangement has been sanctioned by the court;
- (d) by any Vendor under any Scheme or Reconstruction under Section 110 of the Insolvency Act 1986 in relation to the Purchaser;
- (e) by personal representatives of any Vendor if he shall die during the period of such restrictions provided that the sale of any shares in the Company by such personal representatives pursuant to this

Clause 8.3(e) during such period shall be effected in accordance with the reasonable requirements of the broker of the Purchaser so as to ensure an orderly market for the Purchaser's Ordinary Shares; or

- (f) by any Vendor Warrantor where the disposal is to raise funds for that Vendor Warrantor to satisfy his liability to the Purchaser pursuant to a Claim,

provided always that any transferee as is referred to in Clause 8.3(f) above shall undertake to the Purchaser by deed in a form reasonably acceptable to it to comply with all liabilities and obligations of the transferor under this Clause 8 (subject to any relevant limitations thereon) whereupon the transferor shall be released from any such liability or obligation.

- 8.4 RBV shall procure, at its own cost, that any such assignee to which it assigns or transfers its rights in accordance with Clause 13.4(a) covenants with the Purchaser in the terms contained in this Clause 8.

## **9. COMPETITION AND CONFIDENTIALITY**

- 9.1 Each of the Vendor Warrantors undertakes to the Purchaser that unless his employment by the Group ceases during the Earn-Out Period or the terms thereof are varied and in either case this is in breach of paragraph 7 of Part 3 of Schedule 4 he will not during the period from Completion to the third anniversary of Completion:
  - (a) carry on or be concerned or interested or engaged directly or indirectly in the Restricted Territories and whether as principal, shareholder, partner, employee, agent or otherwise (except as a shareholder in a public listed company holding not more than three per cent of the share capital, of any class, of such public company) in any business competing with the business of the Company as at the date of Completion; or
  - (b) either on his own account or on behalf of any other person firm or company solicit orders in connection with any business competing with the Group from any person, firm or company who has been a customer of the Company within the twelve month period immediately preceding Completion; or

- (c) directly or indirectly solicit or endeavour to entice away from any member of the Group any person who was employed by such member in a management or other senior role during the twelve month period immediately preceding Completion with a view to the specific knowledge or skills of such person being used by or for the benefit of any person carrying on business in competition with the business carried on by the Group.
- 9.2 Each of the Vendor Warrantors undertakes to the Purchaser that he will not at any time carry on or be concerned engaged or interested (as set out above) in any business (competing as set out above) under the name or style of STB Systems, STB, Super-Consolidator, STB-Reporter, STB-Detector, STB-GlobalView, STB-Automator, STB-TaxMan or containing any part of them or any misleadingly similar name.
- 9.3 Each of Clauses 9.1(a) to 9.1(c) and 9.2 shall be deemed to constitute a separate agreement and shall be construed independently of the others.
- 9.4 The parties consider the restrictions in this Clause 9 to be reasonable, but if a court of competent jurisdiction finds any of them to be unenforceable the parties agree to accept any modification as to the area, extent or duration of the restriction concerned which the court sees fit to import or, if it does not see fit, which is reasonably necessary to render the restriction enforceable.
- 9.5 Each of the Vendors severally covenants with the Purchaser (for itself and as trustee for the Company) that he will not at any time disclose (other than to another Vendor or any of the RBV Option holders or the Plan Option holders, or other than to the extent reasonably necessary for the conduct of his employment (if any) with the Company) or use for his own benefit or that of any other person any confidential information which he now possesses or may hereafter obtain concerning the business and affairs of the Company or any other person having dealings with the Company and without prejudice to the generality of the foregoing information of any of the kinds mentioned below is deemed to be confidential:
  - (a) the terms of this Agreement;
  - (b) any matter relating to the financial affairs of the Company or the Subsidiaries;

- (c) any matter relating to any business relationship from time to time subsisting between the Company or the Subsidiaries and any third party;
- (d) the terms upon which any employee, agent or consultant of the Company or the Subsidiaries is from time to time remunerated;
- (e) any information contained in any document or other written matter or in any computer or other information retrieval system of the Company or the Subsidiaries which is stated thereon to be confidential and any information which has been treated by the Company or the Subsidiaries as being confidential,

PROVIDED THAT this Clause 9.5 shall not apply to any information which is required to be disclosed by law or by any Court of competent jurisdiction or which is now or which is hereafter in the public domain otherwise than by reason of any breach of this Clause 9.5 by any Vendor and the Vendors are permitted to disclose confidential information to such of their professional advisors as have a reasonable need to know the same.

- 9.6 The Vendors recognise that damages will not be a fully effective remedy in respect of any breach of any of the restrictions contained in this Clause 9 and that the Purchaser and/or the Company shall be entitled to apply for injunctive relief in respect of any such breach but without prejudice to any claim for damages in addition.
- 9.7 Each of the Vendors acknowledges and declares he has entered into the covenants contained in this Clause 9 in the full knowledge of the meaning and effect of the same and for the protection of the investment by the Purchaser.

## 10. INDEMNITY

- 10.1 The Vendor Warrantors shall on demand by the Purchaser indemnify and fully reimburse the Company on an after-tax basis against all direct or indirect actions, proceedings, claims, demands, costs, expenses (including reasonable legal expenses), damages, liabilities (actual or contingent) and penalties whatsoever, whether in contract, tort or otherwise (whether arising before, on or after the date hereof) incurred, suffered or paid by the Company, where the cause of action arises from the Company's failure following the purchase by

the Company of the business of STB Software Limited (formerly named S.T.B. Systems Limited) (Company No: 01819038) pursuant to a business sale agreement dated 30<sup>th</sup> May 1997 to enter into novation agreements assigning its rights and obligations under each of the Indemnified Software Licences that STB Software Systems Limited had entered into with its customers prior to 30<sup>th</sup> May 1997. PROVIDED THAT:

- (a) the maximum liability of each Vendor Warrantor under the foregoing indemnity shall not exceed the amount of consideration actually received by him for the sale of his Shares (together with, in the case of Michael Thomas, the amount of the MT Loan) pursuant to this Agreement less at the relevant time any amount previously paid by him pursuant to any of the following: Clauses 2 and 11, the Vendor Warranties and the Tax Schedule; and
- (b) no claim may be made by the Purchaser under such indemnity unless written notice giving reasonable detail of the nature thereof is given to the relevant Vendor prior to the second anniversary of Completion.

## **11. CAPACITY AND SHARES**

11.1 Each Vendor on its own behalf only warrants and represents to the Purchaser that he/it has full power and authority and has obtained all necessary consents to enter into and perform the obligations expressed to be assumed by him or it under this Agreement (and any other agreement or arrangement required to be entered into by him or it in connection with this Agreement including, for the avoidance of doubt, the Sub-purchase Agreement), that the obligations expressed to be assumed by him or it hereunder are legal, valid and binding and enforceable against him or it in accordance with their terms and that the execution, delivery and performance by him or it of this Agreement and each such other agreement and arrangement will not:

- (a) result in a breach of, or constitute a default under, any agreement or arrangement to which he or it is a party or by which he or it is bound or, in the case of a Vendor who is a corporation, under its constitutional documents; or

- (b) result in a breach of any law or order, judgment or decree of any court, governmental agency or regulatory body to which he or it is a party or by which he or it is bound.

11.2 Each Vendor warrants and represents on his own behalf (and so that no such representation shall relate to any other Vendor) to the Purchaser that:

- (a) the number and class of Shares set opposite his or its name in column (2) of Schedule 1 are, or will immediately prior to Completion be legally and (save in the case of RBV for the RBV Option Shares) beneficially owned by him or it and such shares are, or will immediately prior to Completion be, free from all liens, charges and Encumbrances or interests in favour of or claims made by any other person and such Shares are, or will immediately prior to Completion be, fully paid, properly and validly allotted and are, or at Completion will be the only shares in the share capital of the Company in which he has any interest;
- (b) other than:
  - (i) this Agreement;
  - (ii) (in the case of the Vendor Warrantors and as regards the Plan Options and any shares subject thereto) the Sub-purchase Agreement;
  - (iii) (in the case of RBV as regards the RBV Option Shares) the RBV Options and the RBV Option Notices; and
  - (iv) any rights or obligations arising under the Articles of Association of the relevant company or any statute or regulation applicable to the Company,

such Vendor is not party to any agreement, arrangement or obligation requiring the creation, allotment, issue, sale, transfer, redemption or repayment of, or the grant to a person of the right (conditional or not) to require the allotment, issue, sale, transfer, redemption or repayment of, any share in the capital of the Company or the Subsidiaries (including an option or right of pre-emption or conversion) held by him;

(c) save in respect of:

- (i) in the case of Michael Thomas, his entitlement to 5% of the profit before tax of the Company for the Company's three accounting reference periods ending 31 March 2006, 2007 and 2008 on the same terms as those provided for in Clause 4 of the Deed of Variation; and
- (ii) in the case of all Vendor Warrantors current salary and expenses at Completion not exceeding £30,000 in aggregate,

and subject always to the due performance by the Purchaser of its obligations under Clauses 3.2 and 3.3 this Agreement, then immediately after Completion, no indebtedness (actual or contingent) is outstanding and no contract or arrangement exists between the Company or the Subsidiaries and such Vendor;

(d) save in the case of RBV, such Vendor has no interest, direct or indirect, in, any business which competes with the main business now carried on by the Company or any of the Subsidiaries; and

(e) save in respect of:

- (i) in the case of Michael Thomas, his right to repayment of the principal of and interest on the MT Loan and also his entitlement to 5% of the profit before tax of the Company for the Company's three accounting reference periods ending 31 March 2006, 2007 and 2008 on the same terms as those provided for in Clause 4 of the Deed of Variation;
- (ii) in the case of RBV only, monitoring fees not exceeding £60,000 plus related VAT; and
- (iii) any of the matters referred to in sub-clause 11.2(c) preceding,

such Vendor has no claim of any nature against the Company or any of the Subsidiaries or (save as a private customer in the ordinary course of business) any officers, employees, agents, advisers, customers or suppliers of the Company or any of its Subsidiaries and such Vendor has not assigned to any third party the benefit of any such claim to



which he was previously entitled,

and each of the Vendor Warrantors further warrants and represents on his own behalf (and so that no such representation shall relate to any other Vendor) to the Purchaser that subject to the due performance by the Purchaser of its obligations under this Agreement, all payments due to be made under the Sub-purchase Agreement will, at Completion, have been paid to the Plan Optionholders and such Plan Optionholders will have no further rights or interest in respect of the Shares purchased by the Vendor Warrantors under the Sub-purchase Agreement.

- 11.3 Each Vendor unconditionally and irrevocably agrees, as a continuing obligation, to indemnify the Purchaser against, and to pay on demand an amount equal to, any loss which the Purchaser or the Company or any of the Subsidiaries may incur at any time or from time to time (whether by way of damages, settlement, costs or otherwise) and all costs and expenses (including legal fees and together with any applicable VAT) in respect of or as a result of any breach by such Vendor of Clauses 11.1 and 11.2.

## **12. WAIVER**

No waiver by the Purchaser of any breach by the Vendors or any of them of any provision of this Agreement shall be deemed to be a waiver of any subsequent breach of that or any other provision of this Agreement and any forbearance or delay by the Purchaser in exercising any of its rights under this Agreement shall not be construed as a waiver of such rights.

## **13. SUCCESSORS AND ASSIGNS**

- 13.1 This Agreement shall be binding upon each party's successors and permitted assigns and personal representatives (as the case may be).
- 13.2 Subject to Clauses 13.3 and 13.4, none of the rights or obligations of the parties under this Agreement may be assigned or transferred without the prior written consent of the Purchaser and a Qualifying Majority.

13.3 The Purchaser shall be entitled to assign its rights under this Agreement to any member of the Purchaser's Group PROVIDED THAT:

- (a) the Purchaser shall procure that any such assignee shall re-assign such rights to the Purchaser in the event of and prior to such assignee ceasing to be a member of the Purchaser's Group; and
- (b) the remedies of such assignee against the Vendors and Vendor Warrantors shall not exceed what the Purchaser would have been entitled to had it not assigned such rights.

13.4 Notwithstanding sub-clause 13.2:

- (a) subject to Clause 8.4, RBV shall be entitled to assign and /or transfer the benefit of its rights under this Agreement (including in particular any entitlement to any Earn-out Amounts) to any company which is a subsidiary of its ultimate holding company for the time being;
- (b) subject to Clause 8.4, RBV shall be entitled to assign and / or transfer to the RBV Option holders the share of the consideration due under Clause 3 and Schedule 4 in respect of the RBV Option Shares,

**PROVIDED THAT** the remedies of such assignee against the Purchaser shall not exceed what RBV would have been entitled to had it not assigned such rights.

#### 14. NON-MERGER ON COMPLETION

Save as otherwise expressly provided, This Agreement shall, notwithstanding Completion, remain in full force and effect as regards any of the provisions remaining to be performed or carried into effect and (without prejudice to the generality of the foregoing) as regards all guarantees, undertakings and warranties.

#### 15. TIME TO BE OF THE ESSENCE

Time shall be of the essence as regards any date or period mentioned in this Agreement and any date or period substituted for the same by agreement of the parties to this Agreement or otherwise save as extended by mutual agreement between the parties.

**16. ILLEGALITY AND UNENFORCEABILITY**

If any term or provision in this Agreement shall in whole or part be held to any extent to be illegal or unenforceable under any enactment or rule of law that term or provision or part shall to that extent be deemed not to form part of this agreement and the enforceability of the remainder of this Agreement shall not be affected.

**17. NO PARTNERSHIP/AGENCY**

Nothing in this Agreement is intended to or shall operate to create a partnership or joint venture of any kind between the parties, or to authorise any party to act as agent for any other, and no party shall have authority to act in the name or on behalf of or otherwise to bind any other in any way (including but not limited to the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

**18. FURTHER ASSURANCE**

At any time after the date of this Agreement the Vendors shall, at the request of the Purchaser, execute all such documents and do all such acts and things as the Purchaser may reasonably require for the purpose of vesting the Shares in the Purchaser (or as it in writing directs) and giving to the Purchaser the full benefit of all the provisions of this Agreement.

**19. VARIATIONS**

No variations of this Agreement shall be effective unless made in writing and signed by or on behalf of each of the parties to this Agreement.

**20. ANNOUNCEMENTS**

20.1 Save where required by law or the London Stock Exchange Plc, no announcement or circular in connection with this Agreement or any matter arising therefrom shall be made or issued by or on behalf of any of the Vendors or the Purchaser without the prior written approval of the Purchaser and a Qualifying Majority, such approval not to be unreasonably withheld or delayed.

20.2 Where any such announcement is required to be made by law or by the London Stock Exchange Plc, the party wishing to make such announcement shall, to

the extent it is legal and practicable to do so, consult with the other parties as to the timing and content of such announcement.

## **21. NOTICES**

21.1 Any notice to be given under this Agreement shall be given in writing signed by or on behalf of the party giving it and shall be irrevocable without the written consent of the party on whom it is served.

21.2 Any such notice may only be served:

- (a) personally by giving it to a Vendor or to any director or the secretary of the Purchaser;
- (b) by leaving it at or sending it by prepaid first class post (or by air mail if overseas) to the address of the party to be served which is referred to for that purpose in this Agreement or, if another address in England shall have been notified by that party to all the other parties for the purposes of this clause by notice given in accordance with this Clause 21.2(b), then to the address of such party which shall have been so notified, for which purpose the latest notification shall supersede all previous notifications; or
- (c) by facsimile (in which case it shall be deemed to have been signed by or on behalf of the party giving it) to the facsimile number for the party to whom it is to be sent.

21.3 Notices shall be deemed served as follows:

- (a) in the case of personal service at the time of such service;
- (b) in the case of leaving the notice at the relevant address, at the time of leaving it there;
- (c) in the case of service by post, on the second business day following the day on which it was posted and in the case of air mail on the sixth business day after posting and in proving such service it shall be sufficient to prove that the notice was properly addressed, stamped and posted in the United Kingdom; and

- (d) in the case of service by facsimile, on the business day following the day on which it was transmitted and in proving such service it shall be sufficient to produce a transmission notice from the sender's facsimile machine showing that the notice had been transmitted to the correct fax number.

## **22. COSTS AND EXPENSES**

Save as otherwise expressly provided, each party will pay its own costs and expenses in relation to the preparation execution and carrying into effect of this Agreement.

## **23. MISCELLANEOUS PROVISIONS**

### **23.1 Whole Agreement**

- (a) This Agreement, together with the agreements and deeds referred to herein, constitutes the entire and the only legally binding agreement between the parties in relation to the subject matter of this Agreement.
- (b) Nothing in this sub-clause 23.1 shall operate to limit or exclude liability for fraudulent misrepresentation or the tort of deceit on the part of any of the parties.

### **23.2 Counterparts**

This Agreement may be executed as two or more documents in the same form and execution by all of the parties of at least one of such documents will constitute due execution of this Agreement. All counterparts when executed and delivered will be an original, but all counterparts will together constitute one and the same agreement.

### **23.3 Rights of Third Parties**

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and unless specifically herein provided no person other than the parties to this Agreement shall have any rights under it nor shall it be enforceable by any person other than the parties to it.

## **24. LAW AND JURISDICTION**

- 24.1 This Agreement shall be construed and take effect in all respects in accordance with English law.
- 24.2 All the parties irrevocably agree that the courts of England are to have jurisdiction to settle any disputes which may arise out of or in connection with this Agreement and that accordingly any suit, action or proceedings (together in this clause referred to as "proceedings") arising out of or in connection with this Agreement may be brought in such courts.
- 24.3 Nothing contained in this clause shall limit the right of the Purchaser to take proceedings against any of the Vendors in any other court of competent jurisdiction, nor shall the taking of proceedings by the Purchaser in one or more jurisdictions preclude the taking of proceedings by the Purchaser in any other jurisdiction, whether concurrently or not.
- 24.4 For the purpose of this Agreement and any claim arising thereunder:
- (a) Each of the Vendor Warrantors hereby appoints as its agent for service of process in England, Michael James Thomas or such other person resident in England, being either one or more of the Vendors or a solicitor, as a Qualifying Majority may notify to the Purchaser for the purpose;
  - (b) Each of the Vendor Warrantors shall procure that until the seventh anniversary of Completion (such date being the "Cut-Off Date") and in either case, thereafter until any such claim outstanding against him at the applicable Cut-Off Date is finally disposed of, there shall be in force in relation to himself such an appointment as aforesaid.

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

# SCHEDULE 1

## The Vendors' Holdings

(1) Name and address of Vendor	(2) Shares held	(3) Amount of cash due on Completion (£)	(4) Value of Completion Consideration Shares due at Completion (£)	(5) Proportion of Earn-Out Consideration Shares (subject to Part 4 of Schedule 4)
Michael James Thomas 42 Canada Wharf 255 Rotherhithe Street London SE16 5ES	9,182,139 STB Ordinary Shares  30,000 Preference Shares	£189,410.03  £30,000	£262,519.96	23.73
Anthony John Brown 55 Fonnereau Road Ipswich Suffolk IP1 3JN	9,182,139 STB Ordinary Shares  10,000 Preference Shares	£189,410.03  £10,000	£262,519.96	23.73
Charles James Peter Phillips 17 Court Way Twickenham TW2 7SA	1,866,490 STB Ordinary Shares  10,000 Preference Shares	£38,502.15  £10,000	£53,363.50	4.83
RBV 280 Bishopsgate London EC2M 4RB	18,461,538 'A' Ordinary Shares  300,000 'B' Ordinary Shares	£500,000  £300,000	£154,274.37	47.71
<b>TOTAL</b>		<b>£1,267,322.21</b>	<b>£732,677.79</b>	<b>100.00</b>

## SCHEDULE 2

### Part 1 The Company

Incorporated:	2 February 1989
Registered in England under No.:	2342639
Registered Office:	India House 45 Curlew Street London SE1 2ND
Authorised Share Capital:	£2,150,000 comprising: 90,000,000 STB Ordinary Shares 90,000,000 'A' Ordinary Shares 300,000 'B' Ordinary Shares 50,000 Preference Shares
Issued Share Capital:	£734,615.38 comprising: 20,000,000 STB Ordinary Shares 18,461,538 'A' Ordinary Shares 300,000 'B' Ordinary Shares 50,000 Preference Shares
Directors:	Anthony John Brown Stephen Maxwell Hiscock Charles James Peter Phillips Michael James Thomas
Secretary:	John Charles Harold Bartlett
Auditors:	Baker Tilly
Accounting Reference Date:	30 November
Charges:	(1) fixed and floating charges in favour of Milton Investment Fund Limited created on 22 September 1998 and registered on 24 September 1998 in respect of all monies due or to become due from the Company; and
	(2) fixed and floating charges in favour of HSBC Bank plc created on 6 August 2001 and registered on 9 August 2001 in respect of all monies due or to become due from the Company.
Nature of Business:	Supplier of bank regulatory, reporting and compliance software solutions



**Part 2**  
**The Subsidiaries**

<b>Name:</b>	STB Systems Inc.
<b>Incorporated:</b>	10 September 1999
<b>Registered No.:</b>	MD #D05476312
<b>Registered Office:</b>	Lincoln Building 60 East 42 <sup>nd</sup> Street, Suite 2028 New York, NY 10165
<b>Authorised Share Capital:</b>	US \$
<b>Issued Share Capital:</b>	US \$250,000 comprising Ordinary Shares of US \$1.00, all of which are held by the Company
<b>Directors:</b>	Michael James Thomas Anthony John Brown Charles James Peter Phillips
<b>Secretary:</b>	Anthony John Brown
<b>Auditors:</b>	Baker Tilly
<b>Accounting Reference Date:</b>	30 November
<b>Charges:</b>	None
<b>Nature of Business:</b>	Supplier of bank regulatory, reporting and compliance software solutions

**Part 2**  
**The Subsidiaries**

Name:	STB Systems (Asia Pacific) Limited
Incorporated:	24 August 2001
Registered No.:	767833
Registered Office:	c/o M.Y. Corporate Services Ltd 23 <sup>rd</sup> Floor, Wing Hang Finance Centre Gloucester Road Wanchai Hong Kong
Authorised Share Capital:	HK \$10,000,000
Issued Share Capital:	HK \$5,180,000 comprising Ordinary Shares of HK \$1.00, all of which are held by the Company except that 1 share is held by Michael James Thomas on behalf of the Company.
Directors:	Michael James Thomas Anthony John Brown Charles James Peter Phillips
Secretary:	M.Y. Secretaries Limited
Auditors:	Michael Yam & Company
Accounting Reference Date:	30 November
Charges:	None
Nature of Business:	Banking/IT Consultancy

**Part 2**  
**The Subsidiaries**

Name:	STB Systems Solutions Pte Limited
Incorporated:	1 <sup>st</sup> August 2002
Registered No.:	200206632K
Registered Office:	c/o Pioneer Corporate Services Pte Ltd 51 Goldhill Plaza Singapore 308900
Authorised Share Capital:	SG \$500,000
Issued Share Capital:	SG \$247,321 comprising Ordinary shares of SG \$1 all of which are held by the Company, except for 1 held by Ellen Low Lye Chun and 1 held by Tan Kee Boon, both of Pioneer Corporate Services Pte Ltd (company secretaries)
Directors:	Michael James Thomas Anthony John Brown Charles James Peter Phillips
Secretary:	Pioneer Corporate Services Pte Ltd
Auditors:	Low, Yap & Associates
Accounting Reference Date:	30 <sup>th</sup> November
Charges:	None
Nature of Business:	Developer of E-commerce applications & other computer related activities

**SCHEDULE 3**  
**Vendor Warranties**

**1. CAPACITY AND AUTHORITY**

- 1.1 The Company is a limited company incorporated under English law and has been in continuous existence since incorporation.
- 1.2 The Company has the right, power and authority to conduct its business as conducted at the date of this Agreement.

**2. THE COMPANY**

- 2.1 The particulars of the Company set out in the recitals and Schedule 2 are true and complete.
- 2.2 The copy of the memorandum and articles of association of the Company, or in the case of each of the Subsidiaries the equivalent constitutional documents, included in the Disclosure Documents is true and complete in all respects.
- 2.3 The Company has complied with the provisions of the CA and all returns, particulars, resolutions and other documents required to be filed with or delivered to the Registrar of Companies by the Company have been correctly and properly prepared and so filed or delivered.
- 2.4 The Shares constitute the whole of the issued share capital of the Company and are fully paid or credited as fully paid. There is no Encumbrance or any form of agreement on, over or affecting any unissued shares, debentures or other securities of the Company, and there is no agreement or commitment binding on the Company to give or create any shares, debentures or other securities of the Company.
- 2.5 The Company has not at any time:
  - (a) repaid, redeemed or purchased (or agreed to repay, redeem or purchase) any of its own shares, or otherwise reduced (or agreed to reduce) its issued share capital or any class of it or capitalised (or agreed to capitalise) in the form of shares, debentures or other securities or in paying up any amounts unpaid on any shares, debentures or other securities, any profits or reserves of any class or description or passed (or agreed to pass) any resolution to do so; or

- (b) directly or indirectly provided any financial assistance for the purpose of the acquisition of shares in the Company.

2.6 Compliance with the terms of this Agreement and each of the documents in the agreed terms does not and will not:

- (a) conflict with, result in the breach of or constitute a default under any obligation by which the Company may be bound or any provision of the memorandum or articles of association of the Company;
- (b) relieve any person from any material obligation to the Company or provide grounds for the termination by any party of any agreement with the Company or the cessation of any licence or permission granted to the Company; or
- (c) result in the creation, imposition, crystallisation or enforcement of any encumbrance on any of the assets of the Company.

3. **SUBSIDIARIES**

- 3.1 The shares of each Subsidiary are held free from all Encumbrances or interests in favour of, or claims made by or which could be made by, any other person and are held with all rights now or hereafter attaching to them and such shares are fully paid and have been properly and validly allotted.
- 3.2 The Subsidiaries are the only subsidiary undertakings of the Company and the Company has never had any other subsidiary undertakings.
- 3.3 With the exception of the Subsidiaries, the Company does not own (and has never agreed to own) any shares or debentures in the capital of, nor does it have (nor has it ever agreed to have) any beneficial interest in, any other company or business organisation nor does the Company control or take part in (nor has it ever agreed to control or take part in) the management of any other company or business organisation.

4. **SOLVENCY**

- 4.1 The Company has not stopped payment and is not insolvent nor unable to pay its debts according to section 123 of the Insolvency Act 1986. No order has ever been made or petition presented or resolution passed for the winding up of the Company and no distress, execution or other process has ever been levied

on any of its assets. No administrative or other receiver has been appointed by any person over the business or assets of the Company or any part thereof, nor has any order been made or petition presented for the appointment of an administrator in respect of the Company.

4.2 No voluntary arrangement (as referred to in the Insolvency Act 1986) or scheme of arrangement as regards its creditors has been proposed by the Directors or is in operation in relation to the Company.

4.3 The Company has not entered into any transaction nor been given a preference to which Sections 238, 239 or 423 of the Insolvency Act 1986 apply or which may otherwise be liable to be set aside or avoided for any reason.

## 5. ACCOUNTS

### 5.1 The Accounts:

- (a) were prepared in accordance with the requirements of all relevant statutes, with accounting principles and practices generally accepted at the date of this Agreement in the United Kingdom (including the Accounting Standards) for companies carrying on a similar business to that of the Company and on a basis consistent with preceding accounting periods of the Company and with the books of account of the Company;
- (b) disclose a true and fair view of the assets, liabilities and state of affairs of the Group at the Balance Sheet Date and of its results for the financial year ended on the Balance Sheet Date;
- (c) contain appropriate provision or reserve for bad and doubtful debts, obsolescent or slow-moving stocks and for depreciation on fixed assets, which provision or reserve was when made and is now adequate;
- (d) contain a note of all capital commitments of the Company at the Balance Sheet Date, which note was when made and is now adequate, fair and not misleading;
- (e) contain proper and adequate reserves or provision for all Taxation, including deferred taxation as defined in FRS 19;

- (f) disclose, note or provide for all liabilities of the Company which were known, actual or contingent (including contingent liabilities to customers and contingent liabilities for Taxation) in accordance with the requirements of all relevant accounting principles and practices generally accepted at the date of this Agreement in the United Kingdom (including the Accounting Standards);
  - (g) value the work-in-progress on a basis that includes profit and includes adequate provision for losses which have arisen or could reasonably be anticipated to arise on uncompleted contracts and on completed contracts in respect of which the maintenance period is unexpired, and the amount included in the Accounts in respect of work-in-progress is reasonable and has been determined in accordance with FRSSE; and
  - (h) reflect all the fixed and loose plant and machinery, equipment, furniture and fittings used by the Company at the Balance Sheet Date and (apart from depreciation in the ordinary course of business) their value is not less than at the Balance Sheet Date and none has been acquired for any consideration in excess of its net realisable value at the date of such acquisition or otherwise than by way of a bargain at arm's length.
- 5.2 The basis of valuation for work-in-progress has remained in all material respects consistent with that adopted for the purpose of the Company's audited accounts in respect of the beginning and end of each of the accounting periods of the Company for the last six financial years.
- 5.3 The results of the Company for the three accounting periods ended on the Balance Sheet Date as shown by, or reflected in, the Accounts and by the audited accounts of the Company for previous periods delivered to the Purchaser and the trend of results shown by such accounts have not (except as disclosed in them) been affected to a material extent by inconsistencies of accounting practices, by the inclusion of 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.
- 5.4 All accounts, books, ledgers, financial and other necessary records of whatsoever kind of the Company (including all invoices and other records required for VAT purposes):

- (a) have been properly and accurately maintained in all material respects, are in the possession of the Company and contain true and accurate records of all matters including those required to be entered in them by the CA and the Companies Acts 1989 and no notice or allegation that any of the same is incorrect or should be rectified has been received;
- (b) do not contain or reflect any material inaccuracies or discrepancies; and
- (c) give and reflect a true and fair view of the matters which ought to appear in them and in particular of the financial, contractual and trading position of the Company in accordance with section 221 of the CA.

## 5.5 The Management Accounts

The Management Accounts have been properly prepared in accordance with the same accounting policies as used, and on a basis consistent with the basis used, in the preparation of the Accounts, and fairly disclose the financial position of the Company and the Subsidiaries to the extent that they are consolidated accounts with respect to levels of turnover and expenses and provisions, assets and liabilities of the Company and the Subsidiaries as at 31 July 2005 and for the eight month period ended on such date and, save as expressly disclosed therein there were no unusual, extraordinary, exceptional or non-recurring items affecting such accounts.

## 6. POST-BALANCE SHEET DATE EVENTS

### 6.1 Since the Balance Sheet Date, the Company:

- (a) 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 as carried on during the *twelve months preceding the Balance Sheet Date*;
- (b) has not experienced any material deterioration in its financial position or turnover and the value of its net assets is not materially less than the value of its net assets at the Balance Sheet Date and the Company has not had its business, profitability or prospects materially and adversely affected by the loss of any important customer or source of supply;



- (c) has not acquired or disposed of or agreed to acquire or dispose of any material assets or assumed or incurred or agreed to assume or incur any material liabilities (actual or contingent) otherwise than in the ordinary course of business;
- (d) has not declared, made or paid any Dividend, bonus or other distribution of capital or income and no loan or loan capital of the Company has been repaid in whole or in part or has become due or has been validly declared due by reason of either service of a notice or lapse of time;
- (e) has not granted nor issued any options or shares which fall or will fall within the provisions of part 1, chapters 1 to 5 ITEPA;
- (f) has not carried out or entered into any transaction and no other event has occurred in consequence of which any liability of the Company to Taxation has arisen or will arise outside the normal course of business;
- (g) has not made any change to the remuneration, terms of employment, emoluments or pension benefits of any present or former director, officer or employee of the Company and has not appointed or employed any additional director, officer or employee entitled as aforesaid;
- (h) has not entered into contracts involving capital expenditure in an amount exceeding £10,000 in the aggregate;
- (i) has not become aware that any event has occurred which would entitle any third party to terminate any contract or any benefit enjoyed by it or call in any money before the normal due date therefor;
- (j) has not made a payment or incurred an obligation to make a payment which will not be deductible in computing trading profits for the purposes of corporation tax or as a management expense of the Company;
- (k) has not passed any resolution of shareholders whether in general meeting or otherwise;
- (l) the Company's business and turnover (excluding seasonal variations) have not deteriorated or been adversely affected to a material extent by

any act or omission of the Company or by the loss of any important employee, customer or supplier or by any abnormal factor and the Vendor Warrantors are not aware of any facts or circumstances likely to give rise to any such loss or factor having or likely to have such effect; and

- (m) all amounts received by the Company have been paid into the relevant bank account and appear in the appropriate books of account,

and references to "ordinary course of business" shall not include (but without limitation) those Events set out in Clause 3.2 of the Tax Schedule.

## **7. RELATED PARTY TRANSACTIONS**

- 7.1 Other than in the ordinary course of business, there is not outstanding any indebtedness or other liability (actual or contingent) owing by the Company to any of the Vendors or to any director or employee of the Company or to any person connected with any of the Vendors or with any such director or employee nor is there any indebtedness or other such liability owing to the Company by any such person.
- 7.2 Save for employment contracts, there are no existing contracts (including, without limitation, customer and supply contracts) to which the Company is a party and in which any of the Vendors or any director or shareholder of the Company or any person connected with any of them is interested (and for the purposes of this paragraph a person shall be deemed to be interested in a contract if, were he a director of the Company, he would be interested in that contract for the purposes of Section 317 of the CA).
- 7.3 None of the Vendors either individually, collectively or with any other person or persons is interested in any way whatsoever in any Intellectual Property used and not wholly owned by the Company.

## **8. FINANCE**

- 8.1 Particulars of all money borrowed by the Company and currently outstanding have been disclosed in the Disclosure Letter. The total amount borrowed by the Company from any source does not exceed any limitation on its borrowing contained in the articles of association of the Company or in any debenture or loan stock trust deed or instrument or any other document executed by the

Company and the amount borrowed by the Company from each of its bankers does not exceed the overdraft facility agreed with such banker. The Company has no outstanding loan capital.

- 8.2 So far as the Vendor Warrantors are aware, all debts owed to the Company are collectable in the ordinary course of business and none of the Vendor Warrantors is aware of any reason why each such debt will not realise in full its face value within three months of its due date for payment. The Vendor Warrantors do not consider any of the debts owing to the Company (but which are not yet due) to be irrecoverable in whole or in part. The Company does not own the benefit of any debt (whether present or future) other than debts which have accrued to it in the ordinary course of business. The debts owing to the Company shown in the Accounts (subject to any provision for bad or doubtful debts made in the Accounts) were paid in full on their due dates.
- 8.3 Particulars of the balances on all the Company's bank accounts as at the day falling two business days prior to Completion are as set out in the reconciliation statement prepared pursuant to Clause 7.5 and the Company has no other bank accounts.
- 8.4 True and correct copies of all documents constituting the terms of all debentures, acceptance lines, overdrafts, loans or other financial facilities outstanding or available to the Company and all Encumbrances to which any asset of the Company is subject are set out in the Disclosure Letter. Neither the Vendor Warrantors nor the Company have done anything whereby the continuance of any such facility or Encumbrance in full force and effect is likely to be affected or prejudiced.
- 8.5 Full details of all grants made to the Company in the last six years have been disclosed.
- 8.6 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.

- 8.7 No person other than the Company has given any guarantee of or security for any overdraft, loan or loan facility granted to the Company.
- 8.8 There has not at any time during the six years prior to the date hereof been any material delay by the Company in the payment of any material obligation due for payment.
- 8.9 The Company has not, by reason of its default, become, and remains, bound, and no person has become, and remains, entitled (or with the giving of notice and/or the issue of a certificate will become entitled) to require it, to repay prior to its stipulated due date any loan capital or other debenture or borrowed money and so far as the Vendor Warrantors are aware no notice has been received since the Balance Sheet Date of such liability having arisen for any other reason.
- 8.10 Save insofar as comprised in its standard terms of business the Company has not entered into and is not bound by any guarantee or indemnity under which any liability or contingent liability is outstanding.
- 8.11 The Company has not factored any of its debts, or engaged in financing of a type which would not require to be shown or reflected in the Accounts, or borrowed any money which it has not repaid, except for borrowings not exceeding the amounts shown in the Accounts.
- 8.12 In relation to all debentures, acceptance credits, overdrafts, loans or other financial facilities outstanding or available to the Company (referred to in this paragraph 8.12 as "Facilities"):
- (a) so far as the Vendor Warrantors are aware no circumstances exist or have arisen as a result of which the continuation of any of the Facilities is likely to cease or be prejudiced, or which is likely to give rise to any alteration in the terms and conditions of any of the Facilities;
  - (b) none of the Facilities is dependent on the guarantee or indemnity of, or any security provided by, any party other than the Company; and
  - (c) none of the Facilities is on terms that it may be terminated or mature prior to its stated maturity as a result of the acquisition of the Shares (or substantially all of the Shares) by the Purchaser.

## **9. PROPERTY**

- 9.1 The Company does not own any freehold or leasehold property except for the Properties and has not entered into any legally binding agreement which remains outstanding for the purchase of any such interest.
- 9.2 The Company is not aware of any outstanding notices, complaints or disputes with any person or authority (including neighbouring owners or occupiers) relating to (i) the UK Property other than as set out in Replies to Enquiries annexed to the Vendor Disclosure Letter and (ii) the Overseas Properties other than set out in the Vendor Disclosure Letter.
- 9.3 There are no contingent liabilities on the part of the Company in respect of any freehold or leasehold property including liabilities by privity of contract whether as tenant or surety.
- 9.4 The existing use of the UK Property by the Company is the lawful permitted use thereof under the terms of the lease held by the Company and save as expressly indicated in such terms is not subject to any restrictions and conditions under such terms; and so far as the Vendor Warrantors are aware (without having made any enquiry) the UK Property complies (as to buildings and use) with the Town and Country Planning legislation and the requirements and recommendations of the Company's insurers and all applicable statutory and bye-law requirements including fire precautions, public health and health and safety at work.
- 9.5 The existing use of the Overseas Properties by the Subsidiary which occupies the same is not subject to any restrictions and conditions under such terms and so far as the Vendor Warrantors are aware (without having made any enquiry), the Overseas Properties comply (as to buildings and use) with the relevant legislation relating to use and planning within the jurisdiction in which the relevant property is situated and the requirements and recommendations of the Company's insurers and all applicable statutory and bye-law requirements including fire precautions, public health and health and safety at work.
- 9.6 The Company has not received notice of any nor are the Vendor Warrantors aware of any complaints, proposals, schemes, resolution, notices, orders, requirements or recommendations of any local county or other authority

affecting the UK Property or its use or occupation of the UK Property save as set out in Replies to Enquiries annexed to the Vendor Disclosure Letter.

- 9.7 As regards each Overseas Property, the Subsidiary which occupies the same has not received notice of, nor are the Vendor Warrantors aware (without having made any enquiry) of any complaints, proposals, schemes, resolution, notices, orders, requirements or recommendations of any local county or other authority affecting the Overseas Property or its use or occupation of such Overseas Property save as set out in the Vendor Disclosure Letter.
- 9.8 All rents, licence fees, service charges and payments due by the Company in respect of the Properties have been paid to date and the Company's interest in the Properties is not subject to any commutation or agreement for the commutation of rent or payment of rent in advance of the due dates of payment of such rent.
- 9.9 The Company is not aware of any current circumstances which would entitle a lessor or any other person to exercise any right of re-entry or taking possession of the Properties or which would otherwise restrict or terminate the continued possession and occupation of any part of the Properties.
- 9.10 Any person entitled to any reversionary interest in the Properties has complied with its obligations relating thereto so far as the Vendor Warrantors are aware.
- 9.11 The Company has in its possession or under its control all deeds and documents relating to the Properties as listed in the Vendor Disclosure Letter.
- 9.12 The Replies to Enquiries are true accurate and complete in all respects.

## **10. OTHER ASSETS**

- 10.1 Except in each case for assets disposed of or realised by the Company in the ordinary course of business, the Company has good and marketable title to all assets of the Company which are included in the Accounts or have otherwise been represented as being the property of the Company and () the Company retains such title to all such assets free from any Encumbrance, hire or hire purchase agreement or leasing agreement or agreement for payment on deferred terms and all such assets are in the possession and control of the Company and are sited within the United Kingdom.

- 10.2 Save for terms included in standard terms of supply of suppliers to the Company there is not outstanding any agreement for the Company to acquire any material asset on terms that title to such asset does not pass to the Company until full payment is made.
- 10.3 Each item of office and other equipment shown in the Accounts or acquired by the Company since the Balance Sheet Date in connection with the Business which have not been disposed of in the ordinary course of business:
- (a) is in serviceable repair and condition (fair wear and tear excepted) and is regularly maintained, and in satisfactory working order; and
  - (b) is capable of doing the work for which it was purchased.
- 10.4 Rentals payable by the Company under any leasing, hire-purchase or other similar agreement to which it is a party are set out in the Disclosure Documents and have not been and are not due to be increased and all such rentals are fully deductible by the Company for tax purposes.
- 10.5 Maintenance contracts are in full force and effect in respect of all assets which the Company is obliged to maintain or repair under any leasing or similar agreement.
- 10.6 The asset register of the Company (a copy of which is included in the Disclosure Documents) comprises a complete and accurate record of all plant, machinery and equipment owned, used or possessed by the Company (and such register or registers accurately reflect whether such plant, machinery, vehicles or equipment are owned or used or possessed by the Company).

## 11. INSURANCE

- 11.1 Particulars of all policies of insurance of the Company now in force or maintained by the Company during the 3 years prior to the date hereof have been disclosed and such particulars are true and correct and all premiums due on such policies have been duly paid and all such policies are valid and in force. So far as the Vendor Warrantors are aware there are no circumstances which might lead to any liability under such insurance being avoided by the insurers or the premiums being increased. There is no claim outstanding under any such policies and so far as the Vendor Warrantors are aware there are no circumstances likely to give rise to a claim.

## **12. LITIGATION**

- 12.1 The Company is not now engaged in any litigation, arbitration or criminal proceedings and there are no lawsuits or arbitration proceedings pending or so far as the Vendor Warrantors are aware threatened by or against the Company or any person for whose acts or defaults the Company may be vicariously liable.
- 12.2 The Company has not, in the last 3 years preceding the date of this Agreement, been involved in any litigation, arbitration, criminal proceedings or material dispute with any person who is or was a supplier or customer of importance to the Company, or where such litigation, arbitration, proceedings or dispute resulted in adverse publicity or loss of goodwill.
- 12.3 So far as the Vendor Warrantors are aware, there is no matter or fact in existence which might give rise to any legal proceedings or arbitration involving the Company including any which might form the basis of any criminal prosecution against the Company.
- 12.4 No injunction or order for specific performance has been granted against the Company.
- 12.5 The Company is not subject to any order or judgment given by any court or governmental agency which is still in force and has not given any undertaking to any court or to any third party arising out of any legal proceedings.

## **13. LICENCES**

The Company has all necessary licences (save that, for the avoidance of doubt, this paragraph 13 shall not apply in respect of Intellectual Property) (including statutory licences), permits, consents and authorities (public and private) for the proper and effective carrying on its business in the manner in which it is now carried on and full details of such licences are disclosed.

## **14. TRADING**

- 14.1 No offer, tender or the like is outstanding which is capable of being converted into an obligation of the Company by an acceptance or other act of some other person other than in the ordinary course of trading.



14.2 There are in force no powers of attorney given by the Company 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.

14.3 The acquisition of the Shares by the Purchaser or compliance with the terms of this Agreement will not:

- (a) cause the Company to lose the benefit of any right or privilege it presently enjoys or (so far as the Vendor Warrantors are aware) cause any person who normally does business with the Company and which is material to the Company to cease doing so on the same basis as previously;
- (b) relieve any person of any material obligation to the Company or legally entitle any person to determine any such obligation;
- (c) conflict with or result in the breach of or constitute a default under any of the terms, conditions or provisions of any agreement or instrument to which the Company is now a party or any loan to or mortgage created by the Company or of its memorandum or articles of association;
- (d) result in any present or future indebtedness of the Company becoming due and payable or capable of being declared due and payable prior to its stated maturity;
- (e) so far as the Vendor Warrantors are aware, cause any director, officer or senior employee of the Company to leave employment; or
- (f) conflict with, violate or result in a breach of any law, regulation, order, decree or writ applicable to the Company, or entitle any person to receive from the Company any finder's fee, brokerage or other commission,

and, so far as the Vendor Warrantors are aware, the attitude or actions of clients, customers and suppliers with regard to the Company will not be prejudicially affected thereby.

- 14.4 The Company has not given any guarantee or warranty or made any representation in respect of services provided by it, save for any warranty or guarantee implied by law.
- 14.5 The Company is not and has not been party to or directly or indirectly concerned in any agreement, arrangement, understanding or practice (whether or not legally binding) or in the pursuit of any course of conduct which is:
- (a) notifiable under the Competition Act 1998 or capable of giving rise to an investigation by the Director General of Fair Trading or a reference to the Monopolies and Mergers Commission;
  - (b) in contravention or breach of the EC Treaty, the Fair Trading Act 1973, the Consumer Credit Act 1974, the Resale Prices Act 1976, the Trade Descriptions Act 1968, the Competition Act 1980, the Consumer Protection Act 1987, the Competition Act 1998 or any regulations, orders, notices or directions made thereunder; or
  - (c) is otherwise registerable, unenforceable or void or renders the Company or any of its officers liable to administrative, civil or criminal proceedings under any anti-trust, trade regulation or similar legislation in any jurisdiction where the Company carries on business.
- 14.6 Save for any supplier preferences expressly contained in any contracts with customers, the Company is not 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.
- 14.7 All title deeds and agreements to which the Company is a party and all other documents owned by, or which ought to be in the possession of or held unconditionally to the order of, the Company are in the possession of or held to the order of the Company.
- 14.8 The Company does not have any of its records, systems, controls, data or information recorded, stored, maintained, operated or otherwise wholly or partly dependent on or held by any means (including any electronic, mechanical or photographic process whether computerised or not) which

(including all means of access thereto and therefrom) are not under the exclusive ownership and direct control of the Company.

- 14.9 The Company does not use on its letterhead, books or vehicles or otherwise carry on its business under any name other than its corporate name.
- 14.10 Neither the Company nor any officer has been prosecuted for any criminal, illegal or unlawful act connected with the Company.
- 14.11 No customer of the Company was responsible for more than 5% of the Company's trade, turnover or profitability in the most recently completed financial year of the Company and no supplier supplied more than 5% of the Company's supplies in that financial year (as quantified by payments to all suppliers in that financial year).

## 15. CONTRACTS

- 15.1 There are no long term contracts (that is, contracts not terminable by the Company without penalty on six months' notice or less) or onerous or unusual or abnormal contracts (that is, contracts for capital commitments or contracts differing from those necessitated by the ordinary course of business) binding upon the Company.
- 15.2 All contracts to which the Company is a party with a value in excess of £10,000 per annum on turnover have been disclosed in the Disclosure Letter.
- 15.3 The terms of all contracts of the Company have been complied with by the Company and so far as the Vendor Warrantors are aware by the other parties to the contracts in all material respects and so far as the Vendors are aware there are no circumstances likely to give rise to a default by the Company or by the other parties under any such contract.
- 15.4 There are no outstanding claims of material amounts (separately or in aggregate) against the Company on the part of customers or other parties in respect of defects in quality or delays in delivery or completion of contracts or deficiencies of design or performance or otherwise relating to liability for goods or services sold or supplied by the Company and no such claims are threatened and there is no matter or fact within the knowledge of the Vendor Warrantors in existence in relation to goods or services currently sold or supplied by the Company which might give rise to the same.

15.5 The Company is not a party to any subsisting agency or distributorship agreement.

**16. EMPLOYEES**

16.1 The particulars of the Employees set out in the Vendor Disclosure Letter are true and complete and show in respect of each director, officer and employee of the Company his full name, date of birth, job description, the date on which he commenced continuous employment with the Company for the purposes of ERA, contractual notice entitlement and all remuneration payable and any entitlement (whether legally binding or not) to pension, pension contributions, life assurance, private medical insurance, permanent health insurance and include full particulars of all remuneration arrangements (particularly profit sharing, incentive, commission and bonus arrangements to which the Company is a party whether binding or not). There is attached at tab F13/14 to F13/50 of the Disclosure Letter complete copies of all employment contracts together with the Company's staff handbook.

16.2 There are attached at tab GT1/2.1.10 of the Disclosure Letter copies of all current maternity, paternity, adoption, equal opportunities, disciplinary, grievance and any other policies and procedures (whether legally binding or not) of the Company and applicable to all or any of its directors officers or employees.

16.3 Save as disclosed there is no contract of service in force between the Company and any of its directors, officers or employees which is not terminable by the Company without compensation (other than any compensation payable under Parts X and XI, ERA) on more than one month's notice given at any time or otherwise in accordance with section 86, ERA. There are no consultancy or management services agreements in existence between the Company and any other person, firm or company, and there are no agreements or other arrangements (binding or otherwise) between the Company or any employers' or trade association of which the Company is a member or any trade union. There are no outstanding pay negotiations with any employees.

16.4 There are no amounts owing to present or former directors, officers or employees or workers of the Company other than not more than one month's arrears of remuneration (including pension contributions) accrued or due or for reimbursement of business expenses incurred within a period of three months

preceding the date of this Agreement and no moneys or benefits other than in respect of remuneration or emoluments of employment are payable to or for the benefit of any present or former director, officer or employee of the Company, nor any dependant of any present or former director, officer or employee of the Company.

- 16.5 The Company is not under any obligation (whether legally binding or not) to make nor has it made any announcement or proposal to alter any of the terms of employment or engagement of its directors, officers, employees or workers.
- 16.6 The Company maintains full, up-to-date and accurate records (including hours worked) of all current and former employees and workers to the extent required by law.
- 16.7 No offer of employment or engagement has been made by the Company to any person who at the date of this Agreement has not accepted or commenced such employment or engagement.
- 16.8 No director, officer, employee or worker of the Company will be entitled to any payment of benefit by the Company or to variation of the terms of their employment or engagement by virtue of the signature or performance of this Agreement.
- 16.9 No director, officer, employee or worker of the Company is absent on, or so far as the Vendor Warrantors are aware proposed to be absent on, secondment, maternity leave, adoption leave, paternity leave, parental leave, sick leave, disability grounds or other leave of absence (excluding holiday leave in the ordinary course and not exceeding his contractual entitlement); and no current or former director, officer, employee or worker of the Company has or may have a right to return to work or to be reinstated or re-engaged by the Company.
- 16.10 Save to the extent (if any) to which provision or allowance has been made in the Accounts or the Management Accounts:
  - (a) no liability has been incurred or so far as the Vendor Warrantors are aware having carried out all reasonable enquiries is anticipated by the Company for breach of any contract of employment or for services or for severance payments or for redundancy payments or protective

awards or for compensation for unfair dismissal or for failure to comply with any order for the reinstatement or re-engagement of any employee or for sex, race, age, disability, sexual orientation, religion or belief discrimination or for the failure to comply with the Working Time Regulations 1998, the National Minimum Wage Act 1998, the Maternity and Parental Leave Regulations 1999, the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000, the Fixed Term (Prevention of Less Favourable Treatment) Regulations 2003, the Data Protection Act 1998, the Flexible Working Regulations 2002 or any other liability accruing from the termination or variation of any contract of employment or for services;

- (b) no gratuitous payment has been made or promised by the Company in connection with the actual or proposed termination, suspension or variation of any contract of employment or for services of any present or former director, officer or employee or any dependant of any present or former director, officer or employee of the Company or in connection with the proposed or actual termination or variation of any consultancy arrangement or contract of engagement with any present worker; and
- (c) the Company has not made or agreed to make any payment to or provided or agreed to provide any benefit for any present or former director, officer or employee of the Company.

16.11 No present director, officer or employee of the Company has given or received notice terminating his employment except as expressly contemplated under this Agreement. So far as the Vendor Warrantors are aware having carried out all reasonable enquiries, no present director, officer or employee is contemplating leaving the Company or under threat of dismissal or termination.

16.12 The Company does not have in existence nor is it proposing to introduce, and none of its directors, officers, employees or workers participate in (whether or not established by the Company) any employee share trust, share incentive scheme, share option scheme or profit sharing scheme for the benefit of all or any of its present or former directors, officers, employees or workers or the dependants of any of such persons or any scheme whereunder any present or former director, officer, employee or worker of the Company is entitled to a

commission or remuneration of any other sort calculated by reference to the whole or part of the turnover, profits or sales of the Company or any other person, firm or company.

- 16.13 The Company has not been a party to any relevant transfer as defined in the Transfer of Undertakings (Protection of Employment) Regulations 1981 (as amended) nor has the Company failed to comply with any duty to inform and consult any trade union under the said regulations within the period of one year preceding the date of this Agreement.
- 16.14 The Company is not a party to any agreement or arrangement with or commitment to any trade unions or staff association nor so far as the Vendor Warrantors are aware are any of its employees members of any trade union or staff association.
- 16.15 The Company is not subject to any plan, scheme, commitment, custom or practice relating to redundancy (whether legally binding or not) affecting any director, officer or employee which imposes greater obligations than UK statutory redundancy provisions.
- 16.16 The Company is not subject to any enquiry or investigation by the Equal Opportunities Commission, the Disability Rights Commission or the Commission for Racial Equality and there are no circumstances which could give rise to any such enquiry or investigation.
- 16.17 The Company has complied with all material obligations in and awards under any statute, regulation, collective arrangement, works council agreement, code of conduct and the terms of employment or engagement in relation to all current directors, officers and employees.
- 16.18 All employees are legally entitled to be employed by the Company and possess all appropriate valid work permits, visas and other documentation required to enable them to work for the Company.

## 17. PENSION

- 17.1 Save for the Pension Schemes there is no scheme, agreement, arrangement or practice (whether formal or informal) in relation to which the Company has incurred, will incur or may be expected to incur any liability or responsibility (including, without limitation, any liability for contributions or expenses or for

any shortfall in funding, or any liability as trustee or responsibility in respect of any discretionary power) for or in relation to the provision of:

- (a) any relevant benefits (as defined in Section 612 ICTA) for, in respect of or by reference to any present or former director, officer, employee of or person who has at any time agreed to provide services to the Company; or
- (b) any benefits to be given by reason of disability or sickness for, in respect of or by reference to any current or former director, officer or employee.

17.2 No proposal has been announced or made by the Company to establish any scheme, agreement, arrangement or practice of the type described in paragraph 17.1 and no undertakings or assurances have been given or implied by the Company as to the introduction, continuation, increase or improvement of any retirement, death, sickness or disability benefits.

17.3 Details of the Pension Schemes have been given to the Purchaser including, without limitation, the following:

- (a) a copy of the rules of the Friend's Provident Old Scheme (FP1, 2 and 3);
- (b) all documents relating to any other arrangement by reference to which any benefits under the Pension Schemes are promised; and
- (c) a list of members including details of all contributions and premiums currently payable by and in respect of the members of the Pension Schemes.

17.4 No undertakings or assurances have been given to members of the Pension Schemes as to the continuance, increase or improvement of any benefits provided to or in respect of the Pension Schemes.

17.5 There are no actions, suits or claims current or so far as the Vendor Warrantors are aware having made all reasonable enquiries pending by any of the members of the Pension Schemes.

17.6 There are no contributions or premiums in relation to the Pension Schemes which have fallen due but are unpaid.



- 17.7 There are no retrospective uplifts due in respect of contributions or premiums paid by the Company in relation to the Pension Schemes.
- 17.8 So far as it is within the control of the Company, the Pension Schemes have been administered in accordance with the terms of its governing documents, all relevant legislation (including, without limitation, the Pensions Act 1995) and all relevant regulatory requirements and true and complete records have been maintained of all matters relevant to the operation of the Disclosed Schemes.
- 17.9 No part-time employee of the Company has been excluded from membership of the Pension Schemes at any time since 8 April 1976.
- 17.10 The Company has duly complied with all applicable legal and administrative requirements relating to stakeholder pension schemes (as defined in section 1(1) of the Welfare Reform and Pensions Act 1999) to the extent that those requirements apply in respect of any of its directors, officers or employees.
- 17.11 The benefits payable under the Pension Schemes consist exclusively of money purchase benefits as defined in section 181 of the Pension Schemes Act 1993 and no promise, assurance or undertaking has been given (whether legally binding or not) as to the provision of retirement, death or disability benefits at a particular level.
- 17.12 No civil or criminal penalty fine or sanction has been imposed on the trustees or the Company in relation to the Pension Schemes and so far as the Vendor Warrantors are aware having made all reasonable enquiries there are no circumstances which might give rise to any such penalties.
- 17.13 The Company has complied with the requirements of section 3 of the Welfare Reform & Pensions Act 1999.

## **18. INTELLECTUAL PROPERTY**

### **18.1 Definitions**

In this Agreement the following definitions shall have the following meanings:

“Copyright”	copyright, design rights, topography rights and database rights whether registered or unregistered (including any applications for
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registration of any such thing) and any similar or analogous rights to any of the foregoing whether arising or granted under the law of England or of any other jurisdiction;

**"Intellectual Property"**

Know-How, Copyright (including rights in Software), Trade Marks and IP Materials;

**"IP Contracts"**

the Licences-In and Licences-Out specified in Warranty 18.9;

**"IP Materials"**

all documents, records, tapes, discs, diskettes and any other materials whatsoever containing Copyright works, Know-How or Software;

**"Know How"**

know how, trade secrets and confidential business information including details of supply arrangements, customer lists and pricing policy, inventions, analytical models, research tools and solutions, methodologies, user manuals, formulae algorithms, discoveries, processes and procedures;

**"Relevant IP"**

all Intellectual Property specified in sub paragraphs (a) - (e) inclusive of warranty 18.2;

**"Software"**

the software products known as STB-Reporter, STB-Detector, STB-GlobalView, STB-Automator, STB-SuperConsolidator and STB-TaxMan in both source and object code form, including all modules, routines and sub-routines thereof and all source and other preparatory materials relating thereto, including user requirements, functional specifications and programming

specifications, algorithms, flow charts, logic diagrams, file structures, coding sheets, coding and including any manuals or other documentation relating thereto and computer generated works;

**"Trade Marks"**

trade or service mark applications made by or trade or service marks registered by any member of the Group.

18.2 The Group owns Intellectual Property including but not limited to:

- (a) Copyright in the Group's news updates, reports, sales and marketing materials;
- (b) Copyright in the Group's website content at the domain names set out in 18.2(d) below;
- (c) Copyright in the Group's databases;
- (d) Domain Names: stbsystems.com, stbsystems.net, stbsystems.org, stbsystems.info, stbsystems.biz and stbsystems.co.uk;
- (e) copyright in the Software.

18.3 The Group is the sole legal and beneficial owner of all Relevant IP.

18.4 The Group does not require any further Intellectual Property in relation to the development, manufacture, marketing or sale of its products or services as currently supplied or in relation to any of the processes employed in the Business.

18.5 The Relevant IP is valid and subsisting.

18.6 All Know-How owned, used or exploited by the Group has been kept secret and confidential and has not been disclosed to third parties.

18.7 Nothing has been done by the Company nor so far as the Vendor Warrantors are aware by any third party to diminish or otherwise affect the reputation of unregistered Trade Marks, owned, used or otherwise exploited by the Group.

18.8 None of the Relevant IP has been charged, mortgaged, licensed or otherwise encumbered.

18.9 Full particulars of all material agreements relating to Intellectual Property whereby:

- (a) the Group uses or exploits any Intellectual Property belonging to a third party ("Licences-In"); or
- (b) the Group has authorised or otherwise permitted, expressly or by implication, any use whatsoever of any Intellectual Property, or granted to any third party any right or interest in respect of any Intellectual Property ("Licences-Out"),

have been disclosed in the Disclosure Letter.

#### IP Contracts

18.10 All agreements relating to Relevant IP are valid and binding and none has been the subject of any breach or default by any party or of any event which with notice or lapse of time or both would constitute a default.

18.11 There are no disputes, claims or proceedings arising out of or relating to the IP Contracts.

#### Infringement

18.12 The Group has not infringed and does not infringe any Intellectual Property of a third party as a result of the Group's use or exploitation of the Relevant IP.

18.13 There are not and have not been any disputes, claims or proceedings in existence or so far as the Vendor Warrantors are aware threatened in any court or tribunal in respect of any of the Relevant IP as such or in respect of any use or exploitation thereof by the Group.

18.14 There has been and is no current or so far as the Vendor Warrantors are aware anticipated infringement by any third party of any Relevant IP.

18.15 The Vendor Warrantors have vested in the Group absolutely (without any consideration) all patents licences trade marks designs or like rights relating to goods and/or services of the type with which the Group is concerned which

were registered in the name of the Vendor Warrantors or any of them either solely or jointly with the Group to the intent that all such rights have become the sole and absolute property of the Group without payment of royalty or other consideration.

18.16 The copyright to the Software is owned exclusively by the Group and no other person has rights therein or rights to use, distribute or copy the Software.

18.17 So far as the Vendor Warrantors are aware any moral rights which exist in any copyright material owned by or otherwise used by the Group have been waived by the owners thereof in relation to use of such copyright material.

## **19. INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS**

### **19.1 Definitions**

“Hardware” any and all computer, telecommunications and network equipment;

“IP Materials” as defined in Warranty 19.1;

“IT Contracts” any agreements or arrangements with third parties relating to IT Systems or IT Services, including all hire purchase contracts or leases of Hardware owned or used by the Group, licences of Software owned or used by the Group, and other IT procurement;

“IT Services” any services relating to the IT Systems or to any other aspect of the Group’s data processing or data transfer requirements, including facilities management, bureau services, hardware maintenance, software development or support, consultancy, source code deposit, recovery and network services;

“IT Systems” hardware and/or software used by the Group; and

“Software” as defined in Warranty 18.1.

19.2 (a) Brief particulars of all IT Systems are set out in the Disclosure Letter.

(b) Brief particulars of all IT Contracts are set out in the Disclosure Letter.

- (c) All IT Systems and data are owned by or duly licensed to the Group, and are not wholly or partly dependent on any facilities or services not under the exclusive ownership and control of the Group.
  - (d) All the IT Contracts are valid and binding. None of the IT Contracts has been the subject of any breach or default, or so far as the Vendor Warrantors are aware of any event which (with notice or lapse of time or both) would constitute a default.
  - (e) The Group has in its possession or in its control the source code of all Software.
  - (f) The Group has not entered into any arrangements with any third party under which the software's source code has been deposited in escrow.
- 19.3 All IT Systems are in working order, function in accordance with all applicable specifications, and have been and are being properly and regularly maintained and replaced. No material part of the IT Systems has at any time during the five years prior to the date hereof failed to function in a manner that has caused any loss of business to the Group.
- 19.4 All IT Services are being and have been provided substantially in accordance with all applicable specifications.
- 19.5 The Group has full and unrestricted access to and use of the IT Systems, and no third party agreements or consents are required to enable the Group to continue such access and use following completion of the transaction contemplated by this Agreement.
- 19.6 So far as the Vendor Warrantors are aware:
- (a) it is not necessary or desirable to incur any significant expenditure on the modification, development, expansion or (save in the normal course of business) replacement of the IT Systems; and
  - (b) the present capacity of the IT Systems is sufficient in order to satisfy the requirements of the Group with regard to data processing and communications,

in each case for the Group's current volume of business and that anticipated for the Earn-Out Period.

- 19.7 So far as the Vendor Warrantors are aware no material part of the IT Systems is currently infected by any virus or other extraneously-induced malfunction. The Group operates a documented procedure to avoid such infections and unauthorised access to the IT Systems or any data stored thereon.
- 19.8 All data processed using the IT Systems and/or the IT Services has been regularly archived in hard copy form. Such hard copies have been properly stored and catalogued, and are available for inspection as required by the Group from time to time.
- 19.9 The Group has in place disaster procedures details of which are set out in the Disclosure Letter and which are intended to ensure that its business can continue in the event of a failure of the IT Systems (whether due to natural disaster, power failure or otherwise).

## **20. DATA PROTECTION**

- 20.1 In this Warranty 20, the Data Protection Principles, Personal Data and Data Subjects shall have the same meanings given to them in the Data Protection Act 1998.
- 20.2 The Group has complied and continues to comply with the Data Protection Act 1998 (including but not limited to the Data Protection Principles). The Group is not required to notify under the Data Protection Act 1998 as a data controller.
- 20.3 There are no outstanding complaints against any member of the Group from Data Subjects, nor in relation to any such member any requests for information, or assessments, or other formal investigations by the Information Commissioner concerning data protection, which have not been disclosed to the Purchaser.
- 20.4 The Group has, at all times, maintained all appropriate individual consents in relation to the collection and processing of Personal Data and has obtained specific and informed consent from all its customers for all marketing undertaken by it including, without limitation, consent for covert data collection by "cookies", spyware, spiders, robots data sharing with third parties including, marketing of third party products and services including,

marketing by telephone, SMS (texting) and e-mail and has only processed Personal Data in accordance with these consents.

- 20.5 Where the Group has transferred Personal Data to a country or territory outside the European Economic Area, the processing of that Personal Data has been carried out in that third country to ensure an adequate level of protection of the rights and freedoms of data subjects in relation to such Personal Data.
- 20.6 All collections of data in machine-readable form relating to the business of the Group (including databases relating to customers, suppliers and employees) are:
- (a) legally and beneficially owned by or licensed to the Group free from any legal or equitable charge, encumbrance, right, interest or claim by any person;
  - (b) in the possession or under the control of or (subject to payment of any agreed fees) otherwise accessible to the Group; and
  - (c) subject as aforesaid able to be used in the manner in which they are used in the business of the Group without infringement of the rights of or payment to any third party.
- 20.7 The website content at the Group's domain names at the date hereof and the operations conducted by members of the Group from such domain names together with and any transactions conducted over the internet by the Group complies with all laws, regulations, directives, guidelines and codes of practice in the UK and so far as the Vendor Warrantors are aware worldwide.

## **TAXATION**

### **21. ADMINISTRATION**

- 21.1 All notices, returns, computations and registrations of the Company for the purposes of Taxation in the United Kingdom have been submitted punctually on a proper basis and are correct and none of them is, or is likely to be, the subject of any dispute with any Taxation Authority.
- 21.2 All information supplied by the Company for the purposes of Taxation was when supplied and remains complete and accurate in all material respects.



- 21.3 All Taxation which the Company is liable to pay prior to Completion has been or will be so paid prior to Completion.
- 21.4 The Company has not since incorporation paid or become liable to pay any penalty, fine, surcharge or interest charged by virtue of the provisions of the TMA or any other Taxation Statute.
- 21.5 (a) All income tax deductible and payable under PAYE and/or any equivalent Taxation Statute has, so far as is required to be deducted, been deducted from all payments made or treated as made by the Company and all amounts due to be paid to the relevant Taxation Authority prior to the date of this Agreement have been so paid, including all Tax chargeable on Employment Income provided for directors, employees or former employees of the Company or any persons required to be treated as such.
- (b) All deductions and payments required to be made under any Taxation Statute in respect of NIC (including employer's contributions) have been so made.
- (c) All payments by the Company to any person which ought to have been made under deduction of Tax have been so made and the Company (if required by law to do so) has accounted to the relevant Taxation Authority for the Tax so deducted.
- (d) Proper records have been maintained in respect of all such deductions and payments and all applicable regulations have been complied with.
- (e) There are no dispensations agreed with the HMRC or other Taxation Authority in relation to PAYE or the equivalent system for collecting income tax on employment earnings in the USA, Singapore and Hong Kong.
- 21.6 The Company has not been subject to any visit, audit, investigation, discovery or access order by any Taxation Authority and there are no circumstances existing which make it likely that a visit, audit, investigation, discovery or access order will be made.
- 21.7 The Company is and always has been resident for Taxation purposes only in the United Kingdom.

- 21.8 Full provision or reserve has been made in the Accounts in accordance with recognised accounting principles for all Taxation assessed or liable to be assessed on the Company or for which it is accountable in respect of income, profits or gains earned, accrued or received or deemed to be earned, accrued or received on or before the Balance Sheet Date, including distributions made down to such date or provided for in the Accounts and proper provision has been made in the Accounts for any contingent deferred liability to Taxation in accordance with the Accounting Standards.
- 21.9 The amount of Taxation chargeable on the Company during any accounting period since the Company's incorporation has not depended on any concessions, agreements or other formal or informal arrangements with any Taxation Authority.
- 21.10 The Company has not entered into or been a party to any scheme or arrangement of which the main purpose, or one of the main purposes, was the avoidance of or the reduction in or the deferral of a liability to Taxation.
- 21.11 The Company has not without the prior consent of the Treasury (where such consent is required) carried out or agreed to carry out any transaction under section 765 ICTA which would be unlawful in the absence of such consent and has, where relevant, complied with the requirements of section 765A(2), ICTA (supply of information on movement of capital within the European Union) and any regulations made or notice given thereunder.
- 21.12 All particulars furnished to any Taxation Authority in connection with an application for clearance or consent by the Company or on its behalf or affecting the Company has been made and obtained on the basis of full and accurate disclosure to the relevant Taxation Authority of all relevant material facts and considerations; and any transaction for which clearance or consent was obtained has been carried into effect only in accordance with the terms of the relevant clearance or consent.
- 21.13 The Company has sufficient records relating to past events to permit accurate calculation of the Taxation liability or relief which would arise upon a disposal or realisation on completion of each asset owned by the Company at the Balance Sheet Date or acquired by the Company since that date but before Completion.

21.14 The Company has duly submitted all claims and disclaimers the making of which has been assumed for the purposes of the Accounts.

**22. CORPORATION TAX INCLUDING CORPORATION TAX ON CHARGEABLE GAINS AND CAPITAL ALLOWANCES**

- 22.1 If each of the capital assets of the Company was disposed of on the date hereof for a consideration equal to the book value of that asset in, or adopted for the purposes of, the Accounts or, in the case of assets acquired since the Balance Sheet Date, equal to the consideration given upon its acquisition, no liability to corporation tax on chargeable gains or balancing charges under the CAA or other legislation relating to any capital allowances would arise and for the purpose of determining the liability to corporation tax on chargeable gains there shall be disregarded any relief and allowances available to the Company other than amounts falling to be deducted under section 38 TCGA.
- 22.2 All expenditure which the Company has incurred or may incur under any subsisting commitment on the provision of machinery, plant has qualified or will qualify (if not deductible as a trading expense for trade carried on by the Company) for writing-down allowances under CAA or other legislation relating to any capital allowances and where appropriate notices have been given to the HMRC under section 118 FA 1994.
- 22.3 The Company has not made any claim for capital allowances in respect of any asset which is leased to or from or hired to or from the Company and no election affecting the Company has been made or agreed to be under sections 177 or 183, CAA in respect of such assets.
- 22.4 The Company is not a lessee under a lease to which the provisions of Schedule 12 to the Finance Act 1997 apply or could apply.
- 22.5 The Company has not made any election under sections 189 or 199 CAA, or section 85, CAA nor is it taken to have made such an election under section 89, CAA.
- 22.6 No capital allowances have been claimed or made by the Company which are liable to be reduced or withdrawn by virtue of sections 109, 110 or 307 CAA.

- 22.7 The Company does not own and has not owned a long life asset (within the meaning of section 91, CAA) in respect of which any claim for capital allowances would be subject to the provisions of Part 1 Chapter 10, CAA.
- 22.8 None of the assets of the Company expenditure on which has qualified for a capital allowance under Part 1 Chapters 3 to 5, CAA has at any time been used otherwise than as an industrial building or structure.
- 22.9 Since the Balance Sheet Date the Company has not done, agreed on or omitted to do or permitted to be done any act as a result of which there may be a balancing charge or a withdrawal of first year allowances under any provision of CAA or recovery of excess relief under sections 111, 112 or 113 CAA.
- 22.10 No distribution within the meaning of sections 209, 210 and 211, ICTA has been made (or will be deemed to have been made) by the Company.
- 22.11 No elections have been made pursuant to section 246A, ICTA in respect of any dividends nor has the Company made a distribution to which the provisions of paragraph 2 of Schedule 7, FA 1997 have been, or could be, applied.
- 22.12 The Company has not received a dividend in respect of which the payer has made an election under section 246A, ICTA 1988 nor a distribution to which the provisions of paragraph 2 of Schedule 7, FA 1997 have been, or could be, applied.
- 22.13 The Company has not any time after 6th April, 1965 repaid, redeemed or repurchased or agreed to repay, redeem or repurchase or granted an option under which it may become liable to purchase any shares of any class of its issued share capital nor has the Company after that date capitalised or agreed to capitalise in the form of shares or debentures any profits or reserves of any class or description or otherwise issued or agreed to issue any share capital other than for the receipt of new consideration (within the meaning of Part VI, ICTA) or passed or agreed to pass any resolution to do so.
- 22.14 The Company has not been engaged in nor been a party to any of the transactions set out in sections 213 to 218 inclusive, ICTA nor has it made or received a chargeable payment as defined in section 218(1), ICTA.
- 22.15 No securities (within the meaning of section 254(1), ICTA) issued by the Company and remaining in issue at the date of this Agreement were issued in

such circumstances that the interest payable thereon falls to be treated as a distribution under either sections 209(2)(d), 209(2)(da) or 209(2)(e), ICTA, nor has the Company agreed to issue such securities in such circumstances.

- 22.16 The Company has not received any capital distribution to which the provisions of section 189, TCGA could apply.
- 22.17 The Company has not entered into any sale and leaseback transaction to which the provisions of section 779 or 780, ICTA have been or could be applied.
- 22.18 The Company has not since 31st March, 1982 received any foreign loan interest in respect of which double taxation relief will or may be restricted under section 798, ICTA.
- 22.19 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 by reason of the provisions of sections 74, 79, 79A, 79B, 125, 338, 339, 779 to 784 inclusive, 787 or 788, ICTA or any other statutory provision or otherwise.
- 22.20 No rent is or has been payable by the Company to which the provisions of sections 33A and 33B, ICTA could have applied prior to their ceasing to have effect.
- 22.21 No claim has been made by the Company under sections 584, 585 or 723 ICTA or under section 279, TCGA nor any election under section 279A TCGA.
- 22.22 The Company has not made or agreed to make any payment to or provided or agreed to provide any benefit for any Director or former director, officer or employee of the Company, whether as compensation for loss of office, termination of employment or otherwise, which is not allowable as a deduction in calculating the profits of the Company for Taxation purposes whether up to or after the Balance Sheet Date.

22.23 The Company has not provided, or agreed to provide, to any officer or employee or ex-officer or ex-employee of the Company:

- (a) any shares or interest in shares for the purposes of section 447 ITEPA in the circumstances described in that sub-section;
- (b) any interest in shares on terms that make that interest only conditional for the purposes of section 422 ITEPA;
- (c) any convertible shares for the purposes of section 435 ITEPA;
- (d) any right to acquire shares for the purposes of section 471 ITEPA; or
- (e) any other benefit in respect of which the Company will or would, if the prescribed circumstances arise, be required on or after Completion to operate PAYE or pay or account for any national insurance contributions.

22.24 The Company has complied with section 465 ITEPA and with sections 423, 433 and 445 ITEPA.

22.25 No change of ownership of the Company has taken place in circumstances such that section 768 (change in ownership of Company: disallowance of trading losses) or section 245, ICTA (change in ownership of Company: calculation and treatment of advance corporation tax) has or may be applied to deny relief for a loss or losses incurred by the Company and within the period of three years ending with the date of this Agreement there has been no major change in the nature or conduct of any trade or business (as defined in section 768 , ICTA) carried on by the Company.

22.26 The Company is not a party to any transaction or arrangement under which it may be required to pay for any asset or any services or facilities of any kind an amount which is in excess of the market value of that asset or those services or facilities, neither is or was the Company a party to any transaction or arrangements to which the provisions of section 770A and Schedule 28AA, ICTA may apply nor has it entered into an agreement with the HMRC under the provisions of section 85 FA 1999 and nor will the Company receive any payment for an asset or any services or facilities of any kind that it has supplied or provided or is liable to supply or provide which is less than the market value of that asset or those services or facilities.

- 22.27 The Company has not disposed of or acquired any asset in circumstances falling within section 17 or 19, TCGA nor given or agreed to give any consideration to which section 128(1)(2), TCGA could apply.
- 22.28 No allowable loss has accrued to the Company to which section 18(3), TCGA will apply.
- 22.29 The Company is not owed a debt, other than a debt on a security, on the disposal or satisfaction of which a liability to corporation tax on chargeable gains will arise by reason of section 251, TCGA.
- 22.30 No claim for relief has been allowed to the Company pursuant to sections 253 and 254, TCGA in respect of any loan and no chargeable gain has or is likely to arise pursuant to section 253 (5), (6), (7) or (8) or section 254 (9) or (10), TCGA.
- 22.31 The Company has not acquired benefits under any policy of assurance otherwise than as the original holder of legal and beneficial title.
- 22.32 No claim or election affecting the Company has been made (or assumed to be made) under sections 140, 140C or 187 TCGA.
- 22.33 No allowable loss which might accrue on the disposal by the Company on any share or security of any Company is liable to be reduced by virtue of the provisions of sections 176 and 177 TCGA.
- 22.34 The Company has not been a party to any scheme or arrangement whereby the value of an asset has been materially reduced as set out in sections 29-34, TCGA.
- 22.35 No asset owned by the Company is subject to a deemed disposal and re-acquisition under Schedule 2, TCGA so as to restrict the extent to which the gain or loss over the period of ownership may be apportioned by reference to straight-line growth.
- 22.36 The Company has made no claim under any of the following:
- (a) section 280, TCGA (tax on chargeable gains payable by instalments);
  - (b) section 24(2), TCGA (assets of negligible value);

- (c) section 242(2), TCGA (small part disposals of land); or
  - (d) section 139, Finance Act 1993 (deferral of unrealised exchange gains).
- 22.37 The Company has not received any assets by way of gift as mentioned in section 282 TCGA and the Company has not held, and does not hold, shares in a Company to which section 125 TCGA could apply.
- 22.38 (a) There has not accrued or arisen any income, profit or gain in respect of which the Company may be liable to corporation tax by virtue of the provisions of section 13 TCGA or Chapter IV of Part XVII, ICTA (Controlled Foreign Companies);
- (b) The Company has not been served with a notice in respect of the unpaid corporation Tax liability of any Company pursuant to section 191 TCGA;
- (c) No notice of the making of a direction under section 747 ICTA has been received by the Company and no circumstances exist which would entitle the HMRC to make such a direction or to apportion any profits of a controlled foreign Company to the Company pursuant to section 752 ICTA.
- 22.39 The Company has not been a party to any transaction or arrangement whereby it is or may hereafter become liable for Taxation under or by virtue of section 42A ICTA 1988 or regulations made thereunder or section 126 FA 1995.
- 22.40 The Company has made no claims or elections (nor are there claims or elections assumed) under sections 23, 152-162A or 165, 175, 247, 247A, 248, TCGA insofar as they could affect the chargeable gain or allowable loss which would arise in the event of a disposal by the Company of any of its assets.
- 22.41 The Company has not received a payment out of funds held for the purposes of an exempt approved scheme in respect of which an amount is recoverable by the HMRC under section 601 ICTA.
- 22.42 (a) The Disclosure Documents contain full particulars of all claims and elections made (or assumed to be made) under sections 23, 152-162A or 165, 175, 247, 247A, 248, TCGA insofar as they could affect the chargeable gain or allowable loss which would arise in the event of a



disposal by the Company of any of its assets, and indicates which assets (if any) so affected would not on a disposal give rise to relief under Schedule 4, TCGA.

(b) The Disclosure Documents contain full particulars of elections made under:

(i) Regulation 10 of The Exchange Gains and Losses (Alternative Method of Calculating of Gain or Loss) Regulations 1994 and whether or not such elections have been varied; and

(ii) Regulation 3 or 4 of The Local Currency Elections Regulations 1994 and such election is still valid.

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

(b) The Disclosure Documents contain full particulars of any debtor relationship (within the meaning of section 103, FA 1996) of the Company which relates to a relevant discounted security (within the meaning of paragraph 3 of Schedule 13, FA 1996) to which paragraph 17 or 18 of Schedule 9, FA 1996 applies.

(c) The Company has not been a party to a loan relationship which had an unallowable purpose (within the meaning of paragraph 13 of Schedule 9, FA 1996).

(d) The Company has not entered into any transaction to which paragraph 11 of Schedule 9, FA 1996 applies.

22.44 No tax has been or may be assessed on the Company pursuant to section 190, TCGA in respect of any chargeable gain accrued prior to the date of this Agreement and the Company has not at any time within the period of seven years ending with the date of this Agreement transferred any asset other than trading stock including any transfer by way of share exchange within section

135, TCGA to any Company which at the time of disposal was a member of the same Company as defined in section 170, TCGA.

22.45 The execution or completion of this Agreement or any other event since the Balance Sheet Date will not result in any chargeable asset being deemed to have been disposed of and re-acquired by the Company for Taxation purposes pursuant to section 178 or 179, TCGA or as a result of any other Event since the Balance Sheet Date.

22.46 The Company has no capital losses the set-off of which is or may be restricted by section 177A and Schedule 7A, TCGA.

### **23. CLOSE COMPANIES**

23.1 The Company is not, nor has been since 31 March 1989 a close investment-holding Company as defined in section 13A, ICTA.

23.2 The Company has at all times been a close Company within the meaning of sections 414 and 415, ICTA.

23.3 No distribution within section 418, ICTA has ever been made by the Company.

23.4 Any loans or advances made or agreed to be made by the Company within sections 419 and 420 or 422, ICTA have been disclosed and the Company has not released or written off or agreed to release or write off the whole or any part of any such loans or advances.

### **24. INTANGIBLE ASSETS**

#### **24.1 General**

(a) The Company does not own assets to which the provisions of Schedule 29 FA 2002 apply ("Intangible Assets").

(b) The Company does not own any asset which is excluded from the provisions of Schedule 29 FA 2002 by virtue of paragraph 77 (Assets entirely excluded: non-commercial purposes etc.).

- (c) No election has been made by the Company under paragraph 10 Schedule 29 FA 2002 in respect of any intangible assets of the Company.
- (d) The Disclosure Letter contains full and accurate particulars of the extent to which the book value of any intangible assets as shown in the Accounts exceeds their tax written down value.

#### **24.2 Claims**

The Disclosure Letter contains full and accurate particulars of:

- (a) all claims made by the Company under Part 7 Schedule 29 FA 2002 and no such claim has been made by any other person (in particular by virtue of Part 9 of that Act) which affects or could affect the cost for tax purposes of any asset acquired by the Company; and
- (b) any declaration of provisional entitlement to relief made under paragraph 43 Schedule 29 FA 2002.

#### **24.3 Connected parties and intra-Company transactions**

- (a) The Disclosure Letter contains full and accurate particulars of any intangible asset acquired from any other Company then belonging in the same Company of companies as the Company within the meaning of Part 8 of Schedule 29 FA 2002.
- (b) The Company has not made any election under paragraph 66 of Schedule 29 FA 2002.

#### **24.4 Reconstructions**

The Disclosure Letter contains full and accurate particulars of any scheme of reconstruction to which the Company has been a party and to which provisions of Part II Schedule 29 FA 2002 apply.

### **25. INHERITANCE TAX**

- 25.1 The Company has made no transfers of value within sections 94 and 202, IHTA nor has the Company received a transfer of value such that liability might arise under section 199, IHTA nor has the Company been party to

associated operations in relation to a transfer of value as defined by section 268, IHTA.

25.2 There is no unsatisfied liability to inheritance tax attached to or attributable to the Shares or any asset of the Company and none of them are subject to an HMRC charge as mentioned in section 237 and 238, IHTA.

25.3 No asset owned by the Company nor the Shares are liable to be subject to any sale, mortgage or charge by virtue of section 212, IHTA.

## **26. VAT**

26.1 The Company is a taxable person duly registered for the purposes of VAT with registration number GB 722 3155 68 and such registration is not subject to any conditions imposed by or agreed with the HMRC.

26.2 The Company has complied with all statutory provisions, rules, regulations, orders and directions in respect of VAT, has promptly submitted accurate returns, and the Company maintains full and accurate VAT records, has never been subject to any interest, forfeiture, surcharge or penalty nor been given any notice under sections 59 or 64, VATA nor been given a warning within section 76(2), VATA nor has the Company been required to give security under paragraph 4 of Schedule 11, VATA.

26.3 VAT has been duly paid or provision has been made in the Accounts for all amounts of VAT for which the Company is liable.

26.4 The Company is not nor has it in the preceding seven years been partially exempt for VAT purposes and all supplies made by the Company have been and are taxable supplies and the Company has not been and will not be denied full credit for all input tax by reason of the operation of sections 25 and 26, VATA and regulations made thereunder or for any other reasons and no VAT paid by the Company falls outside the definition of input tax set out in section 24, VATA and regulations made thereunder.

26.5 The Company has not been or agreed to be party to any transaction or arrangement in relation to which a direction has been or could be made under paragraph 1 of Schedule 4, VATA or to which paragraph 2(3A) of Schedule 10, VATA applied.

- 26.6 The Company is not and has not agreed to become liable for VAT by virtue of sections 47 and 48, VATA.
- 26.7 The Company has not exercised the election to waive exemption from VAT (pursuant to paragraph 2 of Schedule 10, VATA) in respect of the Property.
- 26.8 The Company does not own and has not at any time within the period of ten years preceding the date hereof owned any assets which are capital items subject to the Capital Goods Scheme under Part XV of the VAT Regulations 1995.
- 26.9 The Company has not made any claim for bad debt relief under section 36, VATA and details of any claim it could make have been disclosed.
- 26.10 The Company has not entered into any self-billing arrangement in respect of supplies made by any other person nor has it at any time agreed to allow any such person to make out VAT invoices in respect of supplies made by the Company.
- 26.11 The Company has not acquired any assets to which Article 5(1), VAT (Special Provisions) Order 1995 applies (transfer of a business as a going concern).

**27. STAMP DUTY, SDLT AND SDRT**

- 27.1 All documents to which the Company is a party and which are necessary to prove the title of the Company to any asset or right which it owns or purports to own and in respect of which Stamp Duty and/or SDRT was, at the time of entering into such document, chargeable, such documents were executed (other than those which have ceased to have any legal effect) to which the Company is a party have been duly stamped or stamped with a particular stamp denoting that no stamp duty is chargeable and all chargeable UK land transactions in respect of which the Company has been the purchaser have been properly and accurately assessed for SDLT and any duty arising has been paid by the Company on or before the due date.
- 27.2 Since the Balance Sheet Date:
- (a) there have been and are no circumstances or transactions to which the Company is or has been a party such that a liability to stamp duty or

SDLT or any penalty in respect of such duty will arise on the Company; and

- (b) the Company has not incurred any liability to or been accountable for any stamp duty reserve tax and there has been no agreement within section 87(1), FA 1986 which could lead to the Company incurring such a liability or becoming so accountable.

**SCHEDULE 4**  
**Earn-Out Provisions**

**Part 1 - Definitions**

**Definitions**

In this Schedule 4, the following words and expressions shall have the following meanings:

- “Actual Revenue”** means all trading revenues of the Group before VAT or sales taxes derived from the Group’s Core Business and other revenues of the Group but excluding:
- (i) revenue from sales of hardware;
  - (ii) revenues derived from sales or maintenance of third party products with the exception of those derived from sale of Fircosoft software and AIMS (which shall accordingly be included in Actual Revenue) (but so that in the case of Fircosoft and AIMS revenues there shall be excluded from Actual Revenue any related sales of hardware or other third party products);
  - (iii) revenues derived from non core business activities other than any which under either paragraph (i) or (ii) preceding fall to be treated as Actual Revenue, so that there shall be excluded from Actual Revenue, revenues derived from the following:
    - (a) the supply of consultants or contract staff (other than for the purposes of the Core Business including for the avoidance of doubt sales and maintenance of

Fircosoft and AIMS);

- (b) document scanning;
- (c) travel, accommodation; or
- (d) any other expense which is recharged direct to a customer;

**"Audited Annual Revenue"** means £2,776,323;

**"Bad Leaver"** a person shall be a "Bad Leaver" if:

- (a) his employment with any member of the Purchaser's Group (including for the avoidance of doubt any member of the Group so long as it remains a subsidiary of the Purchaser following Completion) terminates; and
- (b) he does not become or remain employed by any other such member,

for any of the following reasons or in any of the following circumstances:

- (i) voluntary resignation other than in circumstances where the employee establishes before an industrial tribunal a claim for constructive dismissal; or
- (ii) dismissal for gross misconduct in breach of his service agreement;

**"Base Revenue"** means Audited Annual Revenue x  $\frac{M}{12}$

Where

- (i) in the case of paragraph 6.1 in part 2 of schedule 4,  $M=4$ , based on the four



months to 30 September 2005; and

- (ii) in the case of paragraph 6.3 in part 2 of schedule 4 , M=10 based on the ten months to 31 March 2006;

**“Core Business”**

means the business of the supply of regulatory reporting and compliance and anti-money laundering software or any other of the Company’s software and the maintenance of such software and related consultancy services;

**“Earn-Out Amount”**

means, for a particular Earn-Out Period, the amount calculated in accordance with paragraph 6 of Part 2 of this Schedule 4;

**“Earn-Out Accounts”**

means the First Earn-Out Accounts and the Second Earn-Out Accounts;

**“Earn-Out Consideration Shares”**

Ordinary Shares to be allotted to the Vendors credited as fully paid subject to and in accordance with paragraph 8 of Part 2 of this Schedule 4;

**“Earn-Out Market Price”**

means the average of the middle market closing quotations of the Ordinary Shares on AIM on each dealing day in the 30 days immediately preceding the date of the allotment of the Earn-Out Consideration Shares, subject always to a minimum of 10p and a maximum of 15p per Ordinary Share provided that if after Completion and prior to satisfaction of any Earn-Out Amount the Purchaser shall effect any of the following:

- (a) any consolidation or sub-division of its Ordinary Shares;
- (b) any bonus issue of shares or other securities to holders of its ordinary

shares;

such minimum and maximum shall be adjusted in such manner as the Purchaser's Auditors shall certify as appropriate to reflect the same;

**"Earn-Out Period"** means the First Earn-Out Period and the Second Earn-Out Period;

**"Final Date"** means 31 March 2006;

**"First Earn-Out Accounts"** means the unaudited management accounts for the Company and the Subsidiaries for the period covering the First Earn-Out Period;

**"First Earn-out Amount"** has the meaning given in paragraph 6.1 of Part 2 of Schedule 4;

**"First Earn-Out Period"** means the period from 1 June 2005 to the Interim Date;

**"First Period Actual Revenue"** means Actual Revenue for the First Earn-Out Period;

**"Gross Profit"** means the profit of the Group before tax subject to the following adjustments:

- (i) no account shall be taken of new or increased directors fees for directors appointed by the Purchaser to the board of the Company or the Group on or following the date of this Agreement; and
- (ii) any costs that were incurred prior to 1 June 2005 which in accordance with consistent application of the Company's accounting policies used in previous years would have been charged to Profit and Loss wholly or partly in the First Earn-Out Period or the Second Earn-Out Period shall be so

charged to Profit and Loss in accordance with such consistent application of the Company's accounting policies from previous financial periods;

- (iii) any revenues that resulted from deals concluded prior to 1 June 2005 or services provided prior to 1 June 2005 which in accordance with consistent application of the Company's accounting policies used in previous years would have been credited to Profit and Loss wholly or partly before the First Earn-Out Period shall be apportioned to relevant months in consistent application of the Company's accounting policies;
- (iv) the termination payment made to Stephen Hiscock in April 2005 shall be treated for profit and loss purposes as charged in 12 equal monthly instalments from April 2005 to March 2006;

**"Interim Date"**

means 30 September 2005;

**"Second Earn-Out Accounts"**

means the unaudited accounts of the Company and the Subsidiaries for the 16 month period ending 31 March 2006 from which the relevant figures for the Second Earn-Out Period will be extracted;

**"Second Earn-Out Amount"**

has the meaning given in paragraph 6.3 of Part 2 of Schedule 4;

**"Second Earn-Out Period"**

means the period from 1 June 2005 to the Final Date;

**"Second Period Actual Revenue"**

means Actual Revenue for the Second Earn-Out Period; and

“Vendors’ representative”

Michael Thomas or such other person as a Qualifying Majority may from time to time nominate by notice in writing to the Purchaser.

**Part 2**  
**Earn-Out Accounts, etc**

1. The Purchaser and the Vendor Warrantors shall procure (so far as each is able) that:
  - (a) the unaudited management accounts for the Company and the Subsidiaries for the period covering the First Earn-Out Period ("First Earn-Out Accounts") are prepared promptly following the end of the First Earn-Out Period;
  - (b) the audited accounts of the Company and the Subsidiaries for the 16 month period ending 31 March 2006 from which the relevant figures for the Second Earn-Out Period will be extracted, ("Second Earn-Out Accounts") are prepared promptly following the end of the Second Earn-Out Period;
  - (c) the Purchaser's Auditors shall (at the Company's cost) review the First Earn-Out Accounts and the Second Earn-Out Accounts as soon as practicable following the end of the relevant Earn-Out Period and in any event within three months of the end of that Earn-Out Period;
  - (d) the Purchaser's Auditors are provided with such assistance and access to the records of the Company and other accounting and financial information as may be reasonably required or requested by them to enable them to review the First Earn-Out Accounts and the Second Earn-Out Accounts in respect of the relevant Earn-Out Period;
  - (e) the Vendor Warrantors are provided with such assistance and access to the records of the Company and the Subsidiaries and other accounting and financial information as may be reasonably required or requested by the Vendor Warrantors to enable them to provide such input as they may request into the preparation of the First Earn-Out Accounts and the Second Earn-Out Accounts in respect of the relevant Earn-Out Period including access to the Purchaser's Finance Department and where appropriate Auditors and their working papers at all times; and
  - (f) the Purchaser's Auditors consult at all times in good faith with the Vendor Warrantors with a view to agreeing the First Earn-Out

Accounts and the Second Earn-Out Accounts in respect of the relevant Earn-Out Period.

## **2. General Requirements**

2.1. Subject as otherwise expressly provided in this Schedule, the Earn-Out Accounts shall be prepared under the historical cost convention as follows:

- (a) on a basis consistent with, and to a standard at least equivalent to that used in, the audited consolidated balance sheet and profit and loss account of the Group made up to the Balance Sheet Date;
- (b) subject thereto, in accordance with accounting principles generally accepted in the United Kingdom (including Accounting Standards);
- (c) omitting transactions effected or required to be effected as part of completion of this Agreement.

2.2. Unless already taken into account, the following principles shall be observed in drawing up the balance sheet which is to form part of the Earn-Out Accounts:

- (a) sums receivable in respect of debtors shall not be included at sums higher than the amounts collectable, making appropriate provision for doubtful debts;
- (b) stocks and work-in-progress shall be valued at the lower of cost and net realisable value;
- (c) no value shall be attributable to goodwill or any other intangible asset;
- (d) no amount shall be included in respect of deferred tax assets.

2.3. The Earn-Out Accounts shall show a true and fair view of the state of affairs of the Group at the close of business on the date to which they are made up and of the profit/losses of the Group for the periods covered by them.

2.4. Unless otherwise taken into account in accordance with the preceding provisions of this Schedule, the Earn-Out Accounts shall be prepared without regard to any changes in Accounting Standards from those applied in the preparation of the Accounts.

### 3. Adjustments

3.1. Save as otherwise agreed in writing between the Purchaser and a Qualifying Majority, the Earn-Out Accounts shall be prepared subject to adjustments as follows:

- (a) in respect of any transaction between the Purchaser and any member of the Purchaser's Group which is not at arm's length, there shall be substituted terms which are at arm's length;
- (b) before making any adjustment or charge for corporation tax or any form of taxation charged or assessed on the profits or gains of the Group;
- (c) after including interest receivable and payable at arm's length rates;
- (d) before payment of dividends or other distributions;
- (e) before taking into account profits or losses on disposal of fixed assets;
- (f) after taking into account operational exceptional items;
- (g) before taking into account non-operational exceptional and extraordinary items;
- (h) after making appropriate adjustments to exclude the effect of any surrenders of Reliefs and/or transfers of funds or payments for such Reliefs made between the Group and the Purchaser's Group;
- (i) after making appropriate adjustments to exclude the effect of any transfer of funds or payments to or from the Group required to be made by the Purchaser for Taxation purposes;
- (j) after taking into account any profit shares and bonuses paid or payable to employees of the Group in respect of the relevant period including that of Michael Thomas (but subject always to paragraph (i) of the definition of "Gross Profit"); and
- (k) any other adjustment as may be agreed in writing between a Qualifying Majority and the Purchaser.

3.2. For the purposes of Clause 3.1 "transaction" shall include (without limitation):

- (i) the lending or borrowing of money, and/or being party to any bank netting arrangement for the purposes of calculating interest;
- (ii) the payment of remuneration or fees to any person who does not work full-time on the affairs of the Purchaser; and
- (iii) the granting of assistance and facilities, including the secondment of employees and the sharing or leasing of premises.

#### **4. Delivery of Accounts to Vendors' Representative**

4.1. Within 20 Business Days following the preparation of the First Earn-Out Accounts and the Second Earn-Out Accounts, the Purchaser shall deliver copies of them to the Vendors' Representative together with a schedule ("Schedule") showing the calculations of the Gross Profit and of the Actual Revenues for the period to which such accounts relate and references in this Schedule to the Group's accounts shall be construed accordingly.

4.2. The Vendors shall have 20 Business Days from the date of delivery of the Group's accounts to them to review the same (the "Review Period").

4.3. The Vendors' Representative shall on or before the expiry of the Review Period notify the Purchaser in writing on behalf of all the Vendors or a Qualifying Majority thereof that he agrees or disagrees with the Schedule. For the avoidance of doubt, in the event that the Vendors' Representative does not serve any notice on the Purchaser in accordance with this paragraph 4.3, they shall be deemed to agree with the Schedule.

#### **5. Reference to Independent Accountant**

5.1. If the Vendors' Representative notifies the Purchaser in accordance with paragraph 4.3 that either all of the Vendors or a Qualifying Majority disagree with the Schedule then the parties shall use their respective reasonable endeavours to agree the Schedule within 20 Business Days (or such longer period as the parties may agree), failing which the disagreement shall be referred to an independent accountant (the "Independent Accountant") who shall determine the matter in dispute and issue his certificate in that respect.



- 5.2. The Independent Accountant shall be nominated jointly by the Vendors' Representative and the Purchaser or failing a nomination shall be appointed at the request of either the Purchaser or the Vendors' Representative at any time by the President for the time being of the Institute of Chartered Accountants in England and Wales.
- 5.3. In particular the Independent Accountant shall, where the amount of the Gross Profit or Actual Revenues (as the case may be) is in dispute, determine the same for the First Earn-Out Period or the Second Earn-Out Period and give his certificate as to the Gross Profit or the Actual Revenues (as the case may be) for the relevant period and as to the amount of the Deferred Consideration.
- 5.4. The Independent Accountant shall be instructed to deliver his certificate within 20 Business Days of his nomination or appointment (or such longer period as the Purchaser and the Vendors' Representative may agree in writing) and shall act as an expert and not as an arbitrator and (in the absence of manifest error) his decision (which shall be communicated in writing to the Vendors and the Purchaser) shall be final and binding on the Vendors' Representative and Purchaser. The fees and costs of the Independent Accountant shall be payable and paid by the Vendors and the Purchaser in the proportions the Independent Accountant directs and in the absence of such direction his fees and costs shall be borne as to fifty per cent by the Purchaser and as to fifty per cent by the Vendors.
- 5.5. The Vendors and the Purchaser shall procure that all records and working papers and other information in their possession or under their control as may be reasonably required by the Independent Accountant to enable him to resolve the dispute shall be made available as soon as possible on request.
- 5.6. The cost of the Vendors' Accountants in connection with the determination of the Deferred Consideration shall, except where the Independent Accountant otherwise decides, be paid by the Vendors and the equivalent costs of the Purchaser's Accountants shall be paid by the Purchaser with the exception only of those costs properly attributed to their audit responsibilities which shall be paid by the Company.

## **6. Calculation of Earn-Out Amount**

6.1. The First Earn-Out the Amount shall be an amount equal to the aggregate of (a) and (b) as follows:

- (a) £ zero if the First Period Actual Revenue is less than 90 per cent. of the Base Revenue for that period and £250,000 if the First Period Actual Revenue is 110 per cent. or more of the Base Revenue for that period. If the First Period Actual Revenue is between 90 per cent. and 110 per cent. of the Base Revenue, the payment will be adjusted by £12,500 for each 1 per cent (or part thereof) that First Period Actual Revenue exceeds 90% of Base Revenue to a maximum of 110% of the Base Revenue

PLUS

- (b) £ zero if the Gross Profit for the First Earn-Out Period is £(75,000) or less (i.e. a loss of £75,000 or more) and £250,000 if the Gross Profit for the First Earn-Out Period is £100,000 or more . If the Gross Profit for the First Earn-Out Period is between these figures, the payment will be adjusted £2,500 for each £1,750 (or part thereof) of increased Gross Profit over £(75,000) up to a maximum of £100,000 Gross Profit;

as shown by the First Earn-Out Accounts and the Schedule as agreed by a Qualifying Majority or settled by an Independent Accountant as hereinbefore provided.

6.2. For the avoidance of doubt, the maximum amount of consideration payable pursuant to each of paragraphs 6.1(a) and 6.1(b) shall be £250,000 and the maximum amount payable in aggregate under paragraph 6.1 shall be £500,000.

6.3. The Second Earn-Out Amount shall be an amount equal to the aggregate of (a) and (b) as follows:

- (a) £ zero if the Second Period Actual Revenue is less than 90 per cent. of the Base Revenue for that period and £250,000 if the Second Period Actual Revenue is 110 per cent. or more of the Base Revenue for that period. If the Second Period Actual Revenue is between 90 per cent. and 110 per cent. of the Base Revenue, the payment will be adjusted by £12,500 for each 1 per cent (or part thereof) that Second Period Actual

Revenue exceeds 90% of Base Revenue to a maximum of 110% of the Base Revenue;

PLUS

- (b) £ zero if the Gross Profit for the Second Earn-Out Period is £(100,000) or less and £250,000 if the Gross Profit for the Second Earn-Out Period is £250,000 or more. If the Gross Profit for the Second Earn-Out Period is between these figures, the payment will be adjusted £2,500 for each £3,500 (or part thereof) of increased Gross Profit over £(100,000) up to a maximum of £250,000 of Gross Profit,

all as shown by the Second Earn-Out Accounts and the Schedule as agreed by a Qualifying Majority or settled by an Independent Accountant as hereinbefore provided.

- 6.4. For the avoidance of doubt, the maximum amount of consideration payable pursuant to paragraphs 6.1 and 6.3 shall be £1,000,000.

## 7. Set Off

- 7.1. For each Earn-Out Period, the Earn-Out Amount determined by reference to paragraphs 6.1 and 6.3 shall be adjusted as follows:

- (a) If any Warranty Claim or claim under the Tax Covenant ("Claim") (or part of a Claim) is settled or resolved during an Earn-Out Period (a "Settled Claim"), the Earn-Out Amount payable to the Vendor Warrantors for that Earn-Out Period shall be reduced by the amount of the Settled Claim; and
- (b) If the amount of a Settled Claim is greater than the Earn-Out Amount payable to the Vendor Warrantors for the Earn-Out Period in respect of which it is deducted and any balance of the Settled Claim remains unpaid at the end of a subsequent Earn-Out Period such balance shall be set off against the Earn-Out Amount payable to the Vendor Warrantors for that subsequent Earn-Out Period and the Earn-Out Amount payable to the Vendor Warrantors for that subsequent Earn-Out Period shall be reduced accordingly.

7.2. For the purposes of paragraph 7.1:

- (a) a Claim shall be deemed to be settled upon the Vendor Warrantors and the Purchaser agreeing a final settlement in respect thereof and a Claim shall be deemed to have been resolved upon any judgment, order or decree of a Court of competent jurisdiction having been given in proceedings therein in respect of the Claim;
- (b) the adjustment to the Earn-Out Amount payable to the Vendor Warrantors shall be the amount agreed by the Vendor Warrantors and the Purchaser under any such settlement or determined by any such judgement order or decree (as the case may be) to be payable by the Vendor Warrantors in respect of the Claim; and
- (c) nothing in that paragraph shall affect the Earn-out Amount payable to RBV or any other person who is not a Vendor Warrantor.

7.3. All monies deducted from Earn-Out Amounts pursuant to this paragraph 7 shall pro tanto satisfy an equivalent amount of the Vendor Warrantors' liability under the Warranties and/or the Tax Schedule (as the case may be) but this shall in no way prejudice or affect any other rights or remedies of the Purchaser for the purpose of recovering any amount due to it from the Vendor Warrantors which is not satisfied by such means nor any right or remedies of the Vendor Warrantors in respect of any appeal against any judgment order or decree pursuant to which monies are deducted from Earn-Out Amounts.

**8. Payment of Earn-Out Consideration**

8.1. Subject to paragraph 8.2, the Earn-Out Amounts shall be satisfied by the issue and allotment to the Vendors in the proportions set out against each Vendor's name in column (5) of Schedule 1 of such number of Earn-Out Consideration Shares, as shall be equal to the relevant Earn-Out Amount divided by the Earn-Out Market Price (rounded down to the nearest whole number of shares).

PROVIDED THAT if at the time any Earn-out Amount is due to be paid or satisfied:

- (a) the Earn-Out Consideration Shares issued or otherwise due to be issued in satisfaction of such Earn-Out Amount have not been so admitted forthwith upon allotment;

- (b) the ordinary share capital of the Purchaser is no longer admitted to trading on AIM or the Official List;
- (c) such admission or listing shall have been suspended;
- (d) the relevant regulatory authority shall have indicated an intention to cancel or suspend the admission or listing of the Ordinary Shares,

a Qualifying Majority of Vendors shall be entitled on behalf of all the Vendors to agree or require that the relevant Earn-out Amount shall be satisfied by the issue of Deferred Consideration Loan Notes in an aggregate principal amount equal thereto. PROVIDED FURTHER THAT where proviso ( c ) applies but the suspension is for a period not exceeding 60 days and on account of a major transaction undertaken or due to be undertaken by the Purchaser within that period; the obligation of the Purchaser to satisfy the relevant Earn-out Amount shall be deferred until the earlier of the expiry of such 60 days or termination of such suspension and so that if at such expiry such suspension shall be continuing a Qualifying Majority shall be entitled to agree or require as aforesaid.

- 8.2. The Earn-Out Consideration Shares or Deferred Consideration Loan Notes (as the case may be) will be allotted or issued by the Purchaser and relevant certificates delivered to the Vendors within 5 Business days following agreement or settlement of the First Earn-Out Accounts or the Second Earn-Out Accounts.
- 8.3. Under no circumstances shall any individual Earn-Out Amount be a negative figure.
- 8.4. During the Earn-Out Period the Purchaser shall not or (as the case may be) shall procure that the following matters shall not be carried out without the prior written consent of the Vendor Warrantors (such consent not to be unreasonably withheld or delayed):
  - (a) the Purchaser shall not sell a controlling interest in the Company to any person other than a member of the Purchaser's Group;
  - (b) there shall be no sale, lease, transfer, licence, or other disposal of any material part of the assets, business or undertaking (other than in the case of assets, in the normal course of trading) of the Group or any

- acquisition of any assets, business or undertaking (other than in the normal course of trading) (in each case, whether by a single transaction or by a series of related transactions) where to do so would or would be reasonably likely to reduce the amount payable in respect of any Earn-Out Period;
- (c) the business of the Group shall not be merged with that of any other business or company;
  - (d) no member of the Purchaser's Group shall solicit for engagement or otherwise entice away any senior employee of the Group (save for staff in the Finance, Administration, Human Resources or Information Technology areas who may be re-assigned to positions of employment with other members of the Purchaser's Group) by prior agreement with the Chief Executive Officer of the Company;
  - (e) no member of the Group shall enter into any transaction other than on a *fully arms' length* basis.

### **Part 3**

#### **Conduct of Target Business during Earn-Out Period**

1. The Purchaser undertakes to each Vendor that during the Earn Out Period it shall exercise its powers in relation to the Group to procure (so far as it is able by such exercise) that:
  - (a) the Group does not do any act or thing with the predominant objective of reducing or inflating the Earn-Out Actual Revenue or Earn-Out Gross Profit unfairly or artificially; and
  - (b) the business of the Group is carried on in the ordinary and proper course with a view to achieving maximum sustainable Actual Revenue and Gross Profit, realistically obtainable throughout the Earn-Out Period as is consistent with the long term best interests of the Purchaser's Group.
2. The Purchaser further undertakes to each Vendor that save as otherwise agreed in writing by a Qualifying Majority the Purchaser shall, or shall procure that, throughout the Earn-Out Period:
  - (a) the Purchaser shall act in good faith towards the Vendors' interest under this Agreement;
  - (b) no member of the Purchaser's Group shall do anything whereby income which should properly have been recognised in the audited accounts of the Group for the Earn-Out Period is excluded from such audited accounts;
  - (c) the Purchaser shall not, during the Earn-Out Period, dispose of its interest in any of the issued equity share capital of any member of the Group, except to another member of the Purchaser's Group provided that before any such member to whom any such shares shall have been transferred ceases to be a member of the Purchaser's Group, it shall transfer the shares transferred to it pursuant to this clause to the Purchaser (or another member of the Purchaser's Group at that time);
  - (d) no member of the Group shall dispose of or cease to carry on the whole or a substantial part of its business or undertaking save as a result of

such member becoming insolvent nor shall any such business be merged with any other business;

- (e) no member of the Group shall dispose of any asset which is material for the conduct of its business as currently carried on;
  - (f) no member of the Group shall acquire or enter into any agreement to acquire the whole or any substantial part of the securities, business or undertaking of any company, or form or take an interest in any joint venture or partnership;
  - (g) that any liability incurred by any member of the Group under any guarantee or indemnity in respect of the liabilities of any member of the Purchaser's Group is left out of account in the calculation of Earn-Out Gross Profit;
  - (h) no member of the Purchaser's Group shall, solicit or endeavour to entice away from the employment of any member of the Group, offer employment to or employ any person who is at Completion or becomes at any time during the Earn-Out Period employed by any member of the Group, whether or not such a person would commit a breach of their contract with any member of the Group in so doing;
  - (i) no director (other than any director appointed by or at the request of the Purchaser) or senior employee (meaning an employee whose annualised emoluments exceed £30,000) of any member of the Group shall be seconded, allocated or otherwise transferred or required to provide services to any member of the Purchaser's Group (save for staff in the Finance, Administration, Human Resources or Information Technology areas who may be re-assigned to positions of employment with other members of the Purchaser's Group by prior agreement with the Chief Executive Officer of the Company).
3. The Purchaser undertakes to each Vendor to exercise its powers in relation to the Group to procure, so far as it is reasonably able by the exercise of such powers and subject to the rights of the Vendors, that, during the Earn-Out Period, except either (A) with the prior written consent of the Qualifying Majority (in which case the provisions of paragraph 5 shall not apply), or (B) without such consent (in which case the provisions of paragraph 5 shall apply)



no resolution is passed for the liquidation or administration of any member of the Group, except in circumstances in which the directors of such member of the Group have received advice from a registered insolvency practitioner to the effect that it is their duty to cause such member of the Group to be wound up or placed in administration, having regard to its financial position.

4. The Purchaser undertakes to each Vendor that, during the Earn-Out Period, except either (A) with the prior written consent of the Qualifying Majority (in which case the provisions of paragraph 5 below shall not apply) or (B) without such consent (in which case the provisions of paragraph 5 shall apply):

(a) no member of the Purchaser's Group shall enter into any contract or arrangement with any member of the Group except on arm's length commercial terms, it being agreed that during the Earn-Out Period:

(i) the rate of interest charged on the MT Loan shall represent an arm's length commercial rate for borrowings by the Company from the Purchaser's Group;

(ii) cash balances derived from the Group shall earn interest at a rate equal to one per cent less than the base rate of the Purchaser's principal bankers from time to time and the Purchaser shall procure that appropriate amounts shall be credited as interest to the Company at monthly intervals;

and

(b) for access to any financial, management and other facilities of the Purchaser's Group, no member of the Purchaser's Group charges any member of the Group an amount in excess of a fair allocation of the cost to the Purchaser's Group for the facility or service in question;

5. For the purposes of determining the Revenues and Gross Profit (as the case may be), the Purchaser undertakes to notify such of the Vendors as constitutes a Qualifying Majority promptly in writing during the Earn-Out Period of any act or event on the part of a member of the Purchaser's Group or a member of the Group as specified in paragraphs 3 or 4 ("Adjustment Event") of which the Purchaser becomes aware otherwise than from the Company and to which the Vendors' Representative did not consent for the purpose of that clause and to

which the provisions of this paragraph 5 therefore apply. Any Independent Accountant appointed pursuant to paragraph 5 of Part 2 of this Schedule of the Agreement shall be given notification of each Adjustment Event so that the Independent Accountant shall, if so required by the Vendors' Representative/Qualifying Majority in accordance with paragraph 5 of Part 2 of this Schedule, be requested to consider making such adjustments to the Earn-Out Gross Profit or Earn-Out Actual Revenues (as the case may be) to properly and fairly reflect, in the Independent Accountant's opinion, the actual level of Earn-Out Gross Profit or Earn-Out Actual Revenues (as the case may be) as if the Adjustment Event had not been effected or occurred.

6. The Purchaser agrees to procure that there is provided to the Group throughout the Earn-Out Period working capital in such amounts and at levels which are consistent with the requirements of the Business but which shall not exceed by more than twenty percent the maximum requirement indicated in the cashflow projection supplied by the Vendors and dated 13 July 2005 or any amended version thereof agreed from time to time by the Purchaser.
7. The Purchaser agrees that, each of the Vendor Warrantors shall continue to be employed by the Group in substantially the same capacity as at present and shall be responsible for the day-to-day operation and management of the business of the Group during the Earn-Out Period provided that this paragraph shall not apply to any Vendor Warrantor who becomes a Bad Leaver.
8. The parties undertake each to the other that they shall not, and shall procure (so far as they are reasonably able) that no member of the Group shall, at any time during the Earn-Out Period, without the prior written consent of the Purchaser and a Qualifying Majority (such consent not to be unreasonably withheld or delayed):
  - (a) make any material change to the terms and conditions of engagement applying to the terms of employment of the employees of any member of the Group, or any group of them;
  - (b) vary the terms of or (otherwise than in accordance with the terms thereof in force from time to time) terminate the employment or engagement or directorship (including any change in the level of salary

or directors' fees or in the basis on which bonuses and incentives are determined) of any of the Vendors who are to remain employees of the Group following Completion, or enter into or (otherwise than in accordance with the respective term thereof) vary or terminate any other agreement, arrangement or transaction with any of those persons or their associated persons, or grant any consent, waiver or dispensation in favour of any such person;

- (c) borrow any sum or obtain any advance or credit in any form except from a member of the Purchaser's Group;
- (d) make any material change to the nature (but not the scope) of the business of the Group or (save as reasonably necessary to bring the same in line with compliance procedures and policies of the Purchaser's Group) make any material change in the manner in which such business is conducted;
- (e) (save to the extent it did so during the twelve months prior to Completion) carry on any business through a branch outside the United Kingdom;
- (f) change the name or trading name of any member of the Group;
- (g) acquire any asset or contract to receive any services or dispose of any asset or contract to provide any service otherwise in any case than at arms length;
- (h) make any change in the accounting principles, practices or bases used in the preparation of its audited accounts save for changes required by law or required as a consequence of changes in generally accepted accounting practice after the date of this Agreement (or to the extent that such changes are made to bring the Group's accounting policies into line with those of the Purchaser, such changes shall be disregarded for the purposes of the Earn-Out Accounts);
- (i) pass any resolution for the liquidation or administration of any member of the Group, except in circumstances in which the directors of such member of the Group have received advice from a registered insolvency practitioner to the effect that it is their duty to cause such member of

the Group to be wound up or placed in administration, having regard to its financial position;

- (j) establish any pension scheme, share option scheme, employee share scheme or any profit sharing or other employee performance related remuneration scheme or vary or discontinue any such scheme;
- (k) commence, discontinue, settle or compromise any legal, arbitrational or tribunal proceedings (in whatever capacity) which are material or may damage the goodwill of the member of the Group;
- (l) incur any capital expenditure (including expenditure financed through equipment leases or similar finance agreements) materially in excess of that contemplated in any financial year;
- (m) subscribe for, purchase, take or acquire any share, debenture, mortgage, charge or other security (or any interest therein) in any body corporate;
- (n) save as required by the terms of the banking facilities granted to the Purchaser's Group from time to time, permit or agree to any material variation or amendment to the terms of its banking facilities or to any of the documents, consents, mandates or rights relating thereto;
- (o) acquire any material asset or business or dispose of any material part of the business or undertaking of the Group (taken as a whole) or any interest in the Shares of a member of the Group;
- (p) consolidate or sub-divide or alter any of the rights attached to any of its issued shares or purchase any of its own shares or reduce its share capital or repay any amounts standing to the credit of any share premium account or capital redemption reserve or otherwise reorganise its share capital or enter into any scheme of arrangement with its creditors;
- (q) agree to do any of the above,

and for the purposes of this paragraph 8 the written consent of the CEO of the Purchaser or the board of the Purchaser shall constitute the consent of the Purchaser.

**Part 4**  
**Further Provisions**

1. In the event that at any time prior to the end of the Earn-Out Period any of the Vendors shall be a Bad Leaver, then a Qualifying Majority shall be entitled by notice in writing to the Purchaser to require that the entitlement of such Vendor to share in any Earn-Out Amount be varied as follows:
  - 1.1. If he became a Bad leaver prior to 30 September 2005, then a Qualifying Majority shall be entitled to require that there be forfeited and redistributed to other Vendors pro rata to their respective entitlements (after taking account of any previous operation of this paragraph) such part as they may specify of:
    - (a) the Bad Leaver's share of the Second Earn-Out Amount, and
    - (b) a pro rata share of his share of the First Earn-Out Amount in the proportion that the unexpired period of the First Earn-Out Period from the date of termination bears to the whole of the First Earn-Out Period.
  - 1.2. If he became a Bad leaver after 30 September 2005, then a Qualifying Majority shall be entitled to require that there be forfeited and redistributed to other Vendors pro rata to their respective entitlements (after taking account of any previous operation of this paragraph) such part as they may specify of a pro rata share of his share of the Second Earn-Out Amount in the proportion that the unexpired period of the Second Earn-Out Period from the date of termination bears to the whole of the Second Earn-Out Period.
  - 1.3. The Vendors hereby undertake to indemnify the Purchaser against any claims made by a Bad Leaver in connection with the matters contemplated by this paragraph 2.
2. If the Purchaser shall fail to satisfy on the date the same is due to be satisfied and otherwise in accordance with this Schedule any Earn-Out Amount, then all liability of the Vendor Warrantors under the Vendor Warranties and the Tax Schedule (including in respect of any claim made prior to such due date) shall forthwith cease and determine.

## **SCHEDULE 5**

### **Tax Schedule**

#### **1. Definitions and Interpretation**

In this Schedule 5 unless the context otherwise requires:

##### **1.1 The following words and expressions shall bear the following meanings:**

**"Covenantors"** the Vendor Warrantors as defined;

**"Event"** includes without limitation:

- (a) any act, transaction (including save as otherwise expressly provided Completion) omission;
- (b) the receipt, deemed receipt, or accrual of any profit, income or gains;
- (c) any distribution or payment of Dividend, and any failure to distribute profits available for distribution as dividend;
- (d) the supply or deemed supply of goods and services;
- (e) acquisition, disposal, transfer, of any asset;
- (f) payment, loan or advance of any monies;
- (g) the death of any person;
- (h) any change of residence of any person for the purposes of Tax; and
- (i) any company being or ceasing to be a member of a group of companies (howsoever defined) for the purposes of any Tax;

;

**"Relief"** includes any loss, relief, allowance, exemption, or set-off in respect of Taxation, or any deduction in computing income profits or gains for the purposes of Taxation, and any right to repayment or credit of Taxation or other relief of a similar nature available in relation to Taxation pursuant to any legislation or otherwise;

**"Tax Claim"** any claim made for a liability to Tax arising under and made by the Purchaser under this Schedule 5 or any claim under the Warranties relating to Taxation.

- 1.2 For the avoidance of doubt, all words and expressions defined in the Agreement except where otherwise provided or expressly defined in this Schedule 5 shall have the same meaning in this Schedule 5 and for the avoidance of doubt references to UK legislation in this Schedule 5 shall be construed as references to equivalent legislation and/or the corresponding law (if any) in the jurisdictions and/or territories of residence of the Subsidiaries.
- 1.3 A liability to Tax of the Group includes (to the extent provided by paragraph 1.4 following) not only an actual payment of Taxation but also:
- (a) the loss or setting off as a result of any Event occurring on or before Completion of any Relief ("**Accounts Relief**") whether by set-off against income profit or gains (whether past, present or future) or by set off against any liabilities to Tax which would (were it not for the Tax Assessment in question) have been granted or available to the Group and which has been taken into account as an asset in the Accounts;
  - (b) the loss of a right to repayment of Tax which has been treated as an asset in the Accounts or the setting off of any such right against any actual liability in respect of which the Purchaser would, but for that setting off, have been able to make a Tax Claim against the Covenantors;
  - (c) the setting off against income, profits or gains earned, accrued or received on or before Completion of any Relief ("**Post Completion Relief**") which arises in respect of an Event occurring after Completion and was not available before Completion in circumstances where, but for such setting off, the Group would have had to make an actual

payment of Taxation in respect of which the Purchaser would have been able to make a Tax Claim against the Covenantors.

1.4 The amount that is to be treated for the purposes of this Schedule 5 as a liability to Tax in any case falling within paragraphs 1.3(a), 1.3(b) and 1.3(c) above ("**the Notional Tax Liability**") shall be determined as follows:

- (a) in a case which falls within paragraphs 1.3(a) or 1.3(c) and where the Relief that was the subject of the loss or setting off mentioned in those paragraphs was a deduction from or offset against income, profits or gains, the Notional Tax Liability shall be:
  - (i) in the case of such a setting off of the relevant Relief, the amount of Tax which has been saved in consequence of the setting off; or
  - (ii) in the case of such a loss of the relevant Relief, the amount of Tax which, but for such loss, would have been saved by virtue of the Relief, on the basis of the value attributed to the Relief in the Accounts;
- (b) in a case which falls within paragraphs 1.3(a) or 1.3(c) and where the Relief which was the subject of the loss or setting off mentioned in those paragraphs was a deduction from or offset against Taxation, the Notional Tax Liability shall be the amount of that deduction or offset;
- (c) in a case which falls within paragraph 1.3(b), the Notional Tax Liability shall be the amount of the repayment that would have been obtained or the credit for Taxation which would have been available but for the loss or setting off mentioned in that paragraph,

and in each case on the basis of the lower of Tax rates current at the date of Completion and the rate used in calculating the relevant Relief or right to repayment.

1.5 Any reference to profits being earned, accrued or received on or before a particular date or in respect of a particular period shall include any profits deemed for Taxation purposes to have been earned, accrued or received on or before that date or in respect of that period.



- 1.6 Words and expressions not otherwise defined in this Schedule 5 and/or or in the Agreement but which are defined or used in the relevant legislation relating to Taxation or other relevant matters have the same meaning in this Schedule 5 as they have in such legislation.

**2. Covenant**

- 2.1 Subject as hereinafter provided, the Covenantors hereby jointly and severally covenant with the Purchaser to pay to the Purchaser an amount equal to any liability to make a payment of Taxation or any Notional Tax Liability (as determined in accordance with paragraph 1.4 above) which falls on the Group either of which results from or by reference to:
- (a) any income profits or gains earned, received or accrued by the Group on or before Completion;
  - (b) any Event on or before Completion and whether or not such Taxation is chargeable against or attributable to any other person;
  - (c) any withdrawal of relief granted prior to Completion pursuant to section 42 FA 1930 as amended and Sections 126 and 127 and Schedule 7 FA 2003 relating to an Event occurring on or before Completion;
  - (d) a payment or deemed payment by the Group constituted as a chargeable payment for the purpose of Section 214 ICTA made prior to Completion;
  - (e) section 767A, 767AA or 767B ICTA on account of any change of ownership of the Company or any of the Subsidiaries made prior to Completion;
  - (f) section 179 TCGA on account of an Event occurring on or before Completion including entering into the Agreement;
  - (g) SDLT arising by reference to any UK land transaction entered into on or before Completion;
  - (h) the provisions of Part 7 Chapters 1 to 5 ITEPA in respect of securities acquired prior to Completion or securities options as defined therein granted prior to Completion;

- (i) any failure of the Group to effect the proper filing and/or reporting obligations required by any Taxation Authority prior to Completion;
- (j) any imputation of market rates by any Taxation Authority on royalty fees charged in respect of intra-Group sales effected or deemed to be effected prior to Completion;
- (k) any royalty fee imposed by any Taxation Authority relating to intra-Group sales on license of computer software made prior to Completion;
- (l) any Taxation imposed on STB Singapore in respect of any period prior to Completion due to it being deemed to be UK resident prior to Completion;
- (m) payments to individuals prior to Completion in respect of their duties to the Group, whether as employees, consultants, officers and/or as deemed employees or officers and including payments to personal service companies relating to such duties;
- (n) the loss of relief against losses arising as a result of Completion, including losses of US\$885,000 and HK\$5,527,000 arising in the USA and Hong Kong respectively which are not available after Completion (but, for the avoidance of doubt, excluding any restriction of such relief by virtue of any applicable legislative provision, regulation or statement of practice in the USA);
- (o) the non-registration of STB Singapore on or before Completion for sales tax or VAT equivalent in Singapore;
- (p) section 765 ICTA; or
- (q) sections 199 and 237 IHTA.

2.2 Each of the covenants contained in paragraph 2.1 shall be construed as a separate and independent undertaking and shall not be restricted by any of the others save that any payment by the Covenantors in respect of a liability under one covenant shall pro tanto discharge any liability under another arising out of the same subject matter.

the extent that:

- (a) provision or reserve in respect thereof was made in the Accounts;
- (b) it was paid on or before Completion and taken into account in the Accounts;
- (c) provision or reserve in respect thereof was made in the Accounts and is insufficient or such liability arises only by reason of any increase in rates of Taxation or as a result of any change in the law or the interpretation thereof by any competent court or authority or as a result of the withdrawal of any regulation or published practice of a Taxation Authority made after the Completion with retrospective effect;
- (d) the Group is or may become primarily liable in respect thereof as a result of transactions in the ordinary course of business of the Group after the Balance Sheet Date;
- (e) it arises from a disclaimer by the Group after Completion of capital or other allowances available to be claimed before Completion in respect of any period ended on or before Balance Sheet Date;
- (f) such liability would not have arisen but for a failure or omission by the Group to make any claim, election, surrender or disclaimer or give any notice or consent or do any other thing after Completion the making of giving or doing of which was taken into account in computing the provision for Taxation in the Accounts where the same was notified to the Purchaser within a reasonable time prior to the last date before which such claim, election, surrender or disclaimer could have been made;
- (g) it would not have arisen or would have been reduced but for a cessation of trade or a change in the nature or conduct of a trade carried on by the Company at Completion in either case occurring after Completion;
- (h) it arises as a result of a voluntary act or omission carried out or effected by the Purchaser or Group after Completion outside the ordinary course of business carried on by the Group at Completion save for any act or omission requested by the Covenantors or in fulfilment of legal obligations entered into by the Group on or before Completion;

- (i) it would not have arisen but for a change after Completion in the accounting bases upon which the Company values its assets (other than a change made in order to comply with UK GAAP) and including any such change in the length of any accounting period for Tax purposes of the Company;
- (j) the Tax Liability is a liability to interest, fines or penalties which would not have arisen but for the failure by the Purchaser to comply with its obligations under paragraph [8] of this Schedule;
- (k) the Tax Liability is a liability to interest, fines or penalties which would not have arisen but for the failure to submit returns, self assessment and/or computations required to be made by or on behalf of any member of the Group or the failure to submit such returns and computations within the applicable time limit or on a proper basis, in each case after Completion, in respect of any Taxation provided for in the Accounts; or
- (l) notice of such Claim has been given by the Purchaser to the Covenantors after the seventh anniversary of Completion.

3.2 For the purposes of this Schedule 5, none of the following which occurs prior to Completion shall be regarded as occurring in the ordinary course of business of the Group (but without limitation to the meaning of that expression):

- (a) any payment of Dividend or distribution (within the meaning of Part VI (and section 418) ICTA) or deemed distribution;
- (b) the disposal or acquisition of any asset (including trading stock) or the supply or obtain of any service or business facility of any kind (including a loan of money or the letting, hiring, or licensing of any kind tangible or intangible property) to the extent that the consideration (if any) actually received or given for such disposal, acquisition, supply or obtaining is different from the consideration deemed to have been received or given for any Taxation purpose;
- (c) any event which gives rise to a liability under Part XVII ICTA (Tax Avoidance);
- (d) the disposal of any capital asset;

- (e) the creation, cancellation or reorganisation of any share or loan capital of the Group; and
  - (f) the failure by the Group to deduct or account for any Taxation in respect of any Event which gives rise to any fine, penalty, surcharge, interest or other imposition relating to Taxation.
- 3.3 The Purchaser hereby agrees with the Covenantors that the Covenantors shall not be liable under this Schedule 5 to the extent that the Covenantors have fully satisfied a liability elsewhere under the Agreement in respect of any breach of Warranty, representation or undertaking in relation to the same amount of Taxation in respect of the same Event.
- 3.4 The liability of each Covenantor for any Claim under this Schedule shall be in accordance with paragraph 3 of Schedule 6 and shall be satisfied in accordance with paragraph 4 of that Schedule.
4. **Over Provisions and Reliefs**
- 4.1 If the Company's auditors for the time being (acting as experts and not as arbitrators) ("Auditors") certify (at the request and expense of the Covenantors) that any provision for Taxation in the Accounts has proved to be an over-provision, except insofar as such over provision is attributable to the effect of a change in rates of Taxation after the date of this Agreement then the amount of such over-provision shall be dealt with in accordance with paragraph 4.3.
- 4.2 If the Auditors certify (at the request and expense of the Covenantors) that any Tax Assessment which has resulted in a payment having been made or becoming due from the Covenantors under this Schedule 5 will give rise to a Relief for the Company which would not otherwise have arisen, then, as and when the Tax Assessment to make an actual payment of or in respect of Taxation is reduced by the reason of that Relief and after taking account of the effect of all other Reliefs that are or become available to the Company (including any Relief derived from a subsequent accounting period), the amount by which that Tax Assessment is so reduced shall be dealt with in accordance with paragraph 4.3.
- 4.3 Where it is provided under paragraphs 4.1 and 4.2 that any amount ("the

**Relevant Amount")** is to be dealt with in accordance with this paragraph 4.3:

- (a) the Relevant Amount shall first be set off against any payment then due from the Covenantors under this Schedule 5; and
- (b) to the extent there is an excess after set-off under paragraph 4.3(a), a refund shall be made to the Covenantors of any previous payment or payments made by the Covenantors under this Schedule 5 and not previously refunded under this paragraph 4.3 up to the amount of such excess; and
- (c) to the extent that the excess referred to in paragraph 4.3(b) is not exhausted under that paragraph, the remainder of that excess shall be carried forward and set off against any future payment or payments which become due from the Covenantors under this Schedule 5.

4.4 Where any such certification as is mentioned in paragraphs 4.1 and 4.2 has been made, the Covenantors or the Purchaser or the Company may (at its expense) require that the Auditors review such certification in the light of all relevant circumstances, including any facts which have become known only since such certification, and to certify whether such certification remains correct or whether in the light of those circumstances the amount that was the subject of such certification should be amended.

4.5 If the Auditors certify under paragraph 4.4 that an amount previously certified should be amended, that amended amount shall be substituted for the purposes of paragraph 4.3 as the Relevant Amount in respect of the certification in question in place of the amount originally certified, and such adjusting payment (if any) as may be required by virtue of the above-mentioned substitution shall be made as soon as practicable by the Covenantors or (as the case may be) to the Covenantors.

## **5. Recovery from Other Persons**

If, in the event of any payment in respect of a liability to Tax becoming due from the Covenantors, the Purchaser either is immediately entitled at the due date for the making of such payment to recover from any person (including any Tax Authority) any sum in respect of the liability to Tax or at some subsequent date becomes entitled to make such a recovery, then the Purchaser

shall procure that the Company promptly notifies the Covenantors of its entitlement and, if so required by a majority in number of the Covenantors and at the Covenantors' sole expense, take all appropriate steps to enforce the recovery (keeping the Covenantors informed of the progress of any action taken), and if the Covenantors have made a payment in respect of the liability to Tax in question, the Purchaser shall account to the Covenantors for whichever is the lesser of:

- (a) any sum so recovered by the Group in respect of the liability to Tax (including any interest or repayment supplement paid by the Tax Authority or other person in respect thereof but less any Taxation chargeable to the Group in respect of such interest and all costs and expenses reasonably and properly incurred by the Group or the Purchaser in obtaining recovery); and
- (b) the liability to Tax paid by the Covenantors.

## **6. Purchaser's Covenant**

6.1 The Purchaser hereby covenants with the Vendor to pay to the Vendor on demand:

- (a) an amount equal to any liability to Tax of the Company in respect of which an assessment is made on the Covenantors by virtue of sections 767A, 767AA, 767B and 769 of the Taxes Act and for which the Covenantors are not liable to make a payment to the Purchaser under this Schedule; and
- (b) where the Covenantors have made a payment in respect of Tax to the Purchaser under this Schedule and the Company fails to discharge such Tax, an amount equal to any liability to Tax which subsequently becomes payable by the Covenantors under section 767A, 767AA, 767B and 769 of the Taxes Act in respect of the same subject matter.

6.2 Where the Purchaser becomes liable to make any payment under paragraph 6.1 the due date for the making of that payment shall be the later of the date that is the date on which the Taxation is finally due to the Taxation Authority demanding the same and seven days after written demand therefore by the Covenantors to the Purchaser.

- 6.3 For the purpose of the Purchaser's covenant under this paragraph 6, paragraphs 10, 11 and 12 shall apply subject to references to Purchaser and Covenantors in such paragraphs being taken to be references to Covenantors and Purchaser respectively where so relevant.

**7. Tax Returns**

- 7.1 The Covenantors or their duly authorised agent shall at the Company's expense prepare the corporation tax returns of the Group for the accounting period ended on the Balance Sheet Date to the extent that they have not been prepared prior to Completion, as provided for in this paragraph 7.
- 7.2 The Covenantors or their duly authorised agent shall at the Company's sole expense prepare all documentation and deal with all matters (including correspondence) relating to the tax returns of the Group for all accounting periods ended on or prior to the Balance Sheet Date and the Covenantors shall provide the Purchaser with copies of all accounts, tax computations and all correspondence relating to such tax returns prior to their submission to the relevant Taxation Authority and the Purchaser may make such reasonable representations to the Covenantors as the Purchaser deems appropriate and the Covenantors shall take account of all such representations.
- 7.3 The Purchaser shall, upon reasonable notice being given by the Covenantors, procure that the Group shall afford such access to its books, accounts and records and personnel as is necessary and reasonable to enable the Covenantors or their duly authorised agent to prepare tax returns and conduct matters relating thereto in accordance with the Covenantors rights under this paragraph 7.
- 7.4 The Purchaser shall procure that the Group shall cause the tax returns mentioned in paragraph 7.1 above to be authorised, signed and submitted to the relevant Tax Authority with such reasonable amendments as requested by the Purchaser.
- 7.5 The Purchaser or its duly authorised agent shall at the Purchaser's sole expense have sole conduct of the tax affairs of the Group and shall prepare the tax return of the Group for the current accounting period immediately following the Balance Sheet Date.



7.6 Within a reasonable period prior to submission of the tax return mentioned in paragraph 7.5 to the relevant Tax Authority, the Purchaser shall send such prepared tax return together with any relevant supporting calculations and papers to the Covenantors and the Purchaser shall be entitled to submit such tax return to the relevant Tax Authority without amendment, subject to any reasonable amendments as requested by the Covenantors as the Purchaser shall in its absolute discretion agree to.

7.7 For the avoidance of doubt any tax returns for any accounting period ending after the Balance Sheet Date be prepared by the Purchaser or the Group.

## **8. Conduct of Claims**

8.1 If the Purchaser or the Company shall become aware of a Tax Assessment or circumstances which may give rise to a Tax Claim against the Covenantors, the Purchaser shall as soon as reasonably practicable give or procure that the Company gives written notice thereof to the Covenantors including details of such Tax Assessment or such circumstances to the extent that the Purchaser and the Company are reasonably able to provide in the light of the information available to the Purchaser and the Company at the time and giving the Purchaser's best estimate of the amount of any Tax Liability arising on the Covenantors therefrom.

8.2 Pursuant to paragraph 8.1 the Purchaser will, and to the extent that it is within its power to do so afford and procure that the Group will, afford the Covenantors all reasonable facilities and opportunities to investigate the matter (including access to the records relating to such Tax Assessment) and take such action as a majority of the Covenantors may reasonably request to dispute, avoid, resist, appeal against or compromise any Tax Assessment (such assessment where actions is so requested being hereinafter referred to as a "Dispute") **PROVIDED THAT:**

- (a) the Purchaser or Group shall not be obliged to appeal against any Tax Assessment raised on the group if, having given the Covenantors written notice of the receipt of the Tax Assessment, the Purchaser has not within 15 business days thereafter received instructions in writing from a majority of the Covenantors, in accordance with the preceding provisions of this Clause to make such appeal;

- (b) if it is shown that either (i) any one or more of the Covenantors or (ii) the Group, whilst it was under the control of the Covenantors, has committed any act or omission which constitutes fraud, negligence or malfeasance, then (iii) in the case of (i) the Covenantor or Covenantors party to such act or omission shall not, and (iv) in the case of (ii) none of the Covenantors shall, be entitled to require the Purchaser and/or the Group to take any action under this paragraph 8.2 in respect of any Tax Assessment notified under paragraph 8.1;
- (c) the Purchaser and/or the Group shall not be required to take action which either substantially interferes with the normal course of their businesses and/or which in the reasonable opinion of the Purchaser's directors is likely to prejudice the business or the Taxation of the Group and/or its relationship with the relevant Taxation Authority;
- (d) no action as aforesaid shall be taken by the Group or Purchaser unless the Covenantors fully indemnify the Purchaser and/or the Group to their reasonable satisfaction against all losses, costs, damages and expenses whatsoever arising thereunder (including, without limitation, interest, fines, penalties and interest on overdue Taxation which may be incurred thereby);

8.3 The Group and/or the Purchaser (as the case may be) shall be at liberty without reference to the Covenantors to admit, compromise, settle, discharge or otherwise deal with any Tax Assessment after whichever is the earliest of:

- (a) the service of a notice in writing on the Purchaser and/or the Company (as the case may be) by a majority of the Covenantors to the effect that it/they consider the Tax Assessment should no longer be resisted;
- (b) the expiry of a period of 15 business days following the service of a notice by the Purchaser and/or the Company and/or any of their respective successors or assigns (as the case may be) on a majority of the Covenantors requiring the Covenantors to clarify or explain the terms of any request made under paragraph 8.2 during which period no such clarification or explanation has been received by the Purchaser and/or the Company (as the case may be); and
- (c) if appropriate, the expiration of any period prescribed by applicable

legislation for the making of an appeal against either the Tax Assessment in question or the decision of any court or tribunal in respect of any such Assessment, as the case may be.

8.4 Subject to paragraphs 8.2 and 8.3, by agreement in writing between the Purchaser and a majority of the Covenantors, the conduct of a Dispute may be delegated to the Covenantors upon such terms as may be agreed from time to time between the Purchaser and a majority in number of the Covenantors provided that, unless the Purchaser and a majority of the Covenantors specifically agree otherwise in writing, the following terms shall be deemed to be incorporated into any such agreement:

- (a) the Purchaser, the Company or the relevant Subsidiary shall promptly be kept fully informed of all matters pertaining to a Dispute and shall be entitled to see and keep copies of all correspondence and notes or other written records of telephone conversations or meetings and, in the event that there is no written record, shall be given a report of all telephone conversations with any Taxation Authority to the extent that it relates to a Dispute as soon as reasonably practicable after such telephone conversation;
- (b) the appointment of solicitors or other professional advisers shall be subject to the written approval of the Purchaser, such approval not to be unreasonably withheld or delayed;
- (c) all material written communications pertaining to the Dispute which are to be transmitted to the relevant Taxation Authority shall first be submitted to the Purchaser, the Company or the relevant Subsidiary for approval and shall only be finally transmitted if such approval is given, such approval not to be unreasonably withheld or delayed; and
- (d) the Covenantors shall make no settlement or compromise of the Dispute or agree any matter in the conduct of the Dispute which is likely to affect the amount thereof or the future liability to Tax of the Purchaser, the Company or any relevant Subsidiary without the prior approval of the Purchaser, the Company or the relevant Subsidiary (as may be appropriate), such approval not to be unreasonably withheld or delayed.

8.5 The Covenantors shall be bound to accept for the purposes of this Schedule 5

- any admission, compromise, settlement or discharge of any Tax Assessment and the outcome of any proceedings relating thereto made or arrived at in accordance with the provisions of this paragraph 8.

**9. Protection of Purchaser and the Group**

Notwithstanding anything to the contrary in paragraph 8, neither the Purchaser nor the Group shall be obliged to take any action, the effect of which is, or is reasonably likely to be, to increase the amount of Taxation payable by the Group and/or the Purchaser in respect of accounting periods ending after the Balance Sheet Date beyond what it would have been but for the taking of that action, and shall not be obliged to take any action the effect of which is reasonably foreseeable as being likely to prejudice substantially the ability of the Company and/or the Purchaser properly to order its affairs in such a way as to minimise its liability to Taxation in respect of any such later accounting periods.

**10. Payment Date**

10.1 Payments by the Covenantors pursuant to the Tax Covenant shall be made on the day or date specified in paragraph 10.2.

10.2 The days and dates referred to in paragraph 10.1 are the later of the following:

- (a) if the payment under a Tax Claim involves an actual payment of Tax by the Group, seven business days prior to the date which is the last day on which the Taxation may be paid by the Group to the relevant Taxation Authority in accordance with the relevant Taxation legislation without incurring a liability to interest or a charge or penalty in respect of the non-payment of that payment of Taxation;
- (b) if the payment under a Tax Claim does not involve an actual payment of Taxation:
  - (i) if involving the denial or loss or setting off in whole or in part of a right to repayment of Taxation or credit for Taxation, the date on which such Taxation would otherwise have been repaid or credited in accordance with the relevant Taxation legislation or (where the repayment or credit was dependent upon the making of an application or the satisfaction of some other

condition) the earliest date upon which the application could otherwise have been made or the conditions satisfied; or

- (ii) if involving the denial or loss or setting off in whole or in part of any Relief, the date on which the Taxation saved thereby would otherwise have become fully due and payable to the relevant Taxation Authorities in accordance with the relevant Taxation legislation; or
- (iii) in any case other than as referred to in paragraphs 10.2(b)(i) and 10.2(b)(ii), the date falling seven business days after the date when the Covenantors have been notified by the Company or the Purchaser that the Company's Auditors have reported, at the request of the Purchaser, that the Covenantors have a liability for a determinable amount under paragraph 2.1;
- (iv) in the cases of the costs and expenses referred to in paragraph 5(a), seven business days after the date on which the Purchaser or the Group produces receipted invoices or other proof of payment in respect thereof to the Covenantors; or
- (v) five days after the receipt of a written notice by the Covenantors giving details of the amount of the Tax Claim.

## **11. Interest**

The Covenantors shall make all payments in respect of any Tax Claim without deduction or withholding on any account save as may be required by law and if any amount is not paid when due the Covenantors shall pay to the Purchaser interest on such amount at the rate of 4 per cent per annum above the Base Rate for lending for the time being of Barclays Bank Plc from the due date until the date of actual payment (as well after judgement as before) and such interest shall be compounded at 91 day intervals.

## **12. Payment Free of Deductions**

- 12.1 All sums payable by the Covenantors to the Purchaser and/or the Company at the Purchaser's request hereunder shall be paid in so far as is lawful free and clear of all deductions and withholdings whatsoever and in the event that a deduction or withholding is lawfully required to be made the Covenantors shall

pay such greater sum which after any lawful deduction or withholding therefrom results in a net payment equal to the amount due under the Tax Covenant.

- 12.2 If any sum payable by the Covenantors to the Purchaser under this Schedule 5 shall be subject to Taxation in the hands of the Purchaser then the Covenantors shall pay to the Purchaser such additional sum as will after such Taxation leave the Purchaser with the same amount as the Purchaser would have received in the absence of such Taxation provided that the benefit of this paragraph 12.2 shall not endure for the benefit of any assignee of the Purchaser save where such assignee is a member of the Purchaser's group of companies.
- 12.3 All sums payable by the Covenantors under this Schedule 5 are to be paid in the currency or currencies appropriate to the Tax Claim as a result of which the liability to make the payment arose.
- 12.4 The Purchaser may direct the Covenantors to pay to the Company any sums due to the Purchaser under this Schedule 5 and such payment shall be treated as a payment to the Purchaser and not a payment to the Company.

**13. Reduction in Purchase Price**

Any payment by the Covenantors under this Schedule 5 shall be treated pound for pound as a reduction in the consideration paid to such Covenantor for the Shares sold by him pursuant to this Agreement.

**SCHEDULE 6**  
**VENDOR WARRANTOR PROTECTION**

1. The Vendor Warrantors have no liability for breach of any of the Vendor Warranties unless written notice of the claim (giving such material details (including the nature of the breach and an indication of the amount claimed in respect thereof) of the specific matters in respect of which such claim is made of which the Purchaser shall then be aware) is given to the Vendor Warrantors by or on behalf of the Purchaser:
    - 1.1. in respect of a claim relating to the Vendor Warranties set out in paragraphs 1 to 20 (inclusive) of Schedule 3, on or before the second anniversary of Completion (the "First Expiry Date"); and
    - 1.2. in respect of a claim relating to the Vendor Warranties set out in paragraphs 21 to 27 inclusive of Schedule 3 , on or before the Seventh anniversary of Completion,  
  
and in each case within 12 months of the later of the following (a) notice in respect thereof being given to the Vendor Warrantors and (b) the date on which all remedies against any third party (including any insurers) in respect of the matter giving rise to such claim shall have been exhausted; either
    - 1.3. such claim is settled; or
    - 1.4. proceedings in a court of competent jurisdiction are commenced by the Purchaser in respect of such claim; or
    - 1.5. any formal step is taken by agreement between the parties or pursuant to the order of any court to initiate appropriate alternative dispute resolution proceedings in respect of such claim, which proceedings may include any of the following:
      - (a) arbitration or mediation proceedings; and
      - (b) referring the claim to an independent adjudicator or expert,
- and so that any such proceedings shall not be deemed to have commenced unless they shall have been issued and served on those Vendor Warrantors party thereto or on the Vendors' Representative on behalf of such Vendor Warrantors.

2. The Vendor Warrantors shall not be liable in respect of any claim for breach of the Vendor Warranties or Tax Schedule unless the aggregate amount of the claim together with all other claims for breach of the Vendor Warranties exceeds £40,000 and, in addition, each individual Purchaser Warranty Claim towards the total sum referred to must exceed £10,000, but once such aggregate amount has been exceeded the Vendor Warrantors shall be liable for the whole of such aggregate amount and not just the excess over £40,000.
3. The proportionate liability of each Vendor Warrantor for any Purchaser Warranty Claim and any claim under the Tax Schedule shall be in the proportion which:

(a) the aggregate of the following amounts:

- (i) the consideration received by such Vendor Warrantor pursuant to Clause 3.1(a);
- (ii) any Earn Out Amount paid to him or otherwise satisfied (including by way of set off in accordance with Schedule 4) prior to the date of the relevant claim;
- (iii) the maximum Earn Out Amount which at the date of such claim remains potentially payable to such Vendor Warrantor (disregarding any Earnout Amount which might become payable to him as a consequence of the operation of Part 4 of Schedule 4 at any time after the date of such claim); and
- (iv) in the case of Michael Thomas only, the aggregate amounts paid to him at the date of such claim in respect of the MT Loan,

bears to:

(b) the aggregate of the following:

- (i) the consideration received by all of the Vendor Warrantors pursuant to clause 3.1 (a);
- (ii) all Earn Out Amounts paid to the Vendor Warrantors or otherwise satisfied (including by way of set off in accordance with Schedule 4) prior to the date of the relevant claim;



(iii) the maximum aggregate Earn Out Amount which at the date of such claim remains potentially payable to all the Vendor Warrantors;

(iv) the amounts paid to Michael Thomas in respect of the MT Loan at the date of such claim.

4. The aggregate liability of each Vendor Warrantor for breach of the Vendor Warranties shall not exceed the aggregate amount of the Consideration actually paid or satisfied to such Vendor Warrantor in accordance with Clause 3 (save in respect of Michael James Thomas where such maximum liability shall also include the amounts paid to him at Completion in respect of the MT Loan ) less any amount paid by such Vendor Warrantor pursuant to clause 2, 10 or 11 of this Agreement and so that for such purpose any Loan Notes issued to the Vendor Warrantors shall be valued at their nominal principal amount.

5. Any liability of any Vendor Warrantor for any Purchaser Warranty claim shall be satisfied as follows:

5.1. first, by way of reduction of or set off against the First Earn-Out Amount;

5.2. secondly by way of reduction or set off against the Second Earn-Out Amount;

in each case to the extent that at the date the Purchaser Warranty Claim is established such amount is potentially payable or has become payable but has not been paid, but so that if any such amount which is potentially payable is reduced in accordance with this paragraph but (disregarding such reduction) does not in the event become payable in full in accordance with Schedule 4 and the balance which is so payable is less than the amount of such reduction, then the balance of such liability equal to such shortfall shall be satisfied in accordance with subparagraph 4.3 following;

5.3. thirdly, as regards any such liability not satisfied in accordance with paragraph 4.1 or 4.2 preceding, by payment in cash up to the amount of the initial consideration.

6. The Vendor Warrantors shall not be liable for any breach of the Vendor Warranties to the extent that the loss occasioned by such breach has been recovered under the Tax Schedule and vice versa.

7. The Vendor Warrantors shall not be liable for any claim under the Vendor Warranties:
- 7.1. to the extent that the subject of such claim is specifically provided for in the Accounts (other than in respect of deferred Taxation);
  - 7.2. to the extent that such breach or claim occurs or is increased as a result of any legislation not in force at the date hereof or occurs as a result of any increase which has not been announced at the date hereof in the rates of Taxation in force at the date hereof or occurs as a consequence of a change in the published practice of any taxation authority or in the interpretation of the law after the date hereof in any jurisdiction;
  - 7.3. to the extent that such breach or claim would not have arisen but for:
    - (a) any voluntary act, omission, transaction or arrangement after Completion by the Purchaser, the Group or any other company which is a member of the Purchaser's Group otherwise than (in the case of the Group only) in the ordinary course of the Company's business as presently carried on and which could reasonably have been avoided; or
    - (b) any voluntary act, omission, transaction or arrangement before Completion by the Vendor Warrantors, Vendor or the Group at the written request of or with the written consent of the Purchaser.
  - 7.4. To the extent that such claim would not have arisen but for a change of accounting policy or practice of the Group after Completion other than to comply with law in force at the date of this Agreement.
8. Any amount payable by the Vendor Warrantors to the Purchaser in satisfaction of any claim made under the Vendor Warranties or the Tax Schedule shall be treated as a reduction by that amount of the Consideration.
9. If, in respect of any matter which would give rise to a breach of the Vendor Warranties, the Group is entitled to claim under any policy of insurance, then any claim under the Vendor Warranties in respect of such matter shall be subject to the Group making a claim against its insurers and any such insurance claim (or any claim which could have been made had such policies or their equivalents been maintained as aforesaid) shall to the extent it is successful

then reduce or extinguish by the amount recovered any such claims for breach of the Vendor Warranties.

10. Where the Purchaser or the Group is entitled to recover from some other person any sum in respect of any matter giving rise to a claim for breach of Warranty, the Purchaser shall subject to the Purchaser and the Group being fully indemnified to its reasonable satisfaction by the Vendor Warrantors against all costs and expenses which may already be incurred, procure that reasonable steps are taken to enforce such recovery and if any sum is so recovered then (i) the amount of the Vendor Warrantors' liability in respect of that claim shall be reduced by an amount equal to the sum so recovered (less the costs and expenses of recovering it) or (ii) if an amount shall already have been paid by some or all of the Vendor Warrantors or otherwise satisfied in respect of that claim there shall be repaid to such Vendor Warrantors an amount equal to the amount so recovered (less the costs and expenses of its recovery) or (if less) the amount of such liability already satisfied by such Vendor Warrantors.
11. If any claim comes to the notice of the Purchaser by reason or in consequence of which the Vendor Warrantors may be liable under the Vendor Warranties the Purchaser shall and/or shall procure that the Group shall:
  - 11.1. as soon as reasonably practicable, give written notice thereof to the Vendor Warrantors;
  - 11.2. not make any admission of liability, agreement or compromise with any person body or authority in relation thereto without the prior written agreement of the Vendor Warrantors (which shall not be unreasonably withheld or delayed);
  - 11.3. give the Vendor Warrantors and their professional advisers reasonable access to the premises and personnel of the Purchaser and/or the Group and to any relevant chattels, documents and records within the power, permissions or control of the Purchaser and/or the Group to enable the Vendor Warrantors and their professional advisers to examine such chattels, accounts, documents and records and take copies or photocopies thereof at their own expense;
  - 11.4. take all such steps or proceedings as the Vendor Warrantors may reasonably consider necessary in order to mitigate such claim and provide such other reasonable assistance as the Vendor Warrantors may reasonably request subject

to the Group and the Purchaser being indemnified by the Vendor Warrantors against all costs and expenses which may thereby be incurred.

12. Nothing in this Agreement shall derogate from the Purchaser's obligation to mitigate any loss which it suffers in consequence of any claim for breach of any Warranty.

**SCHEDULE 7**  
**PURCHASER WARRANTIES**

1. The Purchaser has full power and authority to enter into and to perform its obligations under this Agreement and the Tax Covenant (and the other documents referred to in this Agreement to which it is a party) and when executed this Agreement and the Tax Covenant (and the other documents referred to in this Agreement to which it is a party) will constitute binding obligations on the Purchaser in accordance with their respective terms.
2. The execution and delivery of, and the performance by the Purchaser of its obligations under, this Agreement and the Tax Covenant (and the other documents referred to in this Agreement to which it is a party) will not result in a breach of any agreement, arrangement, order, judgement or decree of any court or any governmental agency to which the Purchaser is a party or by which the Purchaser or any of its assets are bound.
3. The allotment and issue of the Consideration Shares will, so far as concerns any duties, obligations or responsibilities of the Purchaser or its directors, comply with or are permitted by the Companies Acts 1985 to 1989, the Financial Services & Markets Act 2000, the AIM Rules and all regulations made under any of the foregoing.
4. The Purchaser (and its directors) has power under the Memorandum and Articles of Association of the Purchaser and pursuant to valid and subsisting authorities of its shareholders to allot and issue the Completion Consideration Shares in the manner contemplated by this Agreement without any sanction or consent by members of the Purchaser or any class of them and subject as aforesaid, there are no consents required by the Purchaser for the allotment and issue of the Completion Consideration Shares which have not been obtained.
5. The total issued share capital of the Purchaser is 118,208,831 Ordinary Shares. The total number of Ordinary Shares in the capital of the Purchaser in respect of options, warrants or other rights to subscribe or purchase (including any conversion rights under any convertible loan stock or loan note) have been granted and which are still outstanding is 12,354,054 Ordinary Shares and no notice or other written intimation has been received by the Purchaser to exercise any such subscription, conversion or other right.

6. All information contained in the Admission Document was at the date thereof true and accurate in all material respects and there were no omissions which would make such information misleading in any material respect.
7. All announcements, notices and statements issued or made by or on behalf of the Purchaser pursuant to the AIM Rules were when they were made true, accurate and complete and in compliance with such Rules and, save as disclosed in any subsequent such announcement, notice or statement, no event has occurred since the date of any such announcement notice or statement which renders the content thereof in any way inaccurate, untrue, incomplete or misleading.

**SCHEDULE 8**  
**INDEMNIFIED SOFTWARE LICENCES**

<b>CUSTOMER</b>	<b>PRODUCT</b>	<b>DATE</b>	<b>AGREEMENT No.</b>
Anglo-Rom	Reporter	06 September 1994	Not numbered
ANZ Bank	Reporter	14 April 1997	BOE0073
Banca Popolare Di Lodi (was BPN)	Reporter	31 December 1994	Not numbered
Banco do Brasil	Automator	28 May 1997	BOE0072
Banco do Brasil	Reporter	28 May 1997	BOE0072
Bank of Butterfield (was Matheson)	Reporter	13 March 1997	No agreement held
Bank of Ceylon	Reporter	03 October 1996	BOE0056
Bank Saderat (was Iran Overseas)	Reporter	15 April 1994	via MDIS sub-contract
Barclays Private	Automator	08 May 1997	BOE0075
Barclays Private	Reporter	08 May 1997	BOE0075
Bayerische Landesbank	Automator	28 February 1997	No agreement held
Bayerische Landesbank	Reporter	28 February 1997	No agreement held
Caixa Geral de Depositos (was BNU)	Reporter	03 October 1995	BOE038
Cyprus Popular	Reporter	12 December 1996	BOE0059
Development Bank of Singapore	Reporter	08 December 1995	BOE0043
DZ Bank	Reporter	24 February 1997	BOE0068
EFG Private Bank	Reporter	24 May 1996	BOE0052
FIBI Bank		13 May 1997	
FOB Alpha Bank	Automator	28 February 1997	BOE0070
FOB Alpha Bank	Beers	28 February 1997	BOE0070
FOB Alpha Bank	Reporter	28 February 1997	BOE0070
FOB Banca March	Reporter	28 February 1997	BOE0070
FOB Banca Popolare di Milano	Automator	28 February 1997	BOE0070
FOB Banca Popolare di Milano	Beers	28 February 1997	BOE0070
FOB Banca Popolare di Milano	Reporter	28 February 1997	BOE0070
FOB Banca Popolare di Verona e Novara	Beers	28 February 1997	BOE0070
FOB Banca Popolare di Verona e Novara	Reporter	28 February 1997	BOE0070
FOB Banca Totta & Acores	Beers	28 February 1997	BOE0070
FOB Banca Totta & Acores	Reporter	28 February 1997	BOE0070
FOB Banco de Sabadell	Beers	28 February 1997	BOE0070
FOB Banco de Sabadell	Reporter	28 February 1997	BOE0070
FOB Bank Hapoalim	Beers	28 February 1997	BOE0070
FOB Bank Hapoalim	Reporter	28 February 1997	BOE0070
FOB Bank Mandiri (Europe)	Reporter	28 February 1997	BOE0070
FOB Crown Agents	Automator	28 February 1997	BOE0070
FOB Crown Agents	Beers	28 February 1997	BOE0070
FOB Crown Agents	Reporter	28 February 1997	BOE0070
FOB Monte dei Paschi di Siena	Beers	28 February 1997	BOE0070
FOB Monte dei Paschi di Siena	Reporter	28 February 1997	BOE0070
FOB United Overseas Bank	Beers	28 February 1997	BOE0070
FOB United Overseas Bank	Reporter	28 February 1997	BOE0070
FOB Wachovia Bank	Automator	28 February 1997	BOE0070
FOB Wachovia Bank	Beers	28 February 1997	BOE0070
FOB Wachovia Bank	Reporter	28 February 1997	BOE0070
Habib Allied Bank (Allied Bank of Pakistan)	Reporter	24 May 1996	BOE0051

CUSTOMER	PRODUCT	DATE	AGREEMENT No.
Havana Intl.	Reporter	07 January 1997	BOE0063
Investec (was Allied Trust)	Reporter	04 September 1995	BOE035
Matlock Bank	Reporter	19 May 1997	BOE0081
Matlock Bank	Taxman	19 May 1997	BOE0081
Mellon Bank	Reporter	15 May 1996	BOE048
NB Abu Dhabi	Automator	26 February 1997	BOE0041
NB Abu Dhabi	Reporter	27 February 1996	BOE0041
NB Greece	Automator	03 December 1996	BOE0060
NB Greece	Reporter	03 December 1996	BOE0060
NB Kuwait	Reporter	16 March 1996	Not numbered
Noble Grossart	Reporter	28 February 1996	No agreement held
Noble Grossart	Taxman	14 March 1997	No agreement held
Nordea	Reporter	21 January 1993	Not numbered
Riyad Bank London	Reporter	14 May 1996	BOE0050
Scotia Bank	Reporter	10 October 1995	BOE037
Singer & Friedlander	Reporter	12 June 1996	BOE0049
Svenska Handelsbanken	Automator	15 May 1997	No agreement held
Svenska Handelsbanken	Reporter	28 May 1993	Not numbered
SwedBank	Automator	04 September 1996	BOE0054
SwedBank	Reporter	04 September 1996	BOE0054
The Northern Trust	Reporter	31 May 1994	Not numbered
Ulster Bank	Extract	04 December 1995	UBL Agreement
Ulster Bank	Reporter	04 December 1995	UBL Agreement



SIGNED by  
duly authorised for and on behalf of  
**LOMBARD RISK MANAGEMENT PLC**  
in the presence of:-



MEMERY CRYSTAL  
44 SOUTHAMPTON BUILDINGS  
LONDON WC2A 1AP  
020 7242 5905

SIGNED by  
**MICHAEL JAMES THOMAS**  
in the presence of:-



MEMERY CRYSTAL  
44 SOUTHAMPTON BUILDINGS  
LONDON WC2A 1AP  
020 7242 5905

SIGNED by  
**ANTHONY JOHN BROWN**  
in the presence of:-



MEMERY CRYSTAL  
44 SOUTHAMPTON BUILDINGS  
LONDON WC2A 1AP  
020 7242 5905

SIGNED by  
**CHARLES JAMES PETER PHILLIPS**  
in the presence of:-

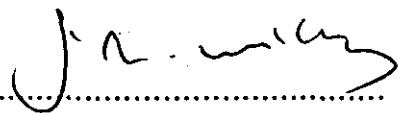


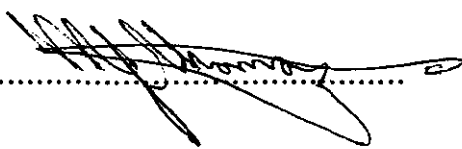
MEMERY CRYSTAL  
44 SOUTHAMPTON BUILDINGS  
LONDON WC2A 1AP  
020 7242 5905


SIGNED by  
duly authorised for and on behalf of  
**ROYAL BANK VENTURES INVESTMENTS  
LIMITED** in the presence of:-



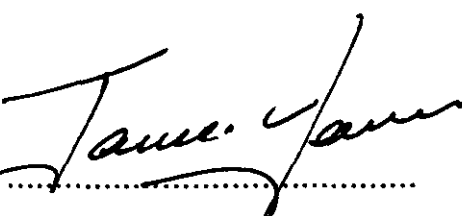
MEMERY CRYSTAL  
44 SOUTHAMPTON BUILDINGS  
LONDON WC2A 1AP  
020 7242 5905

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) CHAIRMAN

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