

3530337

CERTIFICATE TRUE COPY

[Signature]

SECRETARY

14 FEB 2000

Agreement

for the sale and purchase of the whole of the issued share capital of MDK Marine Limited

- (1) The persons listed in schedule 1
- (2) MITIE HydroCat Limited

Dated *19th January* 2000

PAC/DZS/773248
jed-8742

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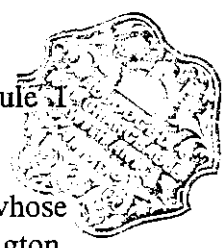
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This Deed is made the 19th day of January 2000

Between:

- (1) The persons whose names and addresses are set out in schedule 1 ("the Vendors"); and
 - (2) MITIE HydroCat Limited (company number: 3530337) whose registered office is at The Stable Block, Barley Wood, Wrington, Bristol BS40 5SA ("the Purchaser").
- 

Background:

The Vendors have agreed to sell and the Purchaser has agreed to purchase the Shares (as defined below) on the terms of this deed.

It is agreed as follows:

1. Definitions and interpretation
- 1.1 In this deed, unless the context otherwise requires, the following words have the following meanings:

"the Agreed Date"	in respect of Mr Wayte only, the second anniversary of the date of termination of his employment;
"the Accounts"	the Company's audited balance sheet for the period ending on the Accounts Date and its audited profit and loss account for the year ended on that date;
"the Accounts Date"	31 December 1999;
"the Board"	the board of directors of the Company;
"business day"	a day (other than a Saturday or a Sunday) on which clearing banks are open for business in the City of London;
"Claim"	a claim by the Purchaser against the Vendors under the Covenant for Taxation or under this Deed or under the Warranties and "Non-Tax Claim" means any claim which is not a Tax Claim;
"the Company"	MDK Marine Limited, details of which

	are set out in schedule 2;
"Completion"	the completion of the sale and purchase of the Shares under this Deed;
"Consideration"	the consideration payable by the Purchaser to the Vendors for the Shares under clause 3;
"the Covenant for Taxation"	the covenant given by the Vendors under paragraph 2 of schedule 4;
"Dangerous Substance"	any natural or artificial substance (whether in the form of a solid, liquid, gas or vapour) the generation, transportation, storage, treatment, use or disposal of which (whether alone or in combination with any other substance) gives rise to a risk of causing harm to human health, comfort or safety or harm to any other living organism or causing damage to the Environment;
"this Deed"	this Deed (including any schedule or annexure to it and any document in agreed form);
"Environment"	the environment as defined in Section 1(2), Environmental Protection Act 1990;
"Environmental Consent"	any consent, approval, authorisation, permit, exemption, filing requirement, licence or registration from time to time necessary or desirable under Environmental Law;
"Environmental Law"	any common or statutory law, regulation, directive, treaty, code of practice, circular, guidance note and the like, in each case of any jurisdiction, in force or enacted relating or pertaining to the Environment, any Dangerous Substance, human health, comfort, safety or the welfare of any other living organism;
"Guarantee"	any guarantee, suretyship, indemnity, bonding liability or similar contingent liability given or undertaken by a person to secure or support the obligations of

	any third party;
"Group Companies"	the Company, its Subsidiaries, any holding company of the Company within the meaning of section 736, Companies Act 1985 and any parent undertaking within the meaning of section 258, Companies Act 1985 from time to time and any Subsidiary of any such Holding Company, and "Group Company" means any one of them;
"Intellectual Property"	patents, trade marks or names whether or not registered or capable of registration, registered designs, design rights, copyrights, database rights, the right to apply for and applications for any of the preceding items, together with the rights in inventions, processes, software, know-how, trade or business secrets, confidential information or any process or other similar right or asset capable of protection enjoyed, owned, used or licensed by the Company;
"Mr Kircough"	Michael David Kircough, one of the Vendors;
"Mr Wayte"	Paul Francis Wayte, one of the Vendors;
"Non-Tax Warranties"	the representations referred to in clause 7 and set out in schedule 3;
"Notice"	includes any notice, demand, consent or other communication;
"the Policies"	all insurance policies maintained by the Company on the date of this Deed and "Policy" means any of them;
"Purchaser's Shares"	60,000 "B" ordinary shares of £1 each in the Purchaser;
"the Relevant Date"	the date being 2 years from the date of Completion;
"the Shares"	all the issued shares of the Company at Completion, as set out in schedule 2;

"Subsidiaries"	means any subsidiaries within the meaning of section 736 Companies Act 1985 and any subsidiary undertakings within the meaning of section 258 Companies Act 1985 from time to time and "Subsidiary" shall mean any one of them;
"Tax Warranties"	the representations set out in paragraph 4 of schedule 4 (Tax Schedule) and each of them;
"Vendor Associate"	each of the Vendors and any persons connected with any of them within the meaning of Section 839, ICTA;
"Warranties"	the Non-Tax Warranties and the Tax Warranties, and "Warranty" means any one of them; and
"Working Time Regulations"	the Working Time Regulations 1998 (SI No 1833).

1.2 Words defined in paragraph 1 of schedule 4 (Tax Schedule) shall bear the same meaning in the entire Deed.

1.3 In this Deed, unless the context otherwise requires:

- (a) words in the singular include the plural and vice versa and words in one gender include any other gender;
- (b) a reference to a statute or statutory provision includes:
 - (i) any subordinate legislation (as defined in section 21(1), Interpretation Act 1978) made under it;
 - (ii) any repealed statute or statutory provision which it re-enacts (with or without modification); and
 - (iii) any statute or statutory provision which modifies, consolidates, re-enacts or supersedes it;
- (c) a reference to:
 - (i) any party includes its successors in title and permitted assigns;
 - (ii) a **"person"** includes any individual, firm, body corporate, association or partnership, government or

state(whether or not having a separate legal personality);

- (iii) clauses and schedules are to clauses and schedules of this Deed and references to sub-clauses and paragraphs are references to sub-clauses and paragraphs of the clause or schedule in which they appear;
 - (iv) any provision of this Deed is to that provision as amended in accordance with the terms of this Deed;
 - (v) any document being "**in the agreed form**" means in a form which has been agreed by the parties on or before the date of this Deed and for identification purposes signed by them or on their behalf by their solicitors;
 - (vi) "**indemnify**" and "**indemnifying**" any person against any circumstance include indemnifying and keeping him harmless from all actions, claims and proceedings from time to time made against him and all loss or damage and all payments, costs or expenses made or incurred by that person as a consequence of or which would not have arisen but for that circumstance;
- (d) except as set out in sub-clause 1.1, terms defined in the Companies Act 1985 have the meanings attributed to them by that Act..
- (e) "**sterling**" and the sign "£" mean pounds sterling in the official currency of the United Kingdom save that if, following the introduction of the Euro, pounds sterling ceases to exist as the currency of the United Kingdom, then all references in this Deed to pounds sterling shall be construed as references to the Euro at the conversion rate applicable at the close of business on the day before that on which payment is due;
- (f) the table of contents and headings are for convenience only and shall not affect the interpretation of this Deed;
- (g) general words shall not be given a restrictive meaning:
- (i) if they are introduced by the word "other" by reason of the fact that they are preceded by words indicating a particular class of act, matter or thing;
 - (ii) by reason of the fact that they are followed by particular examples intended to be embraced by those general words;

- (h) where any liability or obligation is undertaken by 2 or more persons, the liability or obligation of each of them shall be joint and several; and
- (i) where any statement is qualified by the expression "**so far as the Vendors are aware**" or "**to the best of the Vendors' knowledge and belief**" or any similar expression it shall be deemed to include an additional statement that it has been made after due and careful enquiry.

2. **Sale and purchase**

2.1 Subject to the terms of this Deed, the Vendors shall sell and the Purchaser shall purchase, with effect from the date of this Deed, the Shares with:

- (a) full title guarantee (but free from all charges and encumbrances (whether monetary or not) and all other rights exercisable by third parties, which the Vendors do not, and could not reasonably be expected to know about); and
- (b) all rights attaching to or accruing to them at Completion (including all dividends and distributions declared, paid or made on or after that date).

2.2 Each of the Vendors waives all rights of pre-emption over any of the Shares conferred on him by the Articles of Association of the Company or in any other way and undertakes to take all steps necessary to waive all rights of pre-emption over any of the Shares.

2.3 The Purchaser shall not be obliged to complete the purchase of any of the Shares unless the sale and purchase of all the Shares is completed simultaneously.

3. **Consideration**

The Consideration is the payment by the Purchaser to the Vendors of the sum of £210,000, which shall be payable as follows:-

- 3.1 £150,000 in cash at Completion payable to Mr Kircough; and
- 3.2 £60,000 to be satisfied by the issue fully paid to Mr Wayte of the Purchaser's Shares

in each case in accordance with clause 4.

4. **Completion**

4.1 Completion shall take place at the offices of Osborne Clarke, 50 Queen

Charlotte Street, Bristol BS1 4HE immediately after execution of this Deed (or on such other date, time and place as the parties may agree).

4.2 On Completion:

- (a) the Vendors shall deliver to the Purchaser:
 - (i) stock transfer forms, duly completed and executed by the registered holders, in favour of the Purchaser (or as it may direct) in respect of the Shares together with the relevant share certificates;
 - (ii) irrevocable powers of attorney in favour of the Purchaser in the agreed form executed by each of the registered holders of the Shares to enable the Purchaser (pending registration of transfers of the Shares) to exercise all voting and other rights attaching to the shares and to appoint proxies for this purpose;
 - (iii) the certificate of incorporation, any certificates of incorporation on change of name or re-registration, the statutory books written up to date, share certificate books, minute books, all unused cheque books and the common seal of the Company;
 - (iv) all other papers and documents relating to the Company which are in the possession of or under the control of any of the Vendors;
 - (v) letters of resignation from the auditors of the Company containing the statement specified in Section 394(1), Companies Act 1985; and
 - (vi) a statement of all overdraft and credit balances from the Company's bankers and other lenders as at the close of business on the day preceding Completion.
- (b) The Vendors shall repay all monies then owing by them to the Company whether due and payable or not.
- (c) Mr Wayte shall enter into his service agreement with the Purchaser in the agreed form.
- (d) The Vendors shall procure that a board meeting of the Company is held at which:
 - (i) the stock transfer forms referred to in sub-clause (a)(i) are approved and (subject to them being appropriately stamped) registered in the Company's books;

- (ii) the persons nominated by the Purchaser are appointed as directors and secretary of the Company;
 - (iii) each of Mr Kircough and Mr Wayte ceases to be a director, and Mr Kircough ceases to be company secretary, of the Company with immediate effect;
 - (iv) the accounting reference date of the Company is changed to 31 March;
 - (v) Bevan & Buckland resign from their office as auditors to the Company and Deloitte & Touche are appointed in their place;
 - (vi) the registered office of the Company is changed to The Stable Block, Barley Wood, Wrington, Bristol BS40 5SA;
 - (vii) the mandates given by the Company to its bankers are revoked or revised as the Purchaser may require; and
 - (viii) the execution and completion of the other documents to be entered into by the Company under this Deed is approved.
- (e) When the Vendors have complied with the provisions of sub-clauses 4.2(a)-(d) inclusive, the Purchaser shall:
- (i) pay the sum of £150,000 to Mr Kircough by cheque drawn on MITIE Group PLC; and
 - (ii) hold a board meeting at which :
 - (A) the Purchaser's Shares shall be issued to Mr Wayte credited as fully paid and shall be entered in the share register as being issued to him;
 - (B) Mr Wayte shall be appointed as a director of the Purchaser; and
 - (C) it shall be resolved to enter into the service agreement with Mr Wayte in the agreed form.

4.3 If any of the requirements of sub-clause 4.2 are not complied with on the date set for Completion under sub-clause 4.1, the Purchaser (in the case of the requirements of sub-clauses 4.2(a)-(c) inclusive) or the Vendors (in the case of the requirements of sub-clause 4.2(d)) may:

- (a) defer Completion with respect to some or all of the Shares to a

date not less than 7 nor more than 28 days after that date (in which case the provisions of this sub-clause shall also apply to Completion as so deferred); or

- (b) proceed to Completion so far as practicable (including, at the Purchaser's or, as the case may be, the Vendors' option, completion of the purchase of some only of the Shares) but without prejudice to any other rights which it or they may have under this Deed; or
- (c) rescind this Deed by notice in writing.

4.4 The Vendors undertake to indemnify the Purchaser against any loss, expense or damage which it may suffer as a result of any document delivered to it under this clause being unauthorised, invalid or for any other reason ineffective.

4.5 The Vendors undertake to indemnify the Company against any and all claims which may be made against it by any person who resigns at Completion as a director under sub-clause 4.2(c)(iii) whose claim arises out of his resignation or the termination of his employment and against all costs, charges and expenses incurred by the Company which are incidental to any such claim.

5. Release of guarantees

The Vendors shall on Completion procure the release of the Company from any Guarantee given by the Company in respect of any obligations of any Vendor or Vendor Associate and shall indemnify the Purchaser against all liability arising after Completion in respect of it.

6. Post completion matters

6.1 The Vendors declare that for as long as they remain the registered holders of the Shares after Completion they will:

- (a) hold the Shares and the dividends and any other moneys paid or distributed in respect of them after Completion and all rights arising out of or in connection with them in trust for the Purchaser;
- (b) deal with the Shares and all such dividends, distributions and rights as the Purchaser may direct for the period between Completion and the day on which the Purchaser or its nominee is entered in the register of members of the Company as the holder of the shares.

6.2 The Vendors irrevocably appoint the Purchaser as their attorney for the purpose of exercising any rights, privileges or duties attaching to the

Shares including receiving notices of and attending and voting at all meetings of the members of the Company from Completion to the day on which the Purchaser or its nominee is entered in the register of members of the Company as the holder of the Shares.

6.3 For the purpose of sub-clause 6.2, the Vendors authorise:

- (a) the Company to send any notices in respect of their share holdings to the Purchaser; and
- (b) the Purchaser to complete and return proxy cards, consents to short notice and any other document required to be signed by the Purchaser as a member.

7. Warranties

- 7.1 The Vendors jointly and severally represent to the Purchaser that each of the Warranties is true and accurate in all respects and not misleading at the date of this Deed.
- 7.2 The Vendors acknowledge that they give the Warranties with the intention of inducing the Purchaser to enter into this Deed and that the Purchaser does so in reliance on the Warranties.
- 7.3 Each of the Warranties is a separate and independent Warranty and shall not be limited by reference to any other Warranty or anything in this Deed.

8. Covenant for Taxation

- 8.1 The Vendors covenant to the Purchaser in the terms of the Covenant for Taxation.

9. Purchaser's remedies

- 9.1 Each of the Vendors undertake to disclose in writing to the Purchaser anything which is or may constitute a Claim or be inconsistent with the contents of the Disclosure Letter directly it comes to the notice of any of them either before, at the time of, or after Completion.
- 9.2 If, between the date of this Deed and Completion, the Purchaser becomes aware that there has been any material breach of the Warranties or any other term of this Deed the Purchaser shall be entitled to rescind this Deed by notice in writing to the Vendors.
- 9.3 The rights and remedies of the Purchaser in respect of any breach of the Warranties or the Covenant for Taxation shall not be affected by Completion or by any investigation made, or which could have been made, by it or on its behalf into the affairs of the Company.

- 9.4 If any Claim is made, no Vendor shall make any claim against the Company or any director or employee of the Company on whom he may have relied before agreeing to any terms of this Deed or authorising any statement in the Disclosure Letter. This sub-clause shall not preclude any Vendor from claiming against any other Vendor under any right of contribution or indemnity to which he may be entitled.
- 9.5 In the event of a Claim, without prejudice to the right of the Purchaser to claim damages on any basis available to it or to any other right or remedy available to it, the Vendors agree to pay on demand in cash to the Purchaser a sum by way of damages as agreed between the Vendors and the Purchaser or, in default of such agreement, as determined by order of a court of competent jurisdiction which is the higher of:
- (a) an amount sufficient to put the Company into the position which would have existed if the Warranties had been true and accurate or not misleading when given or repeated;
 - (b) an amount equal to the resulting diminution in value of the Shares;
 - (c) the amount by which the assets of the Company are less, or less valuable, or its liabilities greater, than the values at which the same were included in the Accounts or (if the Purchaser so elects) than they would have been if the Warranty concerned had been true and accurate and not misleading; and
 - (d) the amount by which the profitability of the Company is less, or its losses greater, than would have been in the case if the Warranty concerned had been true and accurate and not misleading, calculated on the same basis as if such reduction in profitability or increase in losses were suffered as the result of an actionable wrong done to the Company.
- 9.6 This clause applies if at any time the Purchaser makes any Claim against any Vendor in circumstances where no disclosure has been made in the Disclosure Letter and (notwithstanding the express provisions of this Deed) such Vendor avoids or limits liability as a result of a court of competent jurisdiction holding that the Claim (or any part of it) should fail or the quantum recoverable should be reduced because the Purchaser has or is deemed to have knowledge of the matters which give rise to the breach of Warranty. The Vendors covenant to pay to the Purchaser on demand an amount equal to the amount which the Purchaser would have been entitled to recover from the Vendors but for the Purchaser having or being deemed to have knowledge of the matters giving rise to the breach of Warranty.

9.7 The Vendors shall indemnify the Purchaser against all costs (including legal costs on an indemnity basis as defined in Rule 44.4(3) of the Civil Procedure Rules 1998), expenses or other liabilities which the Purchaser may reasonably incur either before or after the commencement of any action in connection with:

- (a) the settlement of any Non-Tax Claim;
- (b) any legal proceedings in respect of any Non-Tax Claim in which judgement is given for the Purchaser; or
- (c) the enforcement of any such settlement or judgement.

9.8 Any amount paid by the Vendors to the Purchaser in respect of any of the provisions of this Deed shall be treated as paid to the Purchaser by way of pro rata reduction in the Consideration.

10. Limitations on liability

10.1 The liability of the Vendors under the Warranties shall be reduced if and to the extent that the loss shall have been recovered under the Covenant for Taxation (and vice versa).

10.2 In the absence of fraud or dishonesty on the part of any of the Vendors, their agents or advisors:

- (a) the Vendors shall not be liable for any Claim unless:
 - (i) they have received written notice from the Purchaser giving reasonable details of the Claim and, if practicable, the Purchaser's estimate of the amount involved on or before the expiration of 3 years from Completion or, in the case of any claim relating to Taxation, not later than 7 years from Completion;
 - (ii) the amount of the Claim, when aggregated with all other Claims made on the same occasion or previously, is equal to or exceeds £10,000 (in which case the Vendors shall be liable for the whole amount of all of the Claims and not simply the excess);
- (b) the aggregate liability of the Vendors in respect of the Warranties shall not exceed £210,000;
- (c) the Vendors shall not be liable for any Non-Tax Claim if and to the extent that a liability arises or is increased as a result of:
 - (i) any voluntary act or omission of the Purchaser (or any persons deriving title from it) or the Company after

Completion done or suffered outside the ordinary course of business and other than pursuant to a legally binding obligation entered into by the Company before Completion; or

- (ii) other non tax exclusions.

10.3 If the Vendors make any payment to the Purchaser or the Company in relation to any Non-Tax Claim and the Purchaser or the Company subsequently receives from a third party any amount referable to, or any benefit which would not have been received but for the circumstances giving rise to, the subject matter of that Claim, the Purchaser shall, once it or the Company has received such amount or benefit, immediately repay or procure the repayment to the Vendors of either:

- (a) the amount of such receipt (after deducting an amount equal to the reasonable costs of the Purchaser or the Company incurred in recovering such receipt and any Taxation payable on it); or if lesser;
- (b) the amount paid by the Vendors

together with any interest or repayment supplement paid to the Purchaser or the Company in respect of it.

11. **Conduct of Non-Tax Claims**

11.1 The Purchaser shall notify the Vendors in writing of:

- (a) any claim made against it by a third party which may give rise to a Non-Tax Claim; and
- (b) any claim the Company is entitled to bring against a third party which claim is based on circumstances which may give rise to a Non-Tax Claim.

11.2 The Purchaser shall procure that the conduct, negotiation, settlement or litigation of the claim by or against such third party is, so far as is reasonably practicable, carried out in accordance with the wishes of the Vendors and at their cost subject to their giving timely instructions to the Purchaser and providing reasonable security for any costs and expenses which might be incurred by the Purchaser or the Company.

11.3 The Purchaser shall not be liable for any delay in giving any notice under sub-clause 11.1 and shall not by reason of such delay be precluded from bringing any Non-Tax Claim against the Vendors.

11.4 The Purchaser shall provide and shall procure that the Company

provides to the Vendors and the Vendors' professional advisers reasonable access to premises and personnel and to any relevant assets, documents and records within their power, possession or control for the purpose of investigating any Non-Tax Claim and enabling the Vendors to take the action referred to in sub-clauses 11.2 and shall allow the Vendors and their advisers to take copies of any relevant documents or records at their expense.

12. **Non-competition covenants**

12.1 In order to assure to the Purchaser the full benefit of its business and goodwill (which shall include, following Completion, the business and goodwill of the Company) each Vendor undertakes that he shall not, either alone or in conjunction with or on behalf of any other person, do any of the following things:

- (a) before the Relevant Date carry on or be engaged, concerned or interested in (except as the holder of shares in a listed company which confer not more than one per cent. of the votes which could normally be cast at a general meeting of that company) any business within the United Kingdom or any other country in which during the previous financial year the Company or the Purchaser has generated more than 5% of its respective annual turnover which competes with any part of the business of the Purchaser or the Company;
- (b) disclose to any other person any information which is secret or confidential to the business or affairs of the Company or the Purchaser or use any such information to the detriment of the business of the Purchaser or the Company for so long as that information remains secret or confidential;
- (c) in relation to a business which is competitive or likely to be competitive with the business of the Company or the Purchaser as carried on at Completion, use any trade or business name or distinctive mark, style or logo used by or in the business of the Company at any time during 1 year before Completion or anything intended or likely to be confused with it;
- (d) before the Relevant Date accept orders from any person to whom the Company has sold its goods or services during the 1 year before Completion in respect of similar goods or services;
- (e) before the Relevant Date solicit or seek to entice away any employee from the employment of the Purchaser; or
- (f) before the Relevant Date solicit or seek to entice away any customer to whom the Company has sold its goods or services

in the 1 year before Completion in respect of similar goods or services.

12.2 In order to assure to the Purchaser the full benefit of its business and goodwill (which shall, following Completion, include the business and goodwill of the Company), Mr Wayte undertakes with the Purchaser in addition to the undertaking in clause 12.1 that he will not, either alone or in conjunction with or on behalf of any other persons, do any of the following things:

- (a) before the Agreed Date carry on or be engaged, concerned or interested in (except as a holder of shares in a listed company which confers not more than one per cent of the votes which could normally be cast at a general meeting of that company) any business within the United Kingdom or any other country in which during the previous financial year the Company or the Purchaser has generated more than 5% of its respective annual turnover which competes with any part of the business of the Purchaser;
- (b) in relation to a business which is competitive or likely to be competitive with the business as carried on by the Purchaser and/or the Company at the Agreed Date, use any trade or business name or distinctive mark, style or logo used by the Purchaser or the Company at any time during the 1 year before the Agreed Date or anything intended or likely to be confused with it;
- (c) before the Agreed Date solicit or seek to entice away, any employee from the employment of the Purchaser or the Company;
- (d) before the Agreed Date accept orders from any person to whom the Purchaser or the Company has sold its goods or services in the 1 year before the Agreed Date in respect of similar goods or services; or
- (e) before the Agreed Date solicit or seek to entice away, any customer to whom the Purchaser or the Company has sold its goods or services in the 1 year before the Agreed Date in respect of similar goods or services.

12.3 Each undertaking contained in sub-clauses 12.1 and 12.2 shall be construed as a separate and independent undertaking.

13. Mr Wayte's undertaking

13.1 Mr Wayte undertakes and covenants with the Purchaser that, if he ceases to be an employee of the Purchaser and all other Group

Companies for any reason (unless Mr Wayte is dismissed in circumstances which are either in breach of the notice term in his contract of employment or which constitute unfair dismissal in which case the provisions of the articles of association of the Purchaser and the shareholders' agreement to which Mr Wayte is a party shall apply as normal) within 5 years from Completion, he will, and will procure that his spouse will, sell his and her entire shareholding in the capital of the Purchaser to MITIE Group PLC for a total purchase price of £1.

13.2 If Mr Wayte makes default in transferring his shareholding in accordance with clause 13.1 above within 1 month of the termination of his employment, the directors of the Purchaser shall be entitled to receive and give a good discharge for the consideration on behalf of Mr Wayte. Mr Wayte irrevocably appoints any of the directors of the Purchaser as MITIE Group PLC shall nominate in writing as Mr Wayte's attorney to execute on his behalf a transfer or transfers of the shares in question in favour of MITIE Group PLC (or as MITIE Group PLC may direct) and such other documents as may be necessary to transfer title to such shares to MITIE Group PLC (or as MITIE Group PLC may direct) and authorises the directors of the Purchaser to approve the registration of such transfer or transfers or other documents.

13.3 The shares to be transferred pursuant to clause 13.1 above shall be sold free from all liens, charges and encumbrances and with all rights attached or attaching to them at or after the date of termination of Mr Wayte's employment.

14. **Announcements**

No announcement concerning the terms of this Deed shall be made by or on behalf of any of the parties without the prior written consent of the other, such consent not to be unreasonably withheld or delayed.

15. **Costs**

15.1 Except as set out in clause 15.2, each party shall bear its own costs and expenses incurred in the preparation, execution and implementation of this Deed.

15.2 The Purchaser shall pay all stamp and other transfer duties and registration fees applicable to any document to which it is a party and which arise as a result of or in consequence of this Deed.

16. **General**

16.1 *Entire Agreement*

(a) This Deed sets out the entire agreement and understanding

between the parties in respect of the subject matter of this Deed.

- (b) The Purchaser acknowledges that it has entered into this Deed in reliance only upon the representations, warranties and promises specifically contained or incorporated in this Deed and, save as expressly set out in this Deed, the Vendor shall have no liability in respect of any other representation, warranty or promise made prior to the date of this Deed unless it was made fraudulently.

16.2 *Variation*

No purported variation of this Deed shall be effective unless it is in writing and signed by or on behalf of each of the parties.

16.3 *Counterparts*

- (a) This Deed may be executed in any number of counterparts and by the parties on separate counterparts, but shall not be effective until each party has executed at least one counterpart; and
- (b) Each counterpart, when executed, shall be an original of this Deed and all counterparts shall together constitute one instrument.

16.4 *Further assurance*

After Completion, the Vendor shall execute such documents and take such steps as the Purchaser may reasonably require to vest the full title to the Shares in the Purchaser and to give the Purchaser the full benefit of this Deed.

17. **Governing law and jurisdiction**

- 17.1 This Deed shall be governed by and construed in accordance with English Law.
- 17.2 Each of the parties irrevocably submits for all purposes in connection with this Deed to the exclusive jurisdiction of the courts of England.

This deed has been executed and delivered on the date appearing at the head of page 1.

Schedule 1

(The Vendors)

Name	Address	No. of Shares	Consideration (£)	Purchaser's Shares
Michael David Kircough	Brynygroes, Greenfield Terrace, Sketty, Swansea SA2 9YH	1	150,000	/
Paul Francis Wayte	36 Park Avenue, The Graig, Morriston, Swansea SA6 8HJ	1	/	60,000
Total		2	150,000	60,000

Schedule 2

(Information concerning the Company)

<i>Registered number</i>	3379421
<i>Date of incorporation</i>	2 nd June 1997
<i>Place of incorporation</i>	England and Wales
<i>Address of registered office</i>	Russell House, Russell Street, Swansea SA1 4HR
<i>Class of company</i>	Private, limited by shares
<i>Authorised share capital</i>	£100 divided into 100 ordinary shares of £1 each
<i>Issued share capital</i>	£2 divided into 2 ordinary shares of £1 each
<i>Loan capital</i>	nil

Directors

<i>Full name</i>	<i>Usual residential address</i>	<i>Nationality</i>
Michael David Kircough	Brynygroes, Greenfield Terrace, Sketty, Swansea SA2 9YH	British
Paul Francis Wayte	36 Park Avenue, The Graig, Morriston, Swansea SA6 8HJ	British

Secretary

<i>Full name</i>	<i>Usual residential address</i>
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Michael David Kircough	as above
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<i>Accounting reference date</i>	31 January
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<i>Auditors</i>	Bevan & Buckland
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<i>Tax residence</i>	United Kingdom
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Schedule 3

(Non-Tax Warranties)

The Vendors

1. ***Capacity***

- 1.1 Each Vendor has the requisite power and authority to enter into and perform this Deed.
- 1.2 No Vendor is bankrupt, has proposed a voluntary arrangement or has made or proposed any arrangement or composition with his creditors or any class of his creditors.
- 1.3 This Deed constitutes and imposes valid legal and binding obligations on each Vendor fully enforceable in accordance with its terms.

2. ***Arrangements between the Company and Vendor Associates***

There are no contracts, arrangements or liabilities, actual or contingent, outstanding or remaining in whole or in part to be performed between the Company and any Vendor Associate.

3. ***Other interests of any Vendor Associate***

No Vendor has or intends to acquire any interest, direct or indirect, in any business which has a close trading relationship with or which competes or is likely to compete with any business now carried on by the Company and, so far as the Vendors are aware, no Vendor Associate has or intends to do so.

Share capital

4. ***Company***

- 4.1 The Shares constitute the entire issued and allotted share capital of the Company and are fully paid or credited as fully paid.
- 4.2 Apart from this Deed, there is no agreement, arrangement or commitment outstanding which calls for the allotment, issue or transfer of, or accords to any person the right to call for the allotment, issue or transfer of, any share or loan capital of the Company.
- 4.3 None of the Shares was, or represents assets which were, the subject of a transfer at an undervalue, within the meaning of Sections 238 or 339, Insolvency Act 1986, within the past 5 years.
- 4.4 The Company has not at any time:

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

5. *Subsidiaries*

- 5.1 The Company does not have, nor has it agreed to acquire, any interest in any undertaking or in the share capital of any body corporate.
- 5.2 The Company does not hold nor is it liable on any share or relevant security which is not fully paid up or which carries any liability.
- 5.3 The Company does not have any branch, agency, place of business or establishment outside the United Kingdom.

Corporate matters

6. *Insolvency of the Company*

- 6.1 No order has been made, no resolution has been passed, no petition presented, no meeting convened for the winding up of the Company or for a provisional liquidator to be appointed in respect of the Company and the Company has not been a party to any transaction which could be avoided in a winding up.
- 6.2 No administration order has been made and no petition for one has been presented in respect of the Company.
- 6.3 No receiver or administrative receiver has been appointed in respect of the Company or any of its assets.
- 6.4 The Company is not insolvent, has not failed or is not unable to pay, nor has no reasonable prospect of being unable to pay, any of its debts as they fall due, as those expressions are defined in Section 123, Insolvency Act 1986.
- 6.5 No voluntary arrangement has been proposed under Section 1, Insolvency Act 1986 in respect of the Company and the Company has not made or proposed any arrangement or composition with its creditors or any class of them.
- 6.6 No distress, execution or other process has been levied on the Company's assets or action taken to repossess goods in the possession of the Company.

- 6.7 No unsatisfied judgement is outstanding against the Company and no demand has been served on the Company under Section 123(1)(a), Insolvency Act 1986.
- 6.8 No event analogous to any referred to in sub-paragraphs 6.1 to 6.7 has occurred anywhere in the world.
7. *Statutory books and documents filed*
- 7.1 The statutory books, including all registers and minute books, of the Company have been properly kept and contain an accurate and complete record of the matters with which those books should deal.
- 7.2 All documents which should have been delivered by the Company to the Registrar of Companies are complete and accurate and have been properly so delivered.
- 7.3 The copy of the memorandum and articles of association of the Company contained in the Disclosure Letter has embodied in it or annexed to it a copy of each resolution as referred to in Section 380, Companies Act 1985, and is accurate and complete in all respects.
- 7.4 Since the Accounts Date the members of the Company in general meeting, or of any class of them, have not passed any resolution other than resolutions relating to the ordinary business of annual general meetings.

Information

8. *Accuracy and adequacy of information*
- 8.1 The information contained in schedule 2 to this Deed is accurate and complete.
- 8.2 The information contained in the Disclosure Letter and all written information supplied to the Purchaser or its advisers by or on behalf of the Vendors or any of their advisers or by the Company is complete and accurate and is not misleading because of any omission or ambiguity or for any other reason and where the information is expressed as an opinion, it is truly and honestly held and not given casually, recklessly or without due regard for its accuracy.
- 8.3 So far as the Vendors are aware, there is no fact or circumstance relating to the business and affairs of the Company which, if disclosed to the Purchaser or any of its advisers, might reasonably be expected to influence the decision of the Purchaser to purchase the Shares on the terms contained in this Deed and which has not been so disclosed.

Accounts

9. *Preparation and contents of the Accounts*

9.1 The Accounts were prepared in accordance with the requirements of all relevant statutes and generally accepted United Kingdom accounting practices including, without limitation, all applicable Financial Reporting Standards issued by the Accounting Standards Board, Statements of Standard Accounting Practice issued by the Institute of Chartered Accountants of England and Wales and Statements from the Urgent Issues Task Force current at the Accounts Date.

9.2 Without prejudice to the generality of sub-paragraph 9.1:

(a) the Accounts:

- (i) give a true and fair view of the state of affairs of the Company at the Accounts Date and the profits or losses of the Company for the financial period ending on that date;
- (ii) contain full provision or reserve for all liabilities and for all capital and revenue commitments of the Company as at the Accounts Date;
- (iii) disclose all the assets of the Company as at the Accounts Date and none of the values placed in the Accounts on any of those assets was in excess of its market value at the Accounts Date;
- (iv) make full provision for bad and doubtful debts;
- (v) do not include any figure which is referable to the value of an intangible asset; and
- (vi) make full provision for depreciation of the fixed assets of the Company having regard to their original cost and life.

(b) in the Accounts:

- (i) in valuing work-in-progress no value was attributed in respect of eventual profits and adequate provision was made for such losses as were at the time of signature of the Accounts by directors of the Company reasonably foreseeable as arising or likely to arise; and

- (ii) slow-moving stock was written down appropriately, redundant, obsolete, obsolescent or defective stock was wholly written off and the value attributed to any other stock did not exceed the lower of cost (on a first in first out basis) and net realisable value (or replacement value) at the Accounts Date.

9.3 The profits and losses of the Company shown in the Accounts were not, save as disclosed in the Accounts or in any note accompanying them, to any material extent affected by any extraordinary, exceptional, *unusual or non-recurring income, capital gain or expenditure* or by any other factor known to the Vendors rendering any such profit or loss for such period exceptionally high or low.

9.4 The audited profit and loss accounts and audited balance sheets of the Company contained in the Accounts were prepared on a consistent basis with each other.

10. *Accounting records*

10.1 The accounting records of the Company comply with the requirements of Sections 221 and 222, Companies Act 1985, *do not contain or reflect any material inaccuracy or discrepancy and present and reflect in accordance with generally accepted accounting principles and standards the financial position of and all transactions entered into by the Company or to which it has been a party.*

10.2 All relevant financial books and records of the Company are in its possession or otherwise under its direct control.

10.3 Where any of the records of the Company are kept on computer, the Company:

- (a) is the owner of all hardware and all software necessary to enable it to use the records as they have been used in its business to the date of this Deed and to Completion;
- (b) does not share any hardware or software relating to the records with any person; and
- (c) maintains adequate back up records and support in the event of any fault or failure of such computer hardware and software.

11. *Events since the Accounts Date*

11.1 Since the Accounts Date there has been no material change in:

- (a) the financial or trading position or prospects of the Company;

- (b) the value or state of assets or amount or nature of liabilities as compared with the position disclosed in the Accounts; or
 - (c) in the turnover, direct or indirect expenses or the margin of profitability of the Company as compared with the position disclosed for the equivalent period of the last financial year.
- 11.2 The Company has since the Accounts Date carried on its business in the ordinary course and without interruption, so as to maintain it as a going concern and paid its creditors in the ordinary course and within the credit periods agreed with such creditors.
- 11.3 Since the Accounts Date no supplier of the Company has ceased or restricted supplies or threatened so to do, there has been no loss or material curtailment of the business transacted by the Company with any customer which at any time in the preceding financial year represented 5 per cent or more of the turnover of the Company and the Vendors are not aware of any circumstances likely to give rise to any of the above.
- 11.4 Since the Accounts Date the Company has not:
 - (a) incurred or committed to incur:
 - (i) material capital expenditure; or
 - (ii) any liability whether actual or contingent except for full value or in the ordinary course of business;
 - (b) acquired or agreed to acquire:
 - (i) any asset for a consideration higher than its market value at the time of acquisition or otherwise than in the ordinary course of business; or
 - (ii) any business or substantial part of it or any share or shares in a body corporate;
 - (c) disposed of or agreed to dispose of, any of its assets except in the ordinary course of business and for full value;
 - (d) repaid wholly or in part any loan except upon the due date or dates for repayment;
 - (e) issued or allotted share or loan capital, increased its authorised share capital, purchased or redeemed any shares, reduced or re-organised its share capital or agreed to do so; or
 - (f) declared or paid any distribution of profit.

- 11.5 None of the debts included in the Accounts or any of the debts subsequently arising have been the subject of factoring by the Company and the Vendors are not aware of any circumstances which could result in any presently outstanding debt in excess of £1,000 not being paid in full.

Financial

12. *Financial commitments and borrowings*

- 12.1 The Company has no overdraft, loan or other financial facilities available to it .
- 12.2 The Company is not a party to, or has agreed to enter into, any lending, or purported lending, agreement or arrangement (other than agreements to give credit in the ordinary course of its business).
- 12.3 The Company does not owe any money to any third party nor has the Company entered into any commitment or arrangement which might lead it to exceed any borrowing limit imposed upon it by its articles of association or otherwise.
- 12.4 The Company is not, nor has it agreed to become, bound by any guarantee, indemnity, surety or similar commitment.
- 12.5 The Company does not have any credit cards in issue in its own name or that of any officer or employee of the Company or any person connected with any officer or employee.
- 12.6 The Company has not received any grants, allowances, loans or financial aid of any kind from any government departmental or other board, body, agency or authority which may become liable to be refunded or repaid in whole or in part.
- 12.7 The Company has not engaged in financing of a type which is not required, or has not been, shown or reflected in the Accounts.

13. *Insurances*

- 13.1 The Company maintains, and at all material times has maintained, adequate insurance cover against all risks normally insured against by companies carrying on a similar business, for the full replacement or reinstatement value of its business and assets, and in particular has maintained product liability, professional indemnity insurance, and all other insurance required by statute and insured against loss of profits for a period of not less than 6 months and for loss of rent for a period of not less than 3 years and all Policies are valid and enforceable and all premiums due have been paid.

- 13.2 There are no outstanding claims or circumstances likely to give rise to a claim under any Policy or which would be required to be notified to the insurers and nothing has been done or omitted to be done which has made or could make any Policy void or voidable or as a result of which the renewal of any Policy might be refused or the premiums due in respect of them may be liable to be increased.
- 13.3 There are no claims outstanding or threatened, or so far as the Vendors are aware, pending, against the Company which are not fully covered by insurance.

Trading and contracts

14. *Contracts and commitments*

- 14.1 The Company is not a party to any agreement, arrangement or commitment other than employment agreements
- 14.2 The Company has not:
- (a) outstanding any bid, tender, sale or service proposal which is material in relation to its business or which, if accepted, would be likely to result in a loss;
 - (b) granted any power of attorney or other such authority (whether express or implied) which is still outstanding.

15. *Terms of trade*

The Company has not given any guarantee or warranty (other than any implied by law) or made any representation in respect of any product or services sold or supplied by it nor has it accepted any liability to service, maintain, repair or otherwise do or refrain from doing anything in relation to such goods or services after they have been sold or supplied by it.

16. *Product liability*

The Company has not manufactured, sold or provided any product or service which does not in every respect comply with all applicable laws, regulations or standards or which is defective or dangerous or not in accordance with any representation or warranty, express or implied, given in respect of it.

17. *Licences and consents*

- 17.1 The Company does not require any licences, consents, permissions, authorisations or approvals for the carrying on of its business.

17.2 No reports, returns and information are required by law or as a condition of any licence, consent, permission, authorisation or approval to be made or given to any person or authority in connection with the business of the Company.

18. *Trading partners*

18.1 The Company does not act or carry on business in partnership with any other person and is not a member of any corporate or unincorporated body, undertaking or association.

18.2 The Company is not a party to any joint venture agreement or arrangement or any agreement or arrangement under which it is to participate with any other person in any business.

18.3 The Company is not a party to any agency, distributorship, licence or management agreement or is a party to any contract or arrangement which restricts its freedom to carry on its business in such manner as it may think fit in any part of the world.

18.4 The Company does not have any branch, agency, place of business or establishment outside the United Kingdom.

19. *Competition and trade regulation law*

19.1 The Company is not nor has it been a party to, or is or has been concerned in any agreement or arrangement, or is conducting or has conducted itself, whether by omission or otherwise, in a manner which:

- (a) contravenes, is invalidated in whole or in part by or has been, or should have been, registered under the Restrictive Trade Practices Acts 1976 and 1977;
- (b) contravenes the provisions of the Resale Prices Act 1976, the Trade Description Acts 1968 and 1972, the Fair Trading Act 1973 or any secondary legislation made under either of those Acts;
- (c) infringes Articles 81 or 82 of the EC Treaty or any regulation or directive made under it or any other anti-trust or similar legislation in any jurisdiction in which the Company has assets or carries on or intends to carry on business or where its activities may have any effect; or
- (d) will infringe Chapter 1 or Chapter 2 of the Competition Act 1998 or any secondary legislation made under it.

19.2 The Company has not:

- (a) given an undertaking to, or is subject to, any order of or investigation by, or has received any request for information from;
- (b) received, nor so far as the Vendors are aware, is it likely to receive any process, notice or communication, formal or informal by or on behalf of;
- (c) been or is a party to, or is or has been concerned in, any agreement or arrangement in respect of which an application for negative clearance and/or exemption has been made to;

the Office of Fair Trading, the Competition Commission, the Secretary of State, the European Commission or any other governmental or other authority, department, board, body or agency of any country having jurisdiction in anti-trust or similar matters in relation to any business of the Company.

- 19.3 The Company has not received any aid from any European Community member state or through any state resources in breach of Articles 92 and 93 of the Treaty of Rome.

20. *Compliance with law*

- 20.1 The Company has not committed nor is it liable for, and no claim has been or, so far as the Vendors are aware, will be made that it has committed or is liable for, any criminal, illegal, unlawful or unauthorised act or breach of any obligation or duty whether imposed by or pursuant to statute, contract or otherwise.
- 20.2 The Company has not received notification that any investigation or inquiry is being, or has been, conducted by, or received any request for information from any governmental or other authority, department, board, body or agency in respect of its affairs and, so far as the Vendors are aware, there are no circumstances which would give rise to such investigation, inquiry or request.
- 20.3 None of the activities, contracts or rights of the Company is ultra vires, unauthorised, invalid or unenforceable or in breach of any contract or covenant and all documents in the enforcement of which it may be interested are valid.

21. *Litigation and disputes*

- 21.1 Neither the Company nor any person for whose acts the Company may be liable is engaged in any litigation, arbitration, administrative or criminal proceedings, whether as plaintiff, defendant or otherwise.

- 21.2 No litigation, arbitration, administrative or criminal proceedings by or against the Company or any person for whose acts it may be liable are threatened or expected and, as far as the Vendors are aware, none are pending.
- 21.3 There are no facts or circumstances likely to give rise to any litigation, arbitration, administrative or criminal proceedings against the Company or any person for whose acts it may be liable.
- 21.4 The Company is not subject to any order or judgement given by any court or governmental or other authority, department, board, body or agency or has not been a party to any undertaking or assurance given to any court or governmental or other authority, department, board, body or agency which is still in force, nor are there any facts or circumstances likely to give rise to it becoming subject to such an order or judgement or to be a party to any such undertaking or assurance.

Assets

22. *Ownership and condition of assets*

- 22.1 The Company does not own any assets.
- 22.2 Each item of plant and machinery, vehicle and office equipment used by the Company is:
- (a) in good repair and condition, regularly maintained and certified safe and without risk to health when used;
 - (b) capable and will remain capable of doing the work for which it was designed or purchased until the time when (on the basis of depreciation adopted in the Accounts) it will have been written down to a nil value;
 - (c) not surplus to requirements; and
 - (d) not expected to require replacement or additions within 6 months of Completion.
- 22.3 The Company has not acquired, or agreed to acquire, any asset on terms that title to that asset does not pass until full payment is made or all indebtedness incurred in connection with the acquisition is discharged.

23. *Stock*

The Company does not hold any stock.

24. *Charges and encumbrances*

- 24.1 No option, right to acquire, mortgage, charge, pledge, lien (other than a lien arising by operation of law in the ordinary course of trading) or other form of security or encumbrance or equity on, over or affecting the shares or the whole or any part of the undertaking or assets of the Company, including any investment in any other Company, is outstanding and, apart from this Deed, there is no agreement or commitment to give or create any of them and no claim has been made by any person to be entitled to any of them.
- 24.2 The Company has not received notice from any person intimating that it will enforce any security which it may hold over the assets of the Company, and there are no circumstances likely to give rise to such a notice.
- 24.3 There are no charges in favour of the Company.

25. *Intellectual Property*

- 25.1 There is no Intellectual Property.
- 25.2 The Company owns or has the right to use all intellectual property rights required in connection with the conduct of its business as presently carried on or expected to be carried on in the future.
- 25.3 None of the processes employed, or products or services dealt in, by the Company infringes any rights of any third party relating to intellectual property nor makes the Company liable to pay a fee or royalty and no claims have been made, threatened or so far as the Vendors are aware are pending, in relation to any intellectual property against the Company.
- 25.4 Except in the ordinary course of business and on a confidential basis, no disclosure has been made of any of the confidential information, know how, technical processes, financial or trade secrets or customer or supplier lists of the Company.
- 25.5 Any names used by the Company other than its corporate name are contained in the Disclosure Letter and the names used do not infringe the rights of any person.

26. *Data Protection Act*

- 26.1 The Company has complied in all respects with the provisions of the Data Protection Act 1984 (as amended) ("**DPA**") and the principles contained in schedule 1 of the DPA.

- 26.2 Except as registered under the DPA, the Company has not held any personal data or is exempt from registering under the DPA under one of the exemptions contained in Part IV of the DPA.
- 26.3 Insofar as personal data are subject to registration:
- (a) the Company has at all times maintained full and accurate registration under the DPA and has operated wholly within the terms of such registrations;
 - (b) all personal data are accurate and up to date;
 - (c) personal data have not been used by the Company for an unspecified or unlawful purpose nor has there been any disclosure thereof outside the terms of the Company's registration.
- 26.4 The Company has not been served with any notice under the DPA nor are there any circumstances which might give rise to the Company being served with such a notice in the future.

Employment

27. *Directors and employees*

- 27.1 Complete and accurate details of the terms and conditions of employment of all employees of the Company, including the date of commencement of their continuous period of employment and any arrangements or assurances (whether or not legally binding) in relation to their employment are contained in the Disclosure Letter.
- 27.2 The Company has maintained up-to-date, adequate and suitable records regarding the service and terms and conditions of employment of each of its employees.
- 27.3 The Company has maintained up-to-date adequate and suitable records for the purposes of the Working Time Regulations and has complied with all other obligations to its workers (as "workers" is defined in Regulation 2 of the Working Time Regulations) and there are no claims capable of arising or pending or threatened by any officer or employee or former officer or employee or the Health and Safety Executive or any local authority Environmental Health Department or any trade union or employee representative related to the Working Time Regulations.
- 27.4 The Company is not a party to any consultancy agreement, any agreement for management services or any contract of services.
- 27.5 Since the Accounts Date there has been:

- (a) no material alteration in the terms of employment or any material change in the number of employees employed by the Company; or
 - (b) any material increase in any fees, remuneration or benefits paid or payable to any officer or employee of the Company, nor are any negotiations for any such increase current or likely to take place in the next 6 months.
- 27.6 No officer or employee of the Company is remunerated on a profit-sharing, bonus or commission basis.
- 27.7 No amount is owing to any present or former officer or employee of the Company.
- 27.8 There is no share option or share incentive scheme in operation by or in relation to the Company for any of its officers or employees nor is the introduction of such a scheme proposed.
- 27.9 The Company has at all relevant times complied with all its obligations under statute and otherwise concerning the health and safety at work of its employees and there are no claims capable of arising or pending or threatened by any employee or third party in respect of any accident or injury which are not fully covered by insurance.
- 27.10 Save as provided for or taken into account in the Accounts:
 - (a) no claim or liability to make any payment of any kind to any person who is or has been an officer or employee has been received or incurred by the Company whether under the Employment Rights Act 1996, Sex Discrimination Act 1975, the Race Relations Act 1976 and the Disability Discrimination Act 1995 or otherwise; and
 - (b) no gratuitous payment of a material amount has been made or promised by the Company in connection with the actual or proposed termination or suspension of employment or variation of any contract of employment of any present or former officer or employee.
- 27.11 No officer or employee of the Company has given notice or is under notice of dismissal nor are there any service contracts between the Company and its officers or employees which cannot be terminated by the Company by 12 weeks notice or less without giving rise to a claim for damages or compensation (other than a statutory redundancy payment).
- 27.12 The Company has not, in contravention of the Companies Act 1985:

- (a) entered into any arrangement involving the acquisition of non-cash assets from or disposal to;
- (b) granted any loan or quasi-loan to or entered into any guarantee or credit transaction with; or
- (c) provided any security in connection with any loan, quasi-loan or credit transaction to or with

any director or person connected with a director within the meaning of the Companies Act 1985.

28. *Industrial relations*

- 28.1 The Company is not a party to any contract, agreement or arrangement with any trade union or other body or organisation representing any of its employees.
- 28.2 The Company has in relation to its officers and employees and former officers and employees complied with all conditions of service, customs and practices and, where relevant, all collective agreements, recognition agreements, workforce agreements and relevant agreements for the time being.
- 28.3 Within the last 12 months, the Company has not:
 - (a) given notice of any redundancies to the Secretary of State, started consultations with any appropriate representatives or failed to comply with any obligation under the provisions of Chapter II Trade Union and Labour Relations (Consolidation) Act 1992;
 - (b) been a party to any relevant transfer as defined in the Transfer of Undertakings (Protection of Employment) Regulations 1981 or has failed to comply with any duty to inform and consult any appropriate representatives under the Regulations.
- 28.4 No dispute has arisen between the Company and a material number or category of its employees nor are there any present circumstances known to the Vendors which are likely to give rise to any such dispute.
- 28.5 No training schemes, arrangements or proposals exist nor have there been any such schemes, arrangements or proposals in the past in respect of which a levy may become payable by the Company under the Industrial Training Act 1982.

29. *Pensions*

The Company has no, and has never had any, plans, schemes or arrangements in relation to death, disability or retirement of any of its employees.

Properties

30. *Title*

The Company has never owned, occupied, held, controlled or otherwise used any leasehold or freehold properties.

Environment

31. *Environmental matters*

- 31.1 In relation to its business, the Company holds and has since its incorporation always held all Environmental Consents.
- 31.2 Complete and accurate details of all Environmental Consents held by the Company are contained in the Disclosure Letter and are valid and subsisting.
- 31.3 The Company has not received any notification that any Environmental Consent it holds is or is likely to be modified, restricted or withdrawn and no works or other upgrading or investment are or will be necessary to secure compliance with or to maintain any such Environmental Consent.
- 31.4 The Company has not breached the terms, conditions or provisions of any Environmental Consent.
- 31.5 The Company has not received any notification or informal indication that further Environmental Consents will be required under Environmental Law in order for it to continue its present business.
- 31.6 The Company (and each of its officers, employees and agents in the course of its business) has complied with all applicable Environmental Laws and has never received any notification under Environmental Law requiring it to take or omit to take any action.
- 31.7 The Company has not been threatened with any investigation or enquiry by any organisation, or received any complaint, in connection with the Environment.

Schedule 4

(Tax)

1. Definitions and interpretation

- 1.1 In this Deed, unless the context otherwise requires, the following words have the following meanings:

"Claim for Taxation" any notice, demand, assessment, letter or other document issued or action taken by any Tax Authority or any person (including the Company) indicating that any person is or may be placed or sought to be placed under either a Liability to Taxation or a claim for Taxation to which paragraph 3 may apply;

"ICTA" the Income and Corporation Taxes Act 1988;

"Liability to Taxation"

- (a) any liability to make a payment of Taxation regardless of whether such Taxation is chargeable or attributable directly or primarily to the Company or to any other person;
- (b) the loss of any Relief which would (were it not for the loss) have been available to the Company and which has been treated as an asset in preparing the Accounts or taken into account in computing (and so reducing) or obviating any provision for deferred taxation which appears in the Accounts (or which, but for the availability or presumed availability of such Relief prior to its loss, would have appeared in the Accounts);
- (c) the setting off against any liability to Taxation or against Profits earned, accrued or received on or before Completion of any Relief which arises in respect of any period after Completion or in

respect of any Transaction effected on or after Completion in circumstances where, but for the setting off, the Company would have had a liability to Taxation in respect of which the Purchaser (ignoring any limitations on liability contained herein) would have been able to make a claim against the Vendor under the Covenant for Taxation; and

- (d) any liability to make a payment by way of indemnity or damages, or any other payment pursuant to a contract or arrangement, in each case arising out of or in connection with Taxation

and references to a Liability to Taxation shall include the settlement of a Claim for Taxation;

"Profits"

income, profits and gains, the value of any supply and any other consideration, value or receipt used or charged for Taxation purposes and references to **"Profits earned, accrued or received"** include Profits deemed to have been earned, accrued or received for Taxation purposes;

"Purchaser's Relief"

a Relief falling within the definition of Liability to Taxation;

"Relevant Claim or Surrender"

any claim or surrender to or by the Company of:

- (a) group relief under Chapter IV, Part X, ICTA;
- (b) advance corporation tax under Section 240, ICTA; or
- (c) a tax refund under Section 102, Finance Act 1989;

"Relief"

any relief, loss, allowance, exemption, set-off, deduction or credit in computing

or against Profits or Taxation or any right to repayment of Taxation and references to the **"loss of any Relief"** include the loss, reduction, counteraction, disallowance, setting-off against Profits, crediting against a liability to make an actual payment of Taxation or failure to obtain a Relief and **"lose"** and **"lost"** shall be construed accordingly;

"Taxation"

all forms of taxation and statutory, governmental, supra governmental, state, provincial, local governmental or municipal impositions, duties, contributions and levies (including withholdings and deductions), whether of the United Kingdom or elsewhere in the world, whenever imposed and however arising and all penalties, fines, charges, costs and interest, together with the cost of removing any charge or other encumbrance, relating thereto and **"Tax"** shall be construed accordingly provided that references to Taxation shall not extend to stamp duty or penalties or interest in respect thereof;

"Tax Authority"

any taxing or other authority, body or official competent to administer, impose or collect any Taxation;

"Tax Claim"

a claim by the Purchaser against the Vendor under the Covenant for Taxation or that any of the Taxation Warranties is untrue or inaccurate in any respect or is misleading or, as the case may be, a claim by the Vendor against the Purchaser under the covenant in paragraph 3;

"TCGA"

the Taxation of Chargeable Gains Act 1992;

"Transaction"

any transaction, deed, act, event, omission, payment or receipt of whatever nature and whether actual or deemed for Tax purposes and references to **"any Transaction effected on or before Completion"** include the combined result of two or more Transactions, the first of

which shall have taken place or commenced (or be deemed to have taken place or commenced) on or before Completion; and

"VATA"

the Value Added Tax Act 1994.

1.2 In this Schedule:

- (a) a reference to a jurisdiction shall include any union, country, state, province, district or division of whatever nature which imposes or raises Taxation;
- (b) a reference to any law shall include any statute, law, regulation, notice, directive or similar provision relating to Taxation, whether of the United Kingdom or elsewhere;
- (c) references to specific parts of the law of the United Kingdom shall be taken to include a reference to the law of any other jurisdiction so far as the same may apply to the Company and may be similar to or have a similar purpose to the law of the United Kingdom to which reference is made; and
- (d) references to the VATA shall include all law relating to value added tax in the United Kingdom and any value added, turnover, sales, purchase or similar tax of any other jurisdiction and references to value added tax shall be construed accordingly.

2. **Covenant for Taxation**

2.1 The Vendor shall pay to the Purchaser an amount equal to any Liability to Taxation of the Company:

- (a) arising directly or indirectly from any Transaction effected on or before Completion;
- (b) in respect of, or by reference to, any Profits earned, accrued or received on or before Completion;
- (c) which would not have arisen but for the failure by any person who is or has been a Vendor Associate to discharge a Liability to Taxation which falls upon such Vendor Associate:
 - (i) arising directly or indirectly from any Transaction effected or deemed to have been effected at any time by such Vendor Associate; or
 - (ii) in respect of any Profits earned, accrued or received at

any time by such Vendor Associate;

- (d) in respect of the liability of the Company:
 - (i) to repay in whole or part any payment for any Relevant Claim or Surrender in respect of any period commencing prior to Completion; or
 - (ii) to make a payment for any Relevant Claim or Surrender to any Vendor Associate in respect of any period commencing prior to Completion; or
- (e) arising in respect of the failure of the Company to receive any payment for any Relevant Claim or Surrender shown as an asset in the Accounts;

together with all costs and expenses reasonably and properly incurred by the Purchaser or the Company in connection with any such Liability to Taxation or Claim for Taxation or in bringing any claim or defending any action under the provisions of this Schedule.

2.2 Where the Vendor becomes liable to make any payment under the Covenant for Taxation, the due date for the making of that payment shall be:

- (a) in a case that involves an actual payment of Taxation by the Company, the date that is the last date on which the Company is liable to pay to the appropriate Tax Authority the Taxation in question in order to avoid incurring a liability to interest or penalties or, if later, five days following a written demand from the Purchaser;
- (b) in the case of the loss of any Relief, the date falling five days following the date when the Vendor has been notified by the Purchaser that the auditors for the time being of the Company have certified, at the request of the Purchaser, that the Vendor has a liability for a determinable amount in respect of the loss of such Relief under the Covenant for Taxation; or
- (c) in any other case, the date falling five days following the date on which the Vendor receives a written demand for such amount from the Purchaser.

2.3 In a case of a loss of any Relief, the amount that is to be treated under the Covenant for Taxation as a Liability to Taxation shall:

- (a) be the amount of that Relief, if the Relief that was the subject of the loss was either a deduction from or offset against Taxation or a right to a repayment of Taxation;

- (b) be the amount of Taxation which has been saved in consequence of the setting off where the Relief that was the subject of the loss was a deduction from or offset against gross Profits, and the Relief was the subject of a setting off; and
- (c) in any other case where the Relief that was the subject of the loss was a deduction from or offset against gross Profits, be the amount of Taxation which would, on the basis of the rates of Taxation current at the date of the loss, have been saved but for the loss.

2.4 If, in respect of or in connection with any Claim, or otherwise in connection with any payment made hereunder, any amount payable to the Purchaser by the Vendor is subject to Taxation, the amount to be paid to the Purchaser by the Vendor shall be such amount as will ensure that the net amount received by the Purchaser after such Taxation has been taken into account is equal to the full amount which would be payable to the Purchaser had the amount not been subject to Taxation.

3. Covenant to Vendor

- 3.1 The Purchaser hereby covenants with the Vendor to pay to the Vendor an amount equal to any Taxation which is assessed on the Vendor or on any Vendor Associate by reason of Taxation assessed on or primarily or directly attributable to the Purchaser or the Company for any accounting period remaining unpaid provided that this covenant shall not apply to any Taxation in respect of which the Purchaser is entitled to bring a Tax Claim against the Vendor or would have been so entitled but for paragraphs 5 (Limitations), 6 (Repayment) and 7 (Over-provision and Reliefs) below or clause 10 of the Agreement (Limitations).
- 3.2 The Vendor hereby covenants that it shall make no claim under paragraph 3.1 above to the extent that it has recovered the Taxation in question under section 767B(2), ICTA and that to the extent that it recovers any amount under paragraph 3.1 it shall not seek to recover payment under section 767B(2).
- 3.3 The provisions of paragraphs 2.2 (date of payment), 2.4 (grossing up), 6 (repayment) and 9 (Claims Procedure) shall apply to this covenant as if references to the "Purchaser" were to the "Vendor" (and vice versa), references to the "the Company" were also to the "Vendor" and references to "Covenant for Taxation" were to the "covenant under paragraph 3".

4. Tax Warranties

Events since the Accounts Date

4.1 Since the Accounts Date:

- (a) no transaction has occurred, either in circumstances where the consideration actually received or receivable (if any) was less than the consideration which could be deemed to have been received for Tax purposes or which will give rise to a Liability to Taxation on the Company calculated by reference to deemed as opposed to actual Profits;
- (b) no transaction has occurred which will result in the Company becoming liable to pay or bear a Liability to Taxation directly or primarily chargeable against or attributable to another person;
- (c) no disposal has taken place or other event occurred which will, or may have, the effect of crystallising a Liability to Taxation which would have been included in the provision for deferred taxation contained in the Accounts if such disposal or other event had been planned or predicted at the Accounts Date;
- (d) the Company has not been a party to any transaction for which any Tax clearance provided for by statute has been, or could have been, obtained; and
- (e) no accounting period or period of account by reference to which Taxation is measured of the Company has ended within the meaning of Section 12, ICTA (basis of, and periods for, assessment).

Liability

4.2 Other than Taxation provided for in the Accounts or on Profits attributable to Transactions in the ordinary course of its business since the Accounts Date:

- (a) the Company is not accountable or liable for any form of Taxation; and
- (b) there is no Liability to Taxation in respect of which a claim could be made under the Covenant for Taxation and there are no circumstances likely to give rise to any such claim.

Stamp Duty

4.3 All documents which are required to be stamped or in respect of which any form of Taxation is due and which are in the possession of the

Company, or by virtue of which the Company has any right, have been duly and sufficiently stamped or the Taxation on such documents has been paid and no such document has been executed and retained outside the United Kingdom in circumstances in which a liability to stamp duty would arise if such document were to be brought into the United Kingdom.

Records and compliance

4.4 the Company has duly complied with all requirements imposed on it by law and in particular:

- (a) the Company has paid all Taxation for which it is liable and made all withholdings and deductions in respect, or on account, of any Taxation from any payments made by it which it is obliged or entitled to make and has paid to the appropriate Tax Authority all amounts so withheld or deducted;
- (b) the Company has paid all such Taxation punctually and will not at Completion owe any Tax the due date for payment of which has passed or will arise in the 30 days following Completion;
- (c) the Company has properly prepared and punctually submitted all notices, returns and applications for clearances or consents required for Tax purposes and provided complete and accurate information to any Tax Authority and all such notices, returns, applications and information remain complete and accurate;
- (d) the Company has kept and maintained complete and accurate accounting records, invoices and other documents appropriate or requisite for Tax purposes and has sufficient records relating to past events to calculate its liability to Taxation or the relief from Taxation which would arise on any disposal or on the realisation of any assets owned at Completion;
- (e) there are no disputes, unsettled or outstanding assessments or appeals in respect of Taxation and the Company has not within the last six years been subject to any enquiry, investigation or other dispute with any Tax Authority and there are no circumstances which may give rise to such an enquiry or dispute;
- (f) the Company has not within the last six years been liable or will in respect of any Transaction occurring on or before Completion become liable to pay any interest, penalty, fine or sum of a similar nature in respect of Taxation nor, in relation to value added tax, has received any penalty liability notice, surcharge liability notice or other written notice or warning under the VATA; and

- (g) the Company has duly submitted all claims and elections which have been assumed to have been made for the purposes of the Accounts.
- 4.5 the Company has at all times been resident for Tax purposes in the jurisdiction identified as the Tax Residence in Schedule 2 and the Company has not during the past six years paid and is not liable to pay Tax in any other jurisdiction.
- 4.6 The Company has not within the last six years received any audit, visit or inspection from any Tax Authority and no such audit, visit or inspection to take place on or after Completion has been arranged or requested.
- 4.7 The amount of Tax chargeable on the Company or subject to withholding or deduction by the Company during any accounting period ending on or within the last six years has not to any material extent depended on any concession, agreement, dispensation or other formal or informal arrangement with any Tax Authority.
- 4.8 The Company is not liable to be assessed to Tax as agent for, or on account of, or otherwise on behalf of, any other person.
- 4.9 The Company has not made any claim or application to pay any Tax by instalments or to defer the payment of any Tax.

VAT

- 4.10 the Company:
 - (a) is registered for the purpose of, and has complied in all respects with, the VATA and is not subject to any conditions imposed or agreed with any Tax Authority; and
 - (b) is not, and has not within the last three years been a member of a group for value added tax purposes under Section 43, VATA (groups of companies).
- 4.11 The Company is not subject to The Value Added Tax (Payments on Account) Order 1993.
- 4.12 All supplies made by the Company are taxable supplies, and all input tax for which the Company has claimed credit has been paid by the Company, in respect of supplies made to it relating to goods or services used or to be used for the purpose of the business of the Company.
- 4.13 The Company has not been required to give security under paragraph 4, Schedule 11, VATA (power to require security and production of evidence).

- 4.14 The Company has not made, nor will prior to Completion make, any election to waive exemption under paragraph 2, Schedule 10, VATA (election to waive exemption).
- 4.15 The Disclosure Letter contains full details of all assets owned by the Company to which the provisions of Part XV, Value Added Tax Regulations 1995 (the Capital Goods Scheme) may apply, including the date of acquisition, the cost of the asset, the amount of the input tax for which credit has been claimed and the adjustment period relating to that asset.

Customs duties

- 4.16 the Company has made all necessary returns in relation to the collection and payment of customs duties, excise duties and other Taxes having an equivalent effect and has provided to any relevant Tax Authority all necessary information, returns and documentation and paid all amounts due in relation to the same and within the prescribed time limits.
- 4.17 Details of all bonds, recognisance and guarantees given to any relevant Tax Authority by or in relation to the Company each Group Company are set out in the Disclosure Letter.

Balance sheet values

- 4.18 No Liability to Taxation will arise or be incurred on a disposal by the Company of any of its assets for:
- (a) in the case of each asset owned at the Accounts Date, a consideration equal to the value attributed to that asset in preparing the Accounts; and
 - (b) in the case of each asset acquired since the Accounts Date, a consideration equal to the consideration given for the acquisition.
- 4.19 The Company has not at any time in respect of any asset owned at the date hereof made, nor will prior to Completion make, any claim under Sections 152 to 158 (inclusive), TCGA (replacement of business assets) and there is no proposal or plan to make any such claim either in the claims and elections assumed to have been made for the purposes of the Accounts or otherwise.

Close company

- 4.20 The Company is a close company within the meaning of Section 414, ICTA (close companies) but is not a close investment holding company for the purposes of Section 13A, ICTA (close investment-holding companies).

4.21 The Company has not at any time:

- (a) made any loan or advance or payment or given any consideration or effected any transaction falling within Sections 419 to 422 (inclusive), ICTA (loans to participators etc.);
- (b) made a transfer of value which is or may be liable to Tax under the provisions of Section 94, Inheritance Tax Act 1984 (charge on participators); or
- (c) made a transfer falling within the provisions of Section 125, TCGA (shares in close company transferring assets at an undervalue).

Group transactions

4.22 Within the last six years the Company has not:

- (a) been a member of a group of companies within the meaning of Section 170 TCGA (groups of companies);, or
- (b) acquired any asset from any other company which was at the time of acquisition a member of the same group of companies as that of which the Company was also a member.

4.23 No Liability to Taxation will be suffered by the Company in consequence of Completion or otherwise by virtue either of this Deed or of the Company ceasing to be a member of a group of companies with any other company.

4.24 The Disclosure Letter gives full details of all Relevant Claims and Surrenders in respect of each accounting period of the Company ending in the last six years and there are no other arrangements or agreements made by the Company in respect thereof.

4.25 There are no circumstances by virtue of which Sections 410 or 413, ICTA (arrangements for transfer of company to another group or consortium) would prevent the Company being treated as a member of the same group of companies within Chapter IV, Part X, ICTA (special provisions) for any accounting period commencing on or before the date of this Deed or Completion.

Deductible expenses.

4.26 The Company has not since the Accounts Date made or provided or is under any obligation currently or for the future to make any payment of an income or revenue nature which, or to provide a benefit the cost of which, will be prevented from being deductible for Tax purposes, whether as a deduction in computing the profits of a trade or as an expense of management or as a charge on income.

- 4.27 The accounting treatment adopted by the Company in its accounts in relation to any loan relationship as defined in Section 81, Finance Act 1996 ("**FA 1996**") (meaning of "**loans relationships**" etc.) will be treated as an authorised accounting method for the purposes of Section 85, FA 1996 (authorised accounting methods).
- 4.28 The Company has not been a party to a loan relationship treated as being for an unallowable purpose within the meaning of Paragraph 13 Schedule 9, FA 1996 (loan relationships for unallowable purposes).

Dividends and distributions

- 4.29 The Company has not at any time made any distribution within the meaning of Sections 209 to 211 (inclusive) (matters which are distributions for the purposes of the Corporation Tax Acts) and Section 418, ICTA ("**distribution**" to include certain expenses of close companies) except in respect of any dividends disclosed in its audited accounts.
- 4.30 Save as provided in the Accounts, the Company is not liable to make any payment of advance corporation tax or an amount equivalent to advance corporation tax.
- 4.31 The Company has not at any time purchased, repaid or redeemed or agreed to purchase, repay or redeem its share capital, or capitalised or agreed to capitalise in the form of redeemable shares or debentures any profits or reserves, or otherwise issued any share capital or other security as paid up otherwise than by the receipt of new consideration within the meaning of Section 254, ICTA (interpretation of Part VI).
- 4.32 The Company has not at any time been a party to or otherwise involved in any transaction to which Sections 213 to 218 (inclusive), ICTA (exempt distributions etc.) applied.

Inheritance tax and gifts

- 4.33 No circumstances exist under which any power within Section 212, Inheritance Tax Act 1984 (powers to raise tax) could be exercised in relation to, and there is no Inland Revenue charge (within the meaning of Section 237, Inheritance Tax Act 1984 (imposition of charge)) attaching to, or which may attach to any shares or securities in or over any assets of the Company.
- 4.34 The Company is not liable and there are no circumstances in existence as a result of which it may become liable to be assessed to Tax as donor or donee of any gift or transfer or transferee of value.

Anti-avoidance

- 4.35 The Company has not:

- (a) entered into, or been party to, any scheme or arrangement designed for the purpose of avoiding Taxation, such that a Liability to Taxation may arise after Completion as a result of or in consequence of such a scheme or arrangement; or
- (b) acquired or disposed of any asset, or entered into any Transaction whatsoever, otherwise than by way of a bargain at arms length.

Damages

4.36 The Vendor hereby agrees that in the event of a breach of warranties 4.3 (Stamp Duty) and 4.33 (Inheritance Tax) it shall pay to the Purchaser by way of liquidated damages an amount equal to:

- (a) in the case of warranty 4.3 any unpaid stamp duty; and
- (b) in the case of warranty 4.33 the cost and expense to the Company to remove any charge or other encumbrance over the shares or securities or other assets;

together in each case with any interest or penalties payable in respect thereof and any other costs, expenses and liabilities incurred by the Purchaser or the Company in relation thereto.

5. Limitations on liability

5.1 The liability of the Vendor under the Covenant for Taxation shall be reduced if and to the extent that the Liability to Taxation shall have been recovered under the Warranties or under any other part of the Covenant for Taxation (and vice versa).

5.2 The Vendor shall not be liable to the Purchaser for a Tax Claim in respect of any Liability to Taxation:

- (a) to the extent that provision or reserve in respect of that Liability to Taxation was included in the Accounts;
- (b) to the extent that the Liability to Taxation arises or is increased as a result only of:
 - (i) any increase in rates of Taxation;
 - (ii) any change in law or in the published practice thereof;
 - (iii) any change in the bases upon which the accounts of the Company are prepared or any change in accounting practice or principles except in either case in order to comply with generally accepted accounting principles;

or

- (iv) any change in the date to which the Company makes up its accounts

made in any such case after Completion with retrospective effect;

5.3 The Vendor shall not be liable to the Purchaser under the Covenant for Taxation in respect of a Liability to Taxation:

- (a) to the extent that such Liability to Taxation is:
 - (i) upon income, profits or gains which were actually earned, accrued or received by the Company; or
 - (ii) upon any Transaction carried out by the Company

in each case since the Accounts Date in the ordinary and normal course of the business of the Company provided that any failure to comply with any requirement imposed on it by law shall not for the purposes of this paragraph be within the ordinary and normal course of the business of the Company;
- (b) to the extent that there is available to the Company to relieve or mitigate such Liability to Taxation any Relief which is not a Purchaser's Relief;
- (c) to the extent that the Liability to Taxation has been relieved or mitigated because the Vendor has procured for no consideration a Relevant Claim or Surrender to the Company;
- (d) to the extent that such Liability to Taxation would not have arisen but for a voluntary act or omission carried out or effected by the Company at any time after Completion, other than any act or omission carried out or effected:
 - (i) under a legally binding commitment created on or before Completion;
 - (ii) in order to comply with any law or in order to comply with generally accepted accounting principles;
 - (iii) in the ordinary and normal course of the business carried on by the Company; or
 - (iv) at the request of or with the consent of the Vendor;
- (e) to the extent that such Liability to Taxation would not have

arisen or would have been reduced but for a failure or omission on the part of the Group Company concerned after Completion to make any claim or election, the making or claiming of which was taken into account in computing the provision or reserve for Taxation in the Accounts but only to the extent that the relevant claim or election was identified in a disclosure specifically made against the Tax Warranty in paragraph 4.4(f) of this Schedule.

6. Repayment

If the Vendor shall make any payment to the Purchaser in relation to any Tax Claim and the Purchaser or the Company subsequently receives from any Tax Authority or any person any amount referable to the subject matter of that Tax Claim, the Purchaser shall, once has received such amount, repay (after deducting the costs and expenses of the Purchaser incurred in recovering such amount and any Taxation payable on it or on any interest) to the Vendor either:

- (a) a sum equal to such amount; or
- (b) if lesser a sum equal to the Tax Claim paid by the Vendor to the Purchaser;

together with any interest paid to the Purchaser or the Company in respect of such sum.

7. Over-provision and Reliefs

- 7.1 If the auditors for the time being of the Company shall certify (at the request and expense of the Vendor) that any provision for Taxation in the Accounts (excluding any provision for deferred taxation) has proved to be an over-provision, then the amount of such over-provision shall be dealt with in accordance with paragraph 7.3 below.
- 7.2 If the auditors for the time being of the Company shall certify (at the request and expense of the Vendor) that any Liability to Taxation which has resulted in a payment having been made or becoming due from the Vendor under the Covenant for Taxation will give rise to a Relief for the Company (other than a Purchaser's Relief) which would not otherwise have arisen, then as and when such Relief reduces a liability to make an actual payment of Tax (other than a liability for which the Purchaser would be entitled to bring a Tax Claim), the amount of that reduction shall be dealt with in accordance with paragraph 7.3 below.
- 7.3 Where it is provided under paragraphs 7.1 or 7.2 that any amount ("**the relevant amount**") is to be dealt with in accordance with this sub-clause:

- (a) the relevant amount shall first be set-off against any payment then due from the Vendor under the Covenant for Taxation;
- (b) to the extent that there is an excess, a refund shall be made to the Vendor of any previous payment made by the Vendor under the Covenant for Taxation (to the extent not previously refunded under this paragraph 7) up to the amount of such excess; and
- (c) to the extent that the excess referred to in paragraph 7.3(b) above is not exhausted under that paragraph, the remainder of the excess shall be carried forward and set off against any future payment or payments which become due from the Vendor under the Covenant for Taxation.

7.4 Where any certification referred to in paragraphs 7.1 or 7.2 has been made, the Vendor or the Purchaser or the Company may request the auditors to 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 the certified amount should be amended.

7.5 If the auditors certify under paragraph 7.4 that an amount previously certified should be amended, that amended amount shall be substituted for the purposes of paragraph 7.3 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 shall be made as soon as practicable by the Vendor or (as the case may be) to the Vendor to give effect to the revised certification.

8. Tax Returns

8.1 The Vendor or its duly authorised agent shall at the Vendor's sole expense prepare the corporation tax returns of the Company for the accounting period ended on the Accounts Date to the extent that they have not been prepared prior to Completion.

8.2 The Purchaser shall procure that the Company shall cause the tax returns mentioned in paragraph 8.1 above to be authorised, signed and submitted to the relevant Tax Authority without amendment or with such amendments as the Vendor shall reasonably agree that the Purchaser shall not be obliged to procure that the Company takes any such action as is mentioned in this paragraph 8 in relation to any tax return that is not true and accurate in all material respects.

8.3 The Vendor or its duly authorised agent shall at the Vendor's sole expense prepare all documentation and deal with all matters (including correspondence) relating to the tax returns of the Company for all accounting periods ended on or prior to the Accounts Date and the

Vendor shall provide the Purchaser with copies of any correspondence relating to such tax returns prior to their submission and copies of any correspondence from the Inland Revenue. The Vendor shall give the Purchaser a reasonable opportunity to comment on such correspondence prior to submission and shall take account of the Purchaser's reasonable comments. The Purchaser shall upon reasonable notice (having regard to the circumstances) being given by the Vendor procure that the Company shall afford such access to its books, accounts and records and personnel as is necessary and reasonable to enable the Vendor or its duly authorised agent to prepare those tax returns and conduct matters relating thereto in accordance with the Vendor's rights under this paragraph.

9. Claims Procedure

- 9.1 Upon the Purchaser or the Company becoming aware of a Claim for Taxation which may result in a Tax Claim the Purchaser shall forthwith give written notice of that Claim for Taxation to the Vendor or, as the case may be, shall procure that the Company forthwith give written notice of that Claim for Taxation to the Vendor, and the Purchaser shall, subject always to the terms of this paragraph 9, the Vendor agreeing to indemnify and secure the Purchaser and/or the Company to its reasonable satisfaction against all losses, costs, damages and expenses, including interest on overdue Tax, which may be incurred, further procure that the Company take such action and give such information and assistance in connection with the affairs of the Company as the Vendor may reasonably and promptly by written notice request to avoid, resist, appeal or compromise the Claim for Taxation.
- 9.2 The Purchaser shall not be obliged to procure that the Company appeals against any tax assessment if, the Vendor having been given written notice of the receipt of that Claim for Taxation in accordance with paragraph 9.1 above, the Company has not within 21 days (or, if there is a statutory time limit of not more than 28 days, within 14 days) thereafter received instructions in writing from the Vendor, in accordance with the preceding provisions of this paragraph 9, to make that appeal.
- 9.3 The Vendor shall procure that the Purchaser is promptly provided with copies of any correspondence from the Tax Authority, copies of any correspondence from the Vendor to the Tax Authority prior to its submission to the Tax Authority, and shall be given a reasonable opportunity to comment thereon prior to submission and account shall be taken of its reasonable comments.
- 9.4 The Purchaser shall not be obliged to procure that the Company take any action under paragraph 9.1 above which involves contesting any matter with any Tax Authority (excluding the authority or body

demanding the Tax in question) unless the Vendor furnishes the Company with the written opinion of leading tax counsel to the effect that the appeal in question will, on the balance of probabilities, succeed. Such tax counsel shall be instructed by the Vendor at the Vendor's expense but the Vendor shall promptly provide the Purchaser with a copy of such instructions and give the Purchaser or its representative a reasonable opportunity to attend any conference with Counsel.

- 9.5 The Purchaser shall not be required to take any action or procure that the Company take any action under this paragraph 9 if it reasonably determines that such action would have an adverse effect on the amount of tax payable by the Purchaser or the Company in respect of a period after Completion.

Executed and delivered as a deed by
Michael David Kircough
in the presence of:

)
)
)



Signature of witness:



Name:

THOMAS HUW EVANS


Address:

GWICK RD
EWENNI
BRIDGENO

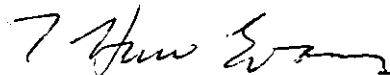
Occupation:

TAX ACCOUNTANT

Executed and delivered as a deed by
Paul Francis Wayte
in the presence of:

) 
)
)

Signature of witness:



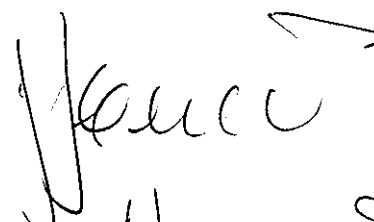
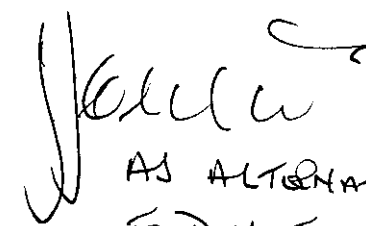
Name:

As above.

Address:

Occupation:

Executed and delivered as a deed by)
John Joseph Clifford)
and John Joseph Clifford (as attorney for)
David Malcolm Telling)
acting for MITIE HydroCat Limited)
in the presence of:)



AS ALTERNATE
TO D.M. TELLING

Signature of witness:



Name:

CORINA K. ROSS

Address:

33 BROOK ST
BATH BA1 2LN

Occupation:

COMPANY SECRETARY