

4195561

Dated 13 June 2006

THE PERSONS LISTED IN SCHEDULE 2

(Vendors)

and

RODERICK DOWNER
(Mr Downer)

and

COLLIERS CRE PLC

(Purchaser)



AGREEMENT

for the purchase of 60% of the issued share capital of

JS (CITY) LIMITED

Certified true copies
[Signature]
Michael Conn Gundersen
Solicitors
24 Queen Anne St
London W1
2/8/06

A & L GOODBODY

TABLE OF CONTENTS

1.	DEFINITIONS AND INTERPRETATION	3
2.	SALE AND PURCHASE OF SHARES	7
3.	COMPLETION.....	8
4.	WARRANTIES	8
5.	RESTRICTIONS ON VENDORS	11
6.	MISCELLANEOUS PROVISIONS	12
SCHEDULE 1	THE COMPANY	16
SCHEDULE 2	VENDORS' SHAREHOLDINGS IN THE COMPANY	17
SCHEDULE 3	WARRANTIES	18
SCHEDULE 4	COMPLETION OBLIGATIONS	39
SCHEDULE 5	PROPERTIES	41
SCHEDULE 6	WARRANTY INFORMATION LIST	43
SCHEDULE 7	PURCHASER'S WARRANTIES	45
SCHEDULE 8	RETENTION	46

List of Agreed Form Documents (clause 1.7)

Shareholders' Agreement

New Articles

Service Agreements

Consultancy Agreement

Tax Deed

THIS AGREEMENT is dated 13 June 2006 and made between:

- (1) Those listed as Vendors in column (1) of Schedule 2 (**Vendors**) and Roderick Downer of Ballylina Lodge, Borrisokane, Co. Tipperary (**Mr Downer**); and
- (2) **COLLIERS CRE PLC**, a company incorporated in England and Wales (no. 04195561) whose registered office is at 9 Marylebone Lane, London W1U 1HL (**Purchaser**).

RECITALS

- A. The Vendors are the legal and beneficial owners of the entire issued share capital of JS (City) Limited and are registered in the Company's register of members in the manner set out in column (2) of Schedule 2.
- B. The Vendors have agreed to sell and the Purchaser has agreed to purchase the Sale Shares on the terms and conditions contained in this Agreement
- C. Mr Downer, a recent shareholder in the Company, has agreed to enter into this Agreement for the purposes of giving the Warranties and certain other covenants and undertakings detailed in this Agreement.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

- 1.1. In this Agreement, unless the context otherwise requires:

1963 Act means the Companies Act 1963;

1990 Act means the Companies Act 1990;

Acts means the Companies Acts 1963 – 2005;

Accounting Standards means accounting principles, standards and practices generally accepted in Ireland at the date of this Agreement;

Accounts, in relation to the Company, means its audited profit and loss account and balance sheet for the period ended on and as at the Balance Sheet Date respectively, including the notes and the related directors' and auditors' reports, together with all documents which are required by law to be attached to them;

AIM means the Alternative Investment Market operated by the London Stock Exchange PLC;

AIM Rules means the provisions of Chapter 16 and 17 of the Rules of the London Stock Exchange PLC governing, inter alia, admission to AIM and the continuing obligations of AIM companies;

Balance Sheet, in relation to the Company, means the balance sheet comprised in its Accounts;

Balance Sheet Date means 31 December 2005;

Breach, in relation to a Warranty, means any instance of the Warranty being untrue or misleading in any respect;

Business Day means any day on which banks are generally open for business in Dublin and London, excluding Saturdays and Sundays;

Business IP means the Registered and material unregistered Intellectual Property Rights owned by the Company;

City Code means the City Code on Takeovers and Mergers of the UK as may be in force from time to time or any equivalent or replacement legislation, code or rules which shall apply to the Purchaser or any other relevant third party in connection with (amongst other things) the purchase of shares in the Purchaser;

Company means JS (City) Limited, details of which are set out in Schedule 1;

Competing Business means the services currently provided by the Company at the date of this Agreement being residential, commercial and investment property agency and advice, valuations and appraisals, rent reviews, feasibility studies, litigation support, property management and general property consultancy;

Competition Acts means the Competition Acts 1991 – 2002;

Competition Authority means the body established under section 10 of the Competition Act 1991 (as amended by the Competition Act 2002);

Completion means completion of the sale and purchase of the Sale Shares in accordance with this Agreement;

Completion Cash Consideration means the aggregate sum of €3,780,000 payable by the Purchaser to the Vendors in accordance with clause 3.3.1 in the proportions set beside each of the Vendors' names in column (4) of Schedule 2;

Consideration means the Completion Cash Consideration, the Retention and the Consideration Shares being in aggregate the sum of €4,800,000 (provided the Retention is paid in full);

Consideration Shares means the number of fully paid ordinary shares of £0.50 each in the capital of the Purchaser set beside each of the Vendors names in column (5) of Schedule 2;

Consultancy Agreement means the consultancy agreement between the Company and Roderick Downer in the agreed form;

Directors means those listed as such in Schedule 1 and the **Continuing Directors** means those described as such in Schedule 1;

Disclosure Letter means the letter dated the same date as this Agreement from the Warrantors to the Purchaser disclosing exceptions to the Warranties together with all documents and information attached to it;

EC Treaty means the Treaty establishing the European Community (Treaty of Rome);

Encumbrance includes any interest or equity of any person (including any right to acquire or option) or any mortgage, charge, pledge, lien, assignment, hypothecation, security interest (including any created by law), title retention or other security agreement or arrangement or a rental, hire purchase, credit sale or other agreement for payment on deferred terms;

Intellectual Property Rights means patents, trade marks, service marks, logos, get-up, trade names, internet domain names, rights in designs, copyright (including rights in computer software) and moral rights, database rights, semi-conductor topography rights, utility models, rights in know-how and other intellectual-property rights, in each case whether registered or unregistered and including applications for registration, and all rights or forms of protection having equivalent or similar effect anywhere in the world;

Internal IT Systems means the information and communication technologies used by the Company including hardware, proprietary and third party software, networks, peripherals and associated documentation;

Ireland means Ireland (excluding Northern Ireland) and Irish will be construed accordingly;

June Management Accounts means the management accounts of the Company for the period from 1 June 2006 to 30 June 2006;

Knowledge Parties means each of the Vendors, Mr Downer, David Rowe of Outsource Consulting Limited and John Tracey of Garland McDonald & Co and the Vendors' Solicitors;

Licences In means the licences of Intellectual Property Rights which have been granted to the Company;

Licences Out means the licences of Intellectual Property Rights which have been granted by the Company to third parties;

Management Accounts means the management accounts of the Company for the period from the Balance Sheet Date to 31 May 2006;

Minister means the Minister for Enterprise, Trade and Employment;

New Articles means the new Articles of Association of the Company to be adopted upon Completion in the agreed form;

Net Asset Value means, in relation to the Company, its tangible assets (comprising its fixed and current tangible assets, stocks, debtors and cash) less the aggregate amount of all its liabilities, duties or obligations of any description;

Pension Schemes means:

- (a) the Jackson Stops and McCabe Limited Retirement Benefit Scheme established with effect from 1 April 1985 by a trust deed dated 7 May 1985; and
- (b) the Jackson Stops and McCabe Retirement Benefits Plan established with effect from 1 January 1997 by a trust deed dated 1 January 1997 which is insured with Scottish Provident under policy number 26371D.

PRSA Arrangement means the contractual arrangement between the Company and eligible employees to participate in the personal retirement savings account established by the Company with New Ireland Assurance Company plc (trading as Bank of Ireland Life) with effect from 11 August, 2003;

Properties means the properties owned, occupied or used by Company listed in Schedule 5;

Purchaser's Solicitors means Wragge and Co LLP and A & L Goodbody;

Purchaser's Warranties means the warranties set out in clause 4.8 and Schedule 7;

Registered in the context of Business IP includes registration and applications for registration;

Restricted Area means Ireland, being the geographical area in which the Company carried on its business as at the date of this Agreement;

Restricted Period means the period of two years following the date of this Agreement;

Retention means the sum of €300,000 which shall be paid in accordance with Schedule 8;

Service Agreements means the service agreements to be entered into by the Company and the Vendors on Completion in the agreed form;

Sale Shares means 5500 ordinary shares held by the Vendors as more particularly set out in column (3) of Schedule 2, representing 60% of the entire allotted and issued share capital of the Company;

Shareholders' Agreement means a shareholders' agreement to be entered into on Completion by the Vendors, the Purchaser and the Company in respect of the management of the Company and relations between the Vendors and the Purchaser as shareholders in the Company in the agreed form;

Tax means all forms of taxation, duties, imposts and levies whether of Ireland or elsewhere, including (but without limitation) income tax, corporation tax, corporation profits tax, advance corporation tax, capital gains tax, capital acquisitions tax, residential property tax, wealth tax, value added tax, dividend withholding tax, deposit interest retention tax, customs and other import and export duties, excise

duties, stamp duty, capital duty, social insurance, social welfare or other similar contributions and other amounts corresponding thereto whether payable in Ireland or elsewhere, and any interest, surcharge, penalty or fine in connection therewith, and the word **taxation** shall be construed accordingly;

Tax Deed means a deed of tax covenant to be entered into between the Vendors, Mr Downer, the Purchaser and the Company in the agreed form;

TCA means the Taxes Consolidation Act 1997;

Vat Act means the Value Added Tax Act 1972;

Vendors' Solicitors means O'Donnell Sweeney;

Warranties means the warranties and representations in clause 4 and Schedule 3;

Warrantors means each of the Vendors and Mr Downer; and

Warranty Claim means a claim for a Breach of any one or more of the Warranties,
and cognate terms will be construed accordingly.

- 1.2. The Schedules referred to in this Agreement form an integral part of this Agreement, and references to this Agreement include reference to them.
- 1.3. Headings are inserted for convenience only and do not affect the construction of this Agreement.
- 1.4. All references in this Agreement to costs, charges or expenses include any value added tax or similar tax charged or chargeable on them.
- 1.5. The Warranties, and all other obligations, covenants, undertakings and representations arising under this Agreement, given or entered into by more than one person are given or entered into jointly and severally.
- 1.6. Unless expressly stated in this Agreement, or the context otherwise requires, in this Agreement:
 - 1.6.1. references to persons are deemed to include references to natural persons, firms, partnerships, companies, corporations, associations, bodies corporate, trusts and investment funds (in each case whether or not having a separate legal personality) but references to individuals are deemed to be references to natural persons only;
 - 1.6.2. references to "the Vendors" means any one or more of the Vendors;
 - 1.6.3. words importing the singular include the plural and vice versa and words importing the masculine include references to the feminine and neuter and vice versa;
 - 1.6.4. subject to clause 6.10, references to writing or similar expressions include transmission by facsimile or electronic means;
 - 1.6.5. a word or phrase the definition of which is contained or referred to in section 2 of the 1963 Act has the meaning attributed to it by that definition;
 - 1.6.6. references to Acts, statutory instruments and other legislation are to legislation operative in Ireland and to such legislation, modified, consolidated, amended or re-enacted (whether before or after the date of this Agreement) and any subordinate legislation made under that legislation;
 - 1.6.7. references to this Agreement includes this Agreement as amended or supplemented from time to time;
 - 1.6.8. "including" or "includes" shall be interpreted so as not to limit the meaning of any words preceding such terms; and
 - 1.6.9. where any Warranty is given on terms that it is to the best of the knowledge and belief of the Warrantors (or any other words to this or a similar effect), the Warrantors will be deemed to

have the knowledge and belief which they would have had if they had made due and careful enquiries of the Knowledge Parties;

- 1.7. References to a document in the agreed form is to the form of the relevant document agreed by the parties and initialled by them or on their behalf for identification purposes.

2. SALE AND PURCHASE OF SHARES

- 2.1. Each Vendor will sell as beneficial owner and the Purchaser will purchase, free from all Encumbrances and together with all rights attaching or accruing to them now or in the future, the number of Sale Shares listed opposite that Vendor's name in Schedule 2.
- 2.2. The Purchaser will not be obliged to complete the purchase of any Sale Shares unless the purchase of all of the Sale Shares is completed simultaneously.
- 2.3. The Vendors waive all pre-emption rights to which they may be entitled under the Articles of Association of the Company or otherwise together with any other restrictions on transfer of the Sale Shares.
- 2.4. All of the Sale Shares will be sold at an aggregate price of €4,800,000 (subject to the Retention being paid in full) such Consideration to be satisfied by the payment of the Completion Cash Consideration, the Retention and the allotment and issue of the Consideration Shares credited as fully paid to each Vendor in each case in the amount and number set out against that Vendor's name in columns (4) and (5) respectively of Schedule 2.
- 2.5. The Consideration Shares will rank *pari passu* in all respects with the existing ordinary shares in the capital of the Purchaser in issue at the date of this Agreement.
- 2.6. The Vendors undertake they shall not, for one year from the date of Completion, without the prior written consent of the Purchaser, dispose of or create any Encumbrance over any of the Consideration Shares (or agree to do so).
- 2.7. Clause 2.6 does not prevent the Vendors from disposing of any Consideration Shares in the following circumstances:
- 2.7.1. where such disposal is made in the acceptance of any offer made in accordance with the City Code by any third party for the whole of the ordinary share capital of the Purchaser (other than any ordinary share capital owned by the offeror or any concert party of the offeror) which is recommended by a majority of the board of directors of the Purchaser; or
- 2.7.2. where such disposal is made in the execution of an irrevocable commitment to accept any offer made in accordance with the City Code for the whole of the ordinary share capital of the Purchaser (other than any ordinary share capital owned by the offeror or any concert party of the offeror) which is recommended by a majority of the board of directors of the Purchaser; or
- 2.7.3. where such disposal is made pursuant to an offer by the Purchaser to purchase its own shares which is made on identical terms to all holders of ordinary shares in the Purchaser and otherwise complies with the United Kingdom Companies Act, 1985 and the AIM Rules; or
- 2.7.4. where (whether *inter vivos* or by testamentary disposition or on intestacy) the disposal is made to a member of his family or to trustees of any trust, the principal beneficiaries of which are exclusively himself and/or members of his family,
- provided that in each case such disposal is made after notification to the Purchaser and the transferee of the shares agrees with the Purchaser (in terms reasonably acceptable to the Purchaser) to be bound by the terms of clause 2.6 in respect of the residue of the period referred to in that clause.
- 2.8. For the purposes of clauses 2.6 and 2.7, Consideration Shares shall include any
- 2.8.1. shares held by the Vendors arising out of the consolidation, conversion or subdivision of Consideration Shares;

2.8.2. any shares acquired by reference to the Consideration Shares whether by way of bonus or rights issue, pre-emption right or otherwise or in exchange or substitution for any such Consideration Share; or

2.8.3. any interest (whether legal or beneficial) in the Consideration Shares.

3. COMPLETION

3.1. **Completion:** Completion will take place on the date of this Agreement at the offices of the Purchaser's Solicitors in Dublin.

3.2. **Vendors' Obligations at Completion:** Upon Completion, the Vendors shall carry out all the Vendors' obligations set out in Schedule 4.

3.3. **Purchaser's Obligation to Pay:**

3.3.1. The Purchaser shall on Completion:

- (1) pay the Completion Cash Consideration in accordance with clause 3.3.2; and
- (2) allot the Consideration Shares to each Vendor as provided by clause 2.4.

3.3.2. Payment of the Completion Cash Consideration and the Retention (if any is to be paid) shall be made to the Vendors' Solicitors by banker's draft or electronic funds transfer or in such other manner as may be agreed in writing between the Vendors' Solicitors and the Purchaser's Solicitors, and the receipt of the Vendors' Solicitors will be an absolute discharge to the Purchaser.

3.4. **Admission to Listing of Consideration Shares**

3.4.1. Following Completion and allotment and issue of the Consideration Shares, the Purchaser shall use all reasonable endeavours to procure the admission of the Consideration Shares to AIM as soon as reasonably practicable following Completion.

3.4.2. If the Consideration Shares are not admitted to AIM by 30 June then, at the written direction of the Vendors, the Purchaser shall pay the sum of €780,000 in lieu of the Consideration Shares within 3 Business Days of such direction to the Vendors pro rata to their shareholdings in the Company immediately before Completion and the Vendors shall immediately upon receipt of the sum of €780,000 transfer or permit the redemption of the Consideration Shares on such terms as the Purchaser shall require.

3.5. **Retention:** The Retention shall be paid in accordance with Schedule 8.

4. WARRANTIES

4.1. **Warranties:**

4.1.1. In further consideration of the payment of the Consideration to the Vendors and in the case of Mr Downer in consideration of the payment of €1 (receipt of which is acknowledged) (and subject always to clause 4.11) the Warrantors warrant to the Purchaser that as at the date of this Agreement each of the Warranties is true, accurate and not misleading in any respect subject only to any exceptions fairly disclosed in the Disclosure Letter and any matter expressly provided for in this Agreement. In this Agreement "fairly disclosed" means disclosed in such a manner and in such detail as to enable a reasonable purchaser to make a fair and reasonable assessment of the matter concerned.

4.1.2. The Warrantors acknowledge that the Purchaser has entered into this Agreement in reliance upon (amongst other matters), the Warranties.

4.1.3. Each of the Warranties is separate and independent and is not limited by reference to any other paragraph of Schedule 3 or by anything in this Agreement (other than the provisions of this clause 4) or the Tax Deed.

- 4.1.4. None of the Warranties will be deemed in any way to be modified or discharged by reason of any investigation or inquiry made or to be made by or on behalf of the Purchaser, and no information of which the Purchaser (or its professional advisers, agents, officers, employees or consultants) has knowledge (whether actual or constructive or imputed) other than by reason of its being fairly disclosed in the Disclosure Letter will prejudice any claim which the Purchaser may be entitled to bring or will operate to reduce any amount recoverable by the Purchaser under this Agreement.

4.2. Deductions and Withholdings:

- 4.2.1. Subject to clause 4.2.2, all sums payable by the Warrantors under this Agreement shall be paid free and clear of all deductions or withholdings unless such deduction or withholding is required by law. In the event of there being any such deduction or withholding or in the event that the Purchaser or the Company incurs any liability to Tax as a result of or by reference to the receipt of any payment made under this Agreement, the Warrantors shall pay such additional amounts as shall be required to ensure that the net amount received and retained by the Purchaser (after Tax) will equal the full amount which would have been received and retained by it had not such deduction or withholding been made and/or no such liability to Tax been incurred.

- 4.2.2. Clause 4.2.1 shall not apply in the event that any payment made by the Warrantors to the Company pursuant to this Agreement (and at the direction of the Purchaser) attracts capital gains tax (for the account of the Company) on the basis that the obligation on the Warrantors to pay any such sum is treated by the Revenue Commissioners as constituting the disposal of a capital asset by the Company.

- 4.3. **Damages for Breach:** Without prejudice to the right of the Purchaser to claim on any other basis or take advantage of any other remedies available to it, if any Warranty is breached or proves to be untrue or misleading, the Warrantors shall pay any damages or settlement amount together with any costs and expenses (**Damages**) to the Purchaser or the Company (at the direction of the Purchaser) on the following basis:

- 4.3.1. where the payment is made to the Purchaser, 60% of the Damages;

- 4.3.2. where the payment is made to the Company, 100% of the Damages.

- 4.4. **Limitations:** Notwithstanding the provisions of clauses 4.1 or 4.3 but subject to clause 4.5:

- 4.4.1. **Time:** the Warrantors will not be liable for any Warranty Claim unless notice of it is given in writing by the Purchaser to the Warrantors setting out brief particulars of the grounds on which the Warranty Claim is based within two years following Completion, except that the time limit is to be four years for a Warranty Claim in respect of Tax. In the case of notice being given of a Warranty Claim, if proceedings are not issued and served on the Warrantors in respect of that claim within one year of such notice, the claim will be deemed to be withdrawn unless such claim has been admitted to by the Vendors or any of them.

- 4.4.2. **Aggregate Minimum Claims:** with the exception of clauses, 3.8, 3.15, 3.16, 12.1.15 and 12.1.16 of Schedule 3 (and in respect of 12.1.15, the matters set out in clause 7.3.2 of the Tax Deed only and in respect 12.1.16, in the event the Company is determined by the Revenue Commissioners to have failed to have properly applied PAYE and/or PRSI on the monetary value of the benefits or payments set out in clause 7.3.1 of the Tax Deed), in respect of which this clause shall have no application, the Warrantors will not be liable for any Warranty Claim unless the aggregate amount of the Warrantors' liability for all duly notified claims exceeds €75,000 (the **Aggregate Minimum**), in which case all such duly notified claims, including claims previously notified, shall accrue against and be recoverable from the Warrantors and not merely the excess over the Aggregate Minimum provided always that only claims for €1,000 or more shall count for the purposes of determining the Aggregate Minimum except to the extent that any claim or claims are in respect of related or connected matters;

- 4.4.3. **Aggregate Maximum Liability:** the maximum aggregate liability of each Vendor for all claims under the Warranties and the Tax Deed shall in no circumstances exceed the amount set beside that Vendor's name in column (6) of Schedule 2 and the maximum aggregate liability of

Mr Downer for all claims under the Warranties and the Tax Deed shall in no circumstances exceed €240,000;

4.4.4. **Changes in Law:** the Warrantors will not be liable for any Warranty Claim to the extent that it arises or is increased as a result of any of the following occurring after Completion with retrospective effect:

- (1) an increase in rates of Tax;
- (2) a change in the law or in any regulation, requirement or code of conduct of any relevant agency or regulatory body; or
- (3) any parliamentary statement, or statement by the Revenue Commissioners concerning any change in Revenue practice,

4.4.5. **Miscellaneous:** the Warrantors will not be liable for any Warranty Claim to the extent that the matter to which the Claim relates arises wholly or partly from an act or omission of the Purchaser required by law to the extent that the Purchaser was aware or ought reasonably have been aware of such requirements prior to Completion.

4.5. **Non Application of Limitations:** The limitations and exclusions in this Agreement will not apply to any Warranty Claim relating to:

4.5.1. the Vendors' title to, or the status or validity of, the Sale Shares; or

4.5.2. any claim which arises or is delayed as a result of any fraudulent act, fraudulent omission or fraudulent misrepresentation or any wilful misconduct or wilful concealment or wilful misstatement by the Warrantors or any of them.

4.6. **Tax Deed:** The Warrantors will not be liable for a Warranty Claim to the extent that the loss occasioned by the relevant Breach has been recovered under the Tax Deed.

4.7. **No Representation etc:** Information supplied by or on behalf of the Company to the Warrantors or their agents or professional advisers prior to Completion in connection with the Warranties or the exceptions, or the information disclosed in the Disclosure Letter or Tax Deed or otherwise in relation to the business and affairs of the Company, will not constitute a representation, warranty or guarantee as to its accuracy, and the Warrantors hereby assign to the Purchaser any claims which they might otherwise have against the Company or its employees or officers or professional advisers in respect of that information, and undertake not to bring any action or proceedings in relation to it.

4.8. **Purchaser's Warranties:** The Purchaser warrants to the Warrantors that as at the date of this Agreement, the Purchaser's Warranties are true, accurate and not misleading in any respect.

4.9. **Limitations on Purchaser Warranties:** Notwithstanding the provisions of clause 4.8, the Purchaser shall have liability for all claims under the Purchaser's Warranties up to but not exceeding the value of the Consideration at the date of Completion.

4.10. **Breach of Warranty limited to claims for breach of contract:** Any Warranty Claim made by the Purchaser may only be made on the basis of a breach of contract by the Warrantors.

4.11. **Vendors' Liability for Mr Downer:** If, in respect of any Warranty Claim or in respect of any other breach of this Agreement by Mr Downer, it is held (by a court or other competent authority) that such Warranty Claim may not be brought or is unenforceable against Mr Downer pursuant to the terms of this Agreement, then the Vendors will pay to the Purchaser on a joint and several basis the amount which Mr Downer would have been liable for had the relevant Warranty Claim or breach against Mr. Downer been allowed, and in which case the provisions of clause 4.4.3 shall be adjusted accordingly.

4.12. **Mitigate loss:** Nothing in this Agreement will be deemed to relieve the Company and the Purchaser from any common law duty to mitigate any loss incurred by them.

4.13. **Recovery from Insurance:** If at any time the Company actually recovers from any insurer, whether by payment, credit, discount or relief in respect of any matter giving rise to a Warranty Claim (an Insurance Claim), the amount of the relevant Warranty Claim shall be reduced to the extent of any

such amount recovered pursuant to an Insurance Claim provided that the Company shall make and diligently pursue all reasonable claims against insurers and provided further that the Purchaser shall be entitled pursuant to such Warranty Claim to recover from the Warrantors any additional premium which the Company must pay to an insurer as a result of any successful Insurance Claim.

- 4.14. **Purchaser's Knowledge:** The Purchaser confirms that none of David Izett, Tom Tidy and Russell Francis is actually aware of any fact, matter or circumstance which they have been advised by either of the Purchaser's Solicitors will give rise to a Warranty Claim following execution and exchange of this Agreement.
- 4.15. **Conduct of third party claims:** The Purchaser shall inform the Warrantors in writing as soon as reasonably practicable of any claim by a third party (a **Third Party Claim**) which comes to the notice of the Purchaser whereby it appears that the Warrantors are likely to become liable under any Warranty Claim. Subject to the Purchaser and the Company being indemnified to the Purchaser's reasonable satisfaction in respect of all costs, charges and expenses reasonably and properly incurred by the Purchaser and the Company as a consequence of any actions taken at the request of the Warrantors pursuant to clause 4.15.2 and further subject to the matter not being materially adverse to the overall commercial interests of the Company (as determined by the Purchaser acting reasonably);
- 4.15.1. the Purchaser shall, and (to the extent it is able) procure that the Company shall, take such action and give such information and assistance as the Warrantors may reasonably request in writing to avoid, dispute, resist, mitigate, compromise or defend any Third Party Claim and to appeal against any judgment given in respect thereof including (without limitation) applying to postpone so far as legally possible the payment of any Taxation; and
- 4.15.2. on the written request of the Warrantors, the sole conduct of any legal proceedings of whatsoever nature arising out of any Third Party Claim (**Proceedings**) shall be delegated to the Warrantors. For this purpose, the Purchaser shall give or to the extent that it is able procure that the Company shall give to the Warrantors all such reasonable assistance as the Warrantors may reasonably require and shall to the extent it is able procure that the Company shall appoint such solicitors and other professional advisers as the Warrantors may nominate to act of behalf of the Purchaser or the Company in accordance with the Warrantors' instructions.
- 4.16. Where Proceedings are delegated to the Warrantors in accordance with clause 4.15:
- 4.16.1. the Warrantors shall keep the Purchaser and the Company fully and promptly informed of the Proceedings, shall consult the Purchaser and the Company on any matter which is or is likely to be material in relation to any Proceedings and shall take account of all reasonable requirements of the Purchaser and the Company in relation to such Proceedings; and
- 4.16.2. the Warrantors shall not make any settlement or compromise of the Third Party Claim which is the subject of Proceedings, or agree to any matter in the conduct of such Proceedings which may affect the amount of the liability in connection with such Third Party Claim without the prior approval of the Purchaser, such approval not to be unreasonably withheld, conditioned or delayed and provided always that, in the event of the Purchaser refusing approval of such settlement or compromise, the Warrantors shall have no liability in respect of any Warranty Claim arising therefrom in excess of the figure at which they could have settled or compromised the relevant Third Party Claim (including any costs incurred by the Company or the Purchaser from the date of the Purchaser's refusal of such settlement or compromise).
- 4.17. **Recovery of Book Debts:** In the event that the Purchaser is successful in bringing a Warranty Claim pursuant to clause 3.8 of Schedule 3 (a **Book Debt Claim**), and the Company subsequently recovers an amount forming all or part of the Book Debt Claim (the **Recovery Amount**), the Purchaser shall refund the Recovery Amount to the Warrantors, such repayment to be made in accordance with the payment provisions of clause 3.3.2.

5. RESTRICTIONS ON VENDORS

- 5.1. **Restrictions:** In further consideration of the Purchaser entering into this Agreement and for the purpose of assuring to the Purchaser the full benefit of the business and goodwill represented by the Sale Shares, each of the Vendors covenants with and undertakes to the Purchaser (as trustee for itself and the Company and any successor in title to the Sale Shares) that he will not, without the prior written consent of the Purchaser:

- 5.1.1. **Carry on Business in Competition:** at any time during the Restricted Period, carry on or be engaged, employed, concerned or interested in carrying on or assisting in any Competing Business within the Restricted Area, whether as principal, director, shareholder, employee or in any other capacity on his own behalf or in conjunction with or on behalf of any other person, but this restriction will not apply to the mere holding of up to 5% of a class of securities which are traded on a recognised securities market and shall exclude the Consideration Shares;
- 5.1.2. **Employees:** at any time during the Restricted Period, canvass, solicit, approach or entice away from the Company any officer, employee or consultant whether or not that person would commit a breach of his contract of employment or consultancy by reason of leaving service;
- 5.1.3. **Customer:** at any time during the Restricted Period, canvass, solicit, approach or entice away from the Company any person who was a customer of the Company within 12 months before Completion;
- 5.1.4. **Suppliers:** at any time during the Restricted Period, canvass, solicit, approach or entice away from the Company any person who supplied goods or services to the Company within 12 months before Completion, or interfere or seek to interfere or take steps which may interfere with supplies to the Company or the terms of business relating to such supplies;
- 5.1.5. **Names and Intellectual Property Rights:** at any time after Completion, directly or indirectly use or attempt to use in the course of any business or otherwise on its own account or in connection with or on behalf of any person:

- (1) any Intellectual Property Rights owned by the Company; or
- (2) any name used or owned by the Company including the name Colliers, Jackson Stops or CRE or any other part, combination or abbreviation which is likely to be confused with such names (whether or not such name, part, combination or abbreviation is used in conjunction with any other name, place or description);

5.2. **Extension of Covenant:** Each Vendor shall procure that no person owned or controlled directly or indirectly by him (whether alone or together with one or more other Vendor) will act in such a way as would be a contravention of the obligations contained in this clause 5 if any Vendor were so to act.

5.3. **Modification:** Whilst the restrictions in clause 5.1 are considered by the parties to be reasonable and indispensable in all the circumstances as at the date of this Agreement, it is acknowledged that restrictions of that nature may or become void or unenforceable because of changed circumstances or other unforeseen reasons; therefore, if any such restrictions are held to be or are reasonably likely to be held (in the opinion of Purchaser) void or unenforceable by any court or regulatory authority but would be valid if part of the wording were amended or the relevant period or scope reduced, those restrictions will apply with the modifications necessary to make them valid and effective, and those modifications will not affect the validity or enforceability of any other restrictions in or provisions of this Agreement.

6. MISCELLANEOUS PROVISIONS

6.1. Announcements:

6.1.1. No party shall make any announcement to shareholders, employees, customers or suppliers, or to securities markets or other authorities or to the media or otherwise, regarding the subject-matter of this Agreement or any term or provision of it without the prior written approval of the other parties to this Agreement.

6.1.2. Clause 6.1.1 will not apply if and to the extent that such announcement is required by any law applicable to the party making the announcement or by:

- (1) bona fide contractual arrangements with unrelated third parties in existence at the date of this Agreement which have been notified to the other parties prior to Completion; or
- (2) any securities exchange, regulatory or governmental authority or court having

jurisdiction over the party making the announcement, whether or not the requirement has the force of law

provided that any such announcement may only be made after consultation with the Warrantors, in the case of the Purchaser, and the Purchaser, in the case of the Warrantors, in each case to the extent permitted by law.

6.1.3. The provisions in this clause 6.1 will continue to apply after Completion.

6.1.4. If any party proposes to make an announcement pursuant to clause 6.1, it shall provide copies of that proposed announcement to each of the other parties to this Agreement before the announcement is made unless this is not reasonably practicable, in which case, a copy of the announcement shall be so provided to each party as soon as reasonably practicable.

6.1.5. Each party undertakes to provide all such information known to it or which on reasonable enquiry ought to be known to it as may reasonably be required by any other party in relation to the Company for the purposes of complying with the requirements of law or any securities exchange, regulatory or governmental authority or court having jurisdiction over the party that requires the information.

6.2. Assignment:

6.2.1. None of the parties to this Agreement may assign any of its rights under this Agreement without the prior written consent of each of the other parties except that the Purchaser may assign the benefit of any provision of this Agreement (including the benefit of the Warranties subject to the Disclosure Letter) to any subsidiary of the Purchaser, any holding company of the Purchaser or any subsidiary of such holding company without the consent of any other party and such assignee shall be entitled to enforce the same rights against the Warrantors as if it were named as the Purchaser under this Agreement.

6.2.2. Subject to clause 6.2.1 this Agreement will be binding on and enure for the benefit of the personal representatives and assigns and successors in title to each of the parties and references to the parties will be construed accordingly.

6.3. **Costs and Expenses:** Each party to this Agreement will pay its own costs and expenses of and incidental to this Agreement and its implementation.

6.4. **Severability:** All the terms and provisions of this Agreement are distinct and severable, and if any term or provision is held or declared to be unenforceable, illegal or void in whole or in part by any court, regulatory authority or other competent authority it will to that extent only be deemed not to form part of this Agreement, and the enforceability, legality and validity of the remainder of this Agreement will not in any event be affected. The parties shall then use all reasonable endeavours to agree a term or provision to replace the unenforceable, illegal or void term or provision which is legal and enforceable and which has an effect that is as near as possible to the intended effect of the term or provision to be replaced.

6.5. **Whole Agreement:** This Agreement (together with any documents to be executed pursuant to the terms of this Agreement) and the Disclosure Letter supersede all prior representations, arrangements, understandings and agreements, and sets out the entire, complete and exclusive agreement and understanding between the parties. The rights of the Purchaser under this Agreement are independent, cumulative and without prejudice to all other rights available to it whether as a matter of common law, statute, custom or otherwise.

6.6. **Survival:** The provisions of this Agreement which have not been performed at Completion will remain in full force and effect notwithstanding Completion.

6.7. **Remedies Cumulative:** The provisions of this Agreement and the rights and remedies of the parties are cumulative and are without prejudice and in addition to any rights or remedies which a party may have at law or in equity. The exercise by a party of any one right or remedy under this Agreement or at law or in equity will not (unless expressly provided in this Agreement or at law or in equity) operate so as to hinder or prevent the exercise by that party of any other right or remedy.

6.8. **Waiver:** Any liability of a party under this Agreement may be wholly or partially released, varied,

compounded or compromised by any other party having without in any way prejudicing or affecting its rights against any other party under the same or a similar liability, whether joint and several or otherwise. A waiver by any party of any breach by any other party of any of the terms, provisions or conditions of this Agreement, or the acquiescence of a party in any act (whether commission or omission) which but for such acquiescence would be a breach, will not constitute a general waiver of the term, provision or condition or of any subsequent act which is inconsistent with it.

6.9. Further Assurance:

6.9.1. At the request of the Purchaser, the Vendors shall (at the costs of the Purchaser, provided such costs are reasonable and vouched) (and shall procure that any other necessary parties will) as soon as possible following and in any event within 7 days of the request execute and do all such documents, acts and things as may reasonably be required subsequent to Completion by the Purchaser for assuring to or vesting in the Purchaser (including its nominee or nominees) the beneficial ownership of the Sale Shares.

6.9.2. On and with effect from Completion, each Vendor shall:

- (1) and does hereby, irrevocably appoint the Purchaser to be its attorney to exercise in the absolute discretion of the Purchaser all rights attaching to the Sale Shares of the Company of which it is the registered holder listed against that Vendor's name in column (2) Schedule 2 or exercisable by that Vendor in its capacity as a member of the Company. The powers exercisable by the Purchaser will include the power to execute, deliver and do all deeds, instruments and acts in that Vendor's name and on that Vendor's behalf in pursuance of the foregoing, and will include the power to sub-delegate this power;
- (2) not exercise any rights attaching to the Sale Shares or exercisable by that Vendor in its capacity as a member of the Company or appoint any other person to exercise such rights, other than at the written request of the Purchaser and procure that any Trustee of that Vendor is similarly restricted by written agreement;
- (3) receive and hold in trust for the Purchaser any dividends, securities or notices, documents or other communications which may be received by that Vendor from the Company or any third party in respect of the Sale Shares or in that Vendor's capacity as a member of the Company and procure that any Trustee of that Vendor does the same. Without prejudice to the generality of the obligations imposed by the foregoing, that Vendor undertakes and agrees to promptly procure the forwarding to the Purchaser of all such benefits, notices, documents and communications and to account to the Purchaser for all benefits arising from the Sale Shares registered in that Vendor's name or the name of any Trustee of the Vendor and/or from that Vendor's or such Trustee's capacity as a member of the Company; and
- (4) on the written request of the Purchaser, ratify all lawful deeds, instruments and acts exercised by the Purchaser in pursuance of this power and procure that any Trustee of that Vendor does the same,

and acknowledges that in acting under the power or powers set out in this clause 6.9.2 the Purchaser may act by its secretary or any director or person acting pursuant to authority conferred by the Purchaser's board of directors or any director. The Purchaser shall indemnify and keep indemnified each of the Vendors in respect of any loss incurred by any of them arising out of or in connection with the appointment of the Purchaser as attorney and/or in connection with the Purchaser's actions undertaken in accordance with this clause 6.9.2.

6.9.3. The power or powers and undertakings set out in clause 6.9.2:

- (1) will cease to have effect when the relevant Vendor or Trustee ceases to be a member of the Company, but without prejudice to any power exercised prior to that date; and
- (2) will not, save as may be required by law, terminate on that Vendor's or Trustee's previous death, bankruptcy or mental disorder and will be accordingly binding on any personal representative, trustee in bankruptcy or trustee in respect of any mental disorder.

6.10. Notices:

6.10.1. Any notice or other communication to be given or served under this Agreement shall be in writing, addressed (excluding, for the avoidance of doubt, email) to the relevant party and expressed to be a notice or communication under this Agreement and, without prejudice to the validity of another method of service (subject to clause 6.10.3), may be delivered or sent by pre-paid post or facsimile addressed as follows:

to the Vendors: addresses set out in Schedule 2;

to Mr Downer: Ballylina Lodge, Borrisokane, Co. Tipperary,

and in either of the above cases, with a copy to:

Managing Partner, O'Donnell Sweeney, One Earlsfort Terrace, Dublin 2

Fax No: +353 1 6644300

to the Purchaser; 9 Marylebone Lane, London W1N 1HL

For the attendance of the Company Secretary
Fax number: +44 20 74871820

With a copy to: Head of Corporate, Wragge & Co LLP, 3 Waterhouse
Square, 142 Holborn, London EC1N 2SW
Fax number: +44 870 904 1099

or to such other address or facsimile number as the addressee may have previously substituted by notice.

6.10.2. A notice or other communication will be deemed to have been duly served or given:

- (1) in the case of delivery, at the time of delivery;
- (2) in the case of posting, 48 hours after posting (and proof that the envelope containing the notice or communication was properly addressed, prepaid, and posted will be sufficient evidence that the notice or other communication has been duly served or given); or
- (3) in the case of facsimile, upon receipt by the addressee of the complete text in legible form,

but if a notice is given or served at business premises other than during usual business hours on a Business Day, it will be deemed to be given or served on the next following Business Day.

6.10.3. A party giving or serving a notice or other communication under this Agreement by facsimile shall also give or serve a copy by post, but without prejudice to the validity and effectiveness of the service by facsimile.

6.11. **Restricted Financial Transfers:** The Warrantors declare for the purpose of the Financial Transfers Act 1992 that they are not resident in any jurisdiction to which financial transfers (within the meaning of that Act) are restricted by order of the Minister for Finance in accordance with the provisions of that Act and do not hold any Sale Shares, and will not receive any part of the consideration, as nominee for any persons so resident, and the Purchaser declares for the purpose of that Act that it is not so resident, is not acquiring the Sale Shares as nominee for any persons so resident and that the Purchaser is not to its knowledge controlled directly or indirectly by persons so resident.

6.12. **Counterparts:** This Agreement may be executed in any number of counterparts, and by the several parties to it on separate counterparts, each of which when so executed will constitute an original but all of which together will evidence the same agreement.

6.13. **Governing Law:** This Agreement and all relationships created by it will in all respects be governed by and construed in accordance with Irish law.

6.14. **Jurisdiction:**

6.14.1. The Irish courts will have exclusive jurisdiction to settle any dispute (**Dispute**) which may arise out of or in connection with this Agreement or its performance.

6.14.2. The parties agree that the Irish courts are the most appropriate and convenient courts to settle any Dispute and therefore that they will not argue to the contrary.

IN WITNESS whereof this Agreement has been entered the date and year first herein written.

SCHEDULE 1
THE COMPANY

Name	JS (City) Limited	
Date of Incorporation	22 December 1962	
Country of Incorporation	Ireland	
Registered Number	20138	
Authorised capital	€30,000 divided into 20,000 ordinary shares of €1.50 each	
Issued Capital	9,500 issued and fully paid	
Registered Office	51a Dawson Street, Dublin 2, Ireland	
Directors	Continuing	Not Continuing
	Declan Stone	
	P Michael Donohue	
	Marcus Magnier	
	Nick Coveney	
	TJ Kearns	
Secretary	Thomas Kearns	
Financial Year End	31 December	
Last Accounts Filed	11 October 2005	
Last Annual Return Filed	11 October 2005	
Annual Return Date	30 September 2006	
Auditors	Garland McDonald & Co	
Charges and Debentures	None outstanding	
Location of Statutory Registers	Registered Office	

SCHEDULE 2

VENDORS' SHAREHOLDINGS IN COMPANY

(1) Name and address of Vendor	(2) Current Shareholding	(3) Sale Shares to be Sold	(4) Amount of Cash Consideration to be Received	(5) Number of Consideration Shares to be Received	(6) Maximum Liability under the Warranties
Declan J Stone Apt 30, The Cedars Herbert Park Lane Ballsbridge Dublin 4	2,000 Ordinary Shares	1,200 Ordinary Shares	€795,791	No. of Shares to the value of €151,579	€960,000
Nick Coveney 21 Block 1 Gallery Quay Grand Canal Dock Dublin 2	1,500 Ordinary Shares	900 Ordinary Shares	€596,836	No. of Shares to the value of €113,684	€720,000
Marcus Magnier 15 Eagle Valley Powerscourt Co. Wicklow	2,000 Ordinary Shares	1,200 Ordinary Shares	€795,791	No. of Shares to the value of €151,579	€960,000
P Michael Donohoe 14 Cherrington Road Shankill Co. Dublin	2,000 Ordinary Shares	1,200 Ordinary Shares	€795,791	No. of Shares to the value of €151,579	€960,000
Thomas J Kearns 11 Cloister Close The Cloisters Blackrock Co. Dublin	2,000 Ordinary Shares	1,200 Ordinary Shares	€795,791	No. of Shares to the value of €151,579	€960,000

SCHEDULE 3

WARRANTIES

1. WARRANTORS CAPACITY AND TITLE

- 1.1. **Power and Authority of Warrantors:** Each of the Warrantors has full power, legal capacity and authority:
- 1.1.1. to enter into this Agreement, the Tax Deed, the Shareholders Agreement, the Consultancy Agreement and the Service Agreements to which he is a party; and
 - 1.1.2. to perform the obligations set out in those documents.
- 1.2. **Valid and Binding on Warrantors:** The obligations set out in this Agreement, the Shareholders Agreement, Consultancy Agreement, the Service Agreements and the Tax Deed constitute legal obligations that are valid and binding on each of the Warrantors (to the extent they are a party) in accordance with their respective terms.
- 1.3. **No Breach of Warrantors Obligations:** Neither entering into this Agreement nor performing the obligations referred to in this Agreement has resulted or will result in the breach of any obligation of any of the Warrantors under:
- 1.3.1. the memorandum or articles of association, statutes, by-laws or other terms of charter or corporate regulation of the Company;
 - 1.3.2. any law or any order, judgment or decree of any court or governmental agency; or
 - 1.3.3. any contract, undertaking or agreement to which any of the Warrantors or the Company is a party.

2. SHARES, GROUP COMPANIES AND ACCURACY OF INFORMATION

- 2.1. **Company Structure:** The contents of recitals A and B and of Schedules 1 and 2 are true and accurate in all respects and in particular (without limitation) the Vendors are the legal and beneficial owners of the Sale Shares, which constitute the entire issued share capital of the Company.
- 2.2. **Rights to Share Capital:** Nobody has the right to call for the allotment, issue, sale or transfer of any share or loan capital of the Company under any option or other agreement or obligation (including conversion rights and rights of pre-emption) and there are no claims or Encumbrances on shares of the Company and the Sale Shares constitute 60% of the issued and allotted share capital of the Company.
- 2.3. **Constitution of Company:** Attached to the Disclosure Letter is a correct and complete and up to date copy of the memorandum and articles of association of the Company.
- 2.4. **Shares Fully Paid:** All the issued shares of the Company are fully paid or credited as fully paid.
- 2.5. **Documents Filed:** In the last 10 years from the date of this Agreement, all returns, particulars, resolutions and other documents required to be delivered on behalf of the Company to the Registrar of Companies or other authority have been properly made and delivered and were when so made and delivered accurate and complete.
- 2.6. **Statutory Books and Other Records:**
- 2.6.1. The statutory books, books of account, registers and other records (required to be maintained by law) of the Company are up-to-date and maintained in accordance with all applicable legal requirements on a proper and consistent basis and contain complete and accurate records of all matters required to be disclosed or dealt with in them and have been so maintained during the last 10 years from the date of this Agreement.

2.6.2. No notice or allegation has been received that any of the statutory books or other records referred to in Warranty 2.6.1 of the Company is incorrect or should be rectified.

2.6.3. All such books, registers and records and all other documents (including documents of title and copies of all subsisting agreements to which the Company is party) which are the property of the Company or ought to be in its possession or under its control are in its possession or under its control.

2.7. Other Information:

2.7.1. All information contained in this Agreement is true, accurate and not misleading;

2.7.2. The information referred to in Schedule 6 which has been given by or on behalf of the Warrantors or the Company to any of the directors, employees or professional advisers of the Purchaser in the course of the negotiations leading to this Agreement was, when given, true and accurate in all material respects.

3. FINANCIAL INFORMATION

3.1. **Accounts:** The Accounts of the Company are attached to the Disclosure Letter, and have been prepared in accordance with the law, on a basis consistent with the previous two financial periods and in accordance with Accounting Standards, and give a true and fair view of the state of affairs of the Company as at the Balance Sheet Date and give a true and fair view of its assets, liabilities and profits or losses as at that date or for the periods concerned.

3.2. Balance Sheets:

3.2.1. Full provision for all material liabilities as at the Balance Sheet Date (including contingent liabilities) has been made in the Balance Sheet.

3.2.2. There were no material capital commitments of the Company as at the Balance Sheet Date except as noted in its Accounts.

3.2.3. No Balance Sheet of the Company overstates current or fixed assets, and the valuation and depreciation rates used therein were on the same basis as in previous years and proper provision was made for bad and doubtful debts.

3.3. **Work in Progress:** Work in progress has been valued in the Balance Sheet on a basis in all material respects consistent with that adopted in respect of the beginning and end of the last preceding accounting period and at figures not exceeding the amounts which could in the circumstances existing at the Balance Sheet Date reasonably be expected to be realised in the normal course of carrying on business.

3.4. **Depreciation:** Fixed assets have been depreciated in accordance with Accounting Standards in the Accounts for the two preceding years.

3.5. **Tax Provisions and Reserves:** Full and proper provision or reserve has been made in accordance with Accounting Standards in the Balance Sheet for all Tax liable to be assessed on the Company or for which it is or may become accountable, including deferred taxation, in respect of:

3.5.1. profits, gains or income (as computed for Tax purposes) which arose or accrued, or are deemed to have arisen or accrued, on or before the Balance Sheet Date;

3.5.2. any transactions effected or deemed to have been effected on or before the Balance Sheet Date; and

3.5.3. distributions made or deemed to have been made on or before the Balance Sheet Date or provided for in its Balance Sheet.

- 3.6. **Tax Balancing Charges:** Except where full provision is made in a deferred taxation account in the Balance Sheet, no asset is valued in the Balance Sheet of the Company at such an amount that a chargeable gain or balancing charge would arise or accrue if the asset were disposed of for that amount.
- 3.7. **Three Years' Profits:** The combined profits of the Company for the three years ended on the Balance Sheet Date are as set out in the Disclosure Letter, and the trend of profits thereby shown, have not (except as disclosed in the Accounts) been affected to a material extent by inconsistencies of accounting practice, by the inclusion of non-recurring items of income or expenditure, by transactions entered into otherwise than on normal commercial terms or by any other factors rendering such profits for all or any of such periods exceptionally high or low.
- 3.8. **Book Debts:** Excluding bad and doubtful debts for which full and adequate provision has been made in the Balance Sheet and the June Management Accounts and details of which are set out in the Disclosure Letter, the book debts of the Company as set out in the June Management Accounts will be good for the full face value thereof and, subject to the exercise of due diligence by the Company, will be paid in the ordinary course of business within six calendar months after Completion or two months after the expiration of normal credit terms, whichever is the later.
- 3.9. **Post-Balance Sheet Date:** Since the Balance Sheet Date, in respect of the Company:
- 3.9.1. there has been no material adverse change in its financial position, prospects or turnover;
 - 3.9.2. its business has been carried on in the normal course without any interruption or alteration in its nature, scope or manner, and so as to maintain the business as a going concern;
 - 3.9.3. it has not entered into any transaction or assumed or incurred any material liabilities (including contingent liabilities) or made any payment otherwise than in the ordinary course of carrying on its business;
 - 3.9.4. it has not entered into any unusual, long-term or onerous commitments or contracts;
 - 3.9.5. its business has not been materially and adversely affected by the loss of any important customer or source of supply or by any abnormal factor not affecting similar businesses to a like extent, and to the best of the knowledge and belief of the Warrantors there are no facts which are likely to give rise to any such effects;
 - 3.9.6. no dividend or other distribution has been declared, made or paid to its members except as provided for in its Balance Sheet;
 - 3.9.7. no share or loan capital has been allotted or issued or agreed to be issued;
 - 3.9.8. it has not made or received any surrender relating to group relief or the benefit of advance corporation tax; and
 - 3.9.9. there has been no unusual increase or decrease in the level of its stock-in-trade.
- 3.10. **Outstanding Borrowings:** Full details of any borrowings to which the Company has a liability (including their material terms) are set out in the Disclosure Letter.
- 3.11. **Borrowing Limits:** Amounts borrowed by the Company (as determined in accordance with the provisions of the relevant instruments) do not exceed applicable limitations on borrowings contained in the articles of association of the Company or in any debentures or other instruments or agreements binding upon the Company.
- 3.12. **Liabilities:** There are no liabilities (including contingent liabilities) which are outstanding on the part of the Company other than those disclosed or reflected in its Balance Sheet or which have arisen in the normal course of business since the Balance Sheet Date.

3.13. Grants:

- 3.13.1. The Disclosure Letter comprises a complete list and full particulars of all grants, subsidies, loans or financial assistance received by the Company, either during the previous ten years or where a liability (absolute or contingent) to repay exists.
- 3.13.2. No act or transaction has been or will be effected (including the sale of the Sale Shares) in consequence of which the Company is or may be held liable to forfeit or refund in whole or in part any grant, loan or financial assistance which has been received or applied for, or for which application has been made.

3.14. **Capital Commitments:** The Company has no material capital commitments.

3.15. **Management Accounts:** The Management Accounts (which for the purposes of this clause shall include the June Management Accounts) have been carefully and properly prepared in accordance with accounting policies consistent with those used in preparing the Accounts and on a basis consistent with the management accounts in the preceding two years. The cumulative profits, assets and liabilities of the Company stated in the Management Accounts have not been materially misstated and are not materially inaccurate and the Warrantors do not consider the Management Accounts to be misleading.

3.16. **Cash Book Balances:** The information and documentation provided by the Vendors on Completion pursuant to clauses 1.11 and 1.12 of Schedule 4 is true, complete and accurate and is not misleading in any respect.

4. GENERAL BUSINESS INFORMATION

4.1. **Contracts:** The Company is not, nor has it been at any time, party to or subject to any contract, transaction, arrangement, understanding, obligation or liability:

- 4.1.1. of an unusual or abnormal nature or not wholly on an arm's length basis in the ordinary and usual course of business;
- 4.1.2. of a long-term nature (that is, unlikely to have been fully performed more than six months after the date on which it was entered into or undertaken);
- 4.1.3. not providing for its termination by the Company on sixty days' notice or less;
- 4.1.4. of a loss-making nature (that is to say, known to be likely to result in a loss on completion of performance);
- 4.1.5. not capable of being readily fulfilled or performed on time without undue or unusual expenditure of money or effort;
- 4.1.6. involving payment by reference to fluctuations in the consumer price index or any other index, or in the rate of exchange for any currency; or
- 4.1.7. involving or likely to involve obligations or liabilities which by reason of their nature or magnitude ought reasonably to be made known to an intending purchaser of the Sale Shares.

4.2. **Loans etc. with Vendors:** There are not outstanding any:

- 4.2.1. loans, quasi-loans or credit transactions made by the Company to or for any Vendor, Mr Downer, Director, former director or shadow director of the Company or any person connected with any of them;
- 4.2.2. security for any such loans, quasi-loans, credit transactions;
- 4.2.3. debts owing to the Company by any Vendor, Mr Downer, Director, former director or shadow director of the Company or any person connected with any of them;
- 4.2.4. debts owing by the Company which arose outside the ordinary course of business; or

- 4.2.5. other contracts or arrangements to which the Company is party and in which any Vendor, Mr Downer, Director, former director or shadow director of the Company or any person connected with any of them is interested, whether directly or indirectly,

and for the purpose of this Warranty, persons "connected with" a Director, former director or shadow director shall have the meaning given to that phrase by section 26 of the 1990 Act.

- 4.3. **Competing Businesses:** None of the Vendors, Mr Downer, Directors or shadow directors has any material right or interest, direct or indirect, in any business which is or is likely to become competitive with any present or proposed business of the Company.

5. EMPLOYMENT

- 5.1. **Particulars of Employees and Services-suppliers:** Attached to the Disclosure Letter are:

- 5.1.1. the date of birth, date of commencement of service, title, job description, tenure and remuneration of all employees of, and individuals supplying services (whether or not through or on behalf of bodies corporate) to, the Company;
- 5.1.2. contracts of service and/or full particulars of the terms and conditions of employment of directors or employees of, and contracts for the supply of services to, the Company;
- 5.1.3. any notice of termination which has been proposed or made in the last 2 years to any director, employee or supplier of services;
- 5.1.4. all benefits, bonus and commission plans, including details of the individuals they apply to, payments made in the most recent financial year and maximum and estimated payments made/to be made in the current financial year and in future under each plan; and
- 5.1.5. details of all educational courses, the costs of which are to be paid for by the Company, including the name of the employee attending the course, the costs thereof, how much is yet to be paid and details of what steps will be taken if the employee leaves the employment of the Company,

as well as the identity of the Company in each case.

- 5.2. **Arrears of Remuneration:** There are no amounts owing to any present or former director or employee of, or person supplying services to, the Company, whether for salary, fees or otherwise, other than remuneration accrued for not more than one month or for reimbursement of reasonable business expenses.
- 5.3. **Non-allowable Payments:** Save as provided or allowed for in the Balance Sheet, the Company has not made or agreed to make any payment to or provided or agreed to provide any benefit for any current or former director or employee of, or supplier of services to, the Company which is not allowable as a deduction for the purposes of Tax.
- 5.4. **Liability for Employees or Services-suppliers:** The Company is not liable to pay any industrial training levy, and has no outstanding or undischarged liability to pay any contribution, Tax or other impost arising in connection with the employment, engagement or remuneration of any current or former director, employee or supplier of services.
- 5.5. **Liabilities to Employees or Services-suppliers:** Save as provided or allowed for in the Balance Sheet:
- 5.5.1. no liability has been incurred by the Company for breach of any contract of service or for services, redundancy payments, compensation for wrongful or unfair dismissal or breach of any statute, or for failure to comply with any order for the reinstatement or re-engagement of any employee; and
- 5.5.2. no gratuitous payment 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 or for the supply of services of any current or former director, employee or supplier of services.

- 5.6. **Claims by Employees or Services-suppliers:** The Disclosure Letter specifies all claims pending or threatened, or (to the best of the knowledge and belief of the Warrantors) capable of arising, against the Company:
- 5.6.1. by an employee or other person in respect of an accident or injury (detailing also whether such claim is fully covered by insurance); or
 - 5.6.2. by any current or former director or employee of, or supplier of services to, the Company in relation to his terms and conditions of employment, appointment or termination thereof, or any matter arising out of or in connection with his employment or the terms and conditions on which he supplies services or the termination thereof or any matter arising out of or in connection therewith.
- 5.7. **Commercial Agent Regulations:** The Company is not or has not at any time acted as a principal in a relationship to which the European Communities (Commercial Agents) Regulations, 1994 and 1997 apply.
- 5.8. **Compliance with Obligations:** The Company has complied in all material respects with all:
- 5.8.1. legal obligations (to include for the avoidance of doubt, all statutory obligations);
 - 5.8.2. policies, codes of conduct or practice; and
 - 5.8.3. collective agreements, customs and practices,
- relevant to employees, employees' representatives or trade unions, and has maintained current, adequate and suitable records in that regard.
- 5.9. **Redundancies:** Within a period of one year preceding the date of this Agreement the Company has not given or has not been required to give notice of any redundancies to the Minister for Enterprise, Trade and Employment, or started or been required to start consultations with any employees' representatives, under the Protection of Employment Act 1977 or the European Communities (Protection of Employees on Transfer of Undertakings) Regulations, 2003.
- 5.10. **Industrial Disputes and Negotiations:**
- 5.10.1. The Company has complied with all recommendations made by Industrial Relations Officers of the Labour Relations Commission, by Rights Commissioners, Equality Officers, or by the Labour Court.
 - 5.10.2. The Company is not involved in any material industrial or trade dispute, or negotiation regarding a claim, with any trade union or other group or organisation representing employees, and there are no facts known, or which would on reasonable enquiry be known, to the Warrantors which might indicate that there may be any such dispute.
- 5.11. **Industrial Agreements:** The Disclosure Letter specifies all unions with which the Company has or has had dealings within the past five years, and all security-of-employment, recognition and other collective agreements (whether legally binding or not), or circumstances which might be construed to be such and all referrals by trade unions to the Labour Relations Commission under the Code of Practice on Voluntary Dispute Resolution or to the Labour Court under the Industrial Relations (Amendment) Act 2001, or the Industrial Relations (Miscellaneous Provisions) Act 2004.
- 5.12. **Offers of Employment:** No offers have been made to prospective employees, consultants, apprentices or trainees which have not been accepted or which have been accepted but who have not yet commenced employment with or providing services to the Company.
- 5.13. **Work Permits:** No employee of the Company has or requires a work permit.
- 5.14. **Redundancy:** No redundancy policy exists for the Company and there are no circumstances which could give rise to a claim by employees for enhanced redundancy, severance or termination payments whether by virtue of customer practice or otherwise.

6. PENSIONS AND BENEFIT SCHEMES

6.1. **No Other Obligations:** With the exception of the Pension Schemes and the PRSA Arrangement:

- 6.1.1. the Company is not and never has been a party, and has not proposed that it will become a party, to any agreement, scheme, policy, contract or other arrangement for the provision of pension, death, sickness, disability or other benefits to or in respect of any person;
- 6.1.2. the Company has no present, future or contingent obligations (including any obligation to make contributions) in respect of the retirement, death or disability of any person; and
- 6.1.3. the Company is not currently paying, has never paid and has not promised to pay, any pension, retirement, sickness or disability gratuities to any person.

6.2. **Exempt Schemes:** The Pension Schemes are exempt approved schemes within the meaning of section 774 of the TCA and there is no reason why such exempt approved status might be withdrawn.

6.3. **Documentation:** True, complete, up to date and accurate copies of:

- 6.3.1. all documents constituting and governing the Pension Schemes and the PRSA Arrangement;
- 6.3.2. all explanatory booklets, announcements and other communications to the Company's past and current employees relating to the Pension Schemes and the PRSA Arrangement; and
- 6.3.3. details of the Company's employees and the amounts and basis on which each of them contributes to the Pension Schemes and the PRSA Arrangement;

are comprised in the Disclosure Letter or an attachment thereto.

6.4. **Defined Contribution Scheme:** Each Pension Scheme is a defined contribution scheme (within the meaning of the Pensions Act 1990) and was established as such, was not established in succession to, and has not previously been converted from, a defined benefit scheme within the meaning of the Pensions Act 1990, and no assurance, promise or guarantee (oral or written) has been made or given to any person entitled or contingently entitled to benefit under any Pension Scheme that any particular rate, level or amount of benefits (other than insured lump sum death in service benefits) would be provided to or in respect of him under the Pension Scheme.

6.5. **Pension Scheme Membership:** P Michael Donohoe is the only current or former employee who has ever had an entitlement to join the Pension Schemes.

6.6. **Cost of Pension Schemes:** There is no net cost to the Company in the operation of the Pension Schemes.

6.7. **Discretions:** Save as disclosed in the Disclosure letter, no discretion or power has been exercised or has been promised to be exercised under the Pension Schemes or otherwise to:

- 6.7.1. augment a benefit;
- 6.7.2. admit to membership a director or employee who would not otherwise have been eligible for admission to membership;
- 6.7.3. provide a benefit which would not otherwise be provided; or
- 6.7.4. pay a contribution which would not otherwise have been paid.

6.8. **Adequate Insurance:** All death in service benefits (other than refunds of contributions) which may be payable under the Pension Schemes are fully insured at normal rates and on normal terms for persons in good health, all insurance premiums payable have been paid and are not paid in arrears, all information supplied to any insurer was true and complete, and there is no reason why any such insurance might be avoided (in whole or in part).

- 6.9. **PRSA Arrangement:** The Company has at all times complied with its obligations under Part X of the Pensions Act 1990 (as amended) including without limitation, in respect of the provision of employee access to, notification to employees of and deduction of employee contributions and their payment to the PRSA Arrangement. The Company is not and never has been liable, and has not promised, to make employer contributions to the PRSA Arrangement in respect of any of its current and former employees.
- 6.10. **No Claims:** There are no actions, suits, investigations by the Pensions Board, complaints to the Pensions Ombudsman or claims (other than routine claims for benefits) in progress, outstanding, pending or threatened against, so far as Warrantors are aware, the provider of the PRSA Arrangement or against the Company in respect of any act, event, omission or other matter arising out of or in connection with the PRSA Arrangement or the provision of pension, death, sickness, disability or related benefits generally.
- 6.11. **No Notices:** No announcement or other communication has been made to the Company's employees or their dependants in relation to any change in the pension, death, sickness, disability or related benefits currently provided by the Company.

7. **INSURANCE**

7.1. **Insurance Schedule:**

- 7.1.1. The insurances schedule which is set out in the Disclosure Letter refers to and contains an accurate and adequate summary of all insurances in place in respect of the Company, including details of all material limitations, excess provisions, exclusions and other derogations.
- 7.1.2. The insurances schedule sets out details of:
- (1) all material circumstances in consequence of which any of the Company's insurances may be void or voidable (including any failure by or on behalf of the Company to make full disclosure to the relevant insurers); and
 - (2) any other circumstances by reason of which the Company may not be entitled to recover against the insurers, or the insurers otherwise may not be liable for the risks purported to be covered by the insurances referred to in the insurances schedule (including without limitation any assignment of the policy, any lack of insurable interest, or any failure to notify a claim in accordance with policy terms).

7.2. **Extent of Insurance Cover:** The Company's insurances cover

- 7.2.1. all assets which are of an insurable nature against fire and other risks, to full replacement value;
- 7.2.2. loss of profits in the case of fire and other risks, in an adequate amount;
- 7.2.3. all compulsory insurances required to be maintained under any applicable law; and
- 7.2.4. liability for products and services, accidents, third party injury, damage and other risks,

normally insured against by companies carrying on similar businesses or owning property of a similar nature, and all of the Company's insurance policies in respect of all such insurances are in full force and effect and the Company is compliant with its obligations thereunder.

7.3. **No Adverse Factors:** In respect of all insurances held by the Company

- 7.3.1. all premiums have been duly paid to date;
- 7.3.2. no material circumstances in relation to the Company or its affairs have arisen in the past ten years which have given rise to a specific increase in premium;

- 7.3.3. there are no special or unusual terms or restrictions, the premiums payable are not in excess of the normal rates for similar cover in similar businesses for property of a similar nature and no circumstances exist which are likely to give rise to any increase in premiums; and
- 7.3.4. other than set out in the Disclosure Letter (the **Insurance Claims**), no claim is outstanding and no circumstances exist which are likely to give rise to any claim; and
- 7.3.5. all Insurance Claims have been duly notified by or on behalf of the Company to the relevant insurers, and have otherwise been dealt with, in accordance with relevant policy terms and good practice.

8. OTHER CORPORATE INFORMATION

- 8.1. **Litigation:** Attached to the Disclosure Letter is a correct and complete list and an adequate summary of all legal actions or proceedings (including disciplinary proceedings, investigations, informal proceedings or references, and proceedings or references by way of arbitration, conciliation, mediation or for the obtaining of an opinion or decision) before, in or from any court, tribunal or other body or person or authority whatsoever involving the Company whether as plaintiff or defendant or otherwise (including any prosecutions or other proceedings for any alleged criminal offence or breach of any law, code or rules), except as plaintiff in the collection of debts arising in the ordinary course of business none of which exceeds €1,500, and there are no other proceedings investigations or references pending or threatened or, to the best of the knowledge and belief of the Warrantors, circumstances which are likely to lead to any such proceedings, investigations or references.
- 8.2. **Powers of Attorney:** The Company has not given a power of attorney or any other authority (express, implied or ostensible) which is still outstanding or effective to any person to enter into any contract or commitment or do anything on its behalf, other than any authority to employees to enter into routine trading contracts in the normal course of their duties.
- 8.3. **Warranties and Indemnities:** The Company has not sold or otherwise disposed of any shares or assets in circumstances such that it is or may be still subject to any liability (whether contingent or otherwise) under any representation, warranty or indemnity given or agreed to be given on or in connection with such sale or disposal.
- 8.4. **Merger Notifications:** Since 3 July, 1978 the Company has not been party to any transaction notifiable under section 5 of the Mergers Takeovers and Monopolies (Control) Act 1978 Section 18(1) of the Competition Act or under Article 4(1) of EC Merger Regulation 4064/89, as amended, (or any analogous legislation outside Ireland), whether or not such notification has been made, and the Company has not been party to any transaction which has been the subject of a finding or decision by the European Commission pursuant to Article 22 of EC Merger Regulation 4064/89, as amended.
- 8.5. **Transactions or Arrangements with Directors etc:** The Company has not entered into any transaction or arrangement particulars of which would require to be referred to in the accounts of the Company under section 41 of the 1990 Act.
- 8.6. **Rights of Third Parties:** In relation to any property or assets held by the Company under hire purchase, conditional sale, chattel leasing or retention of title agreements or otherwise belonging to third parties, no event has occurred (including the entry into this Agreement) which entitles, or which upon intervention or notice by the third parties may entitle, the third parties to repossess the property or assets concerned or terminate the agreements or any related licences.
- 8.7. **No Orders:** No distress, distraint, charging order, garnishee order, execution or other process has been levied or (to the best of the knowledge and belief of the Warrantors) applied for in respect of the whole or any part of any of the property, assets or undertaking of the Company.
- 8.8. **Crystallisation of Charges:** No event has occurred causing, or which upon intervention or notice by any third party may cause, any floating charge created by the Company to crystallise or any charge created by the Company to become enforceable, nor has any such crystallisation occurred or is such enforcement in process.
- 8.9. **Notices from Auditors:** The Company has not had a notice served on it by its auditors under section 185 or 194 of the 1990 Act.

8.10. **Investigations and Directions - 1990 Act:** No investigations under the 1990 Act have taken place into the affairs of the Company or into the ownership of, or dealings in, their shares, and no directions have been made under the 1990 Act imposing restrictions on any of their shares.

8.11. **Not Struck Off:** The Company has not been struck off and subsequently restored to the register, pursuant to section 311A of the 1963 Act.

8.12. **Insolvency:**

8.12.1. The Company is not insolvent or unable to pay its debts within the meaning of section 214 of the 1963 Act and no event analogous to those set out in that section has occurred outside Ireland.

8.12.2. No order has been made, petition presented, resolution passed or meeting convened for the winding up of, or making of any administration order for, the Company.

8.12.3. No receiver or examiner has been appointed over the whole or any part of the property, assets or undertaking of the Company.

8.12.4. No composition in satisfaction of debts, scheme of arrangement, or compromise or arrangement with creditors or members (or any class of creditors or members) has been proposed, sanctioned or approved in relation to the Company.

8.12.5. The Company is not or has not been related to any other company for the purpose of section 140 of the 1990 Act, and is not and will not at any time be liable to be subject to an order made under that section by virtue of any act (whether of commission or omission) that occurred prior to Completion.

8.13. **Disability of Directors or Other Officers:**

8.13.1. No Director or person who has at any time within the last three years been a director or other officer of the Company is, or has at any material time been, ineligible to be a director by reason of any provision of the Acts.

8.13.2. No Director or other person who is or has been, directly or indirectly, appointed or acting in any way as a director, secretary or other officer or concerned in the management, promotion or formation of the Company:

(1)st has been restricted or disqualified; or

(2) acts or has acted in accordance with the directions or instructions of any person restricted or disqualified,

under Part VII of the 1990 Act, nor is the Company disqualified under that Part of the 1990 Act.

8.14. **Relationship with Third Parties:** To the best of the knowledge and belief of the Warrantors, neither the entering into nor the implementation of this Agreement, nor the prospect thereof, will or is likely to cause, or has already caused:

8.14.1. the Company to lose the benefit of any right or privilege which it presently enjoys;

8.14.2. any person who normally does business with or gives credit to the Company not to continue to do so on the same basis;

8.14.3. any officer or senior employee of the Company to leave its employment; or

8.14.4. the attitudes or actions of customers, suppliers, employees or other persons with regard to the Company to be affected to the detriment of the Company.

- 8.15. **Dependence on Individual Suppliers or Customers:** Neither more than 10 per cent. of the aggregate amount of all the purchases, nor more than 10 per cent. of the aggregate amount of all the sales, of the Company are obtained or made from or to the same supplier or customer (including any person, firm or company in any way connected with such supplier or customer), nor is any material source of supply to the Company, or any material outlet for the sales of the Company, in jeopardy or likely to be in jeopardy.
- 8.16. **Commissions etc:** No person is entitled to receive from the Company any finder's fee, brokerage or other commission in connection with the purchase of shares of the Company.
- 8.17. **Joint Ventures, Partnerships etc:** The Company is not, or has not agreed to become, a member of any joint venture, consortium, partnership or other unincorporated association (other than a recognised trade association) or party to any agreement or arrangement for participating with others in any business-sharing, commissions or other income.
- 8.18. **Agency Agreements and Agreements Restricting Business:** The Company is not party to any agency, distributorship, marketing, purchasing, manufacturing or licensing agreement or arrangement or any agreement or arrangement which restricts its freedom to carry on business in any part of the world in such manner as it thinks fit.
- 8.19. **Sufficiency of Assets:** The assets owned or leased by the Company and the facilities and services to which the Company has a contractual right comprise all the assets, facilities and services necessary or convenient for the carrying on of the business of the Company in the manner in which it is currently conducted.

9. ASSETS INCLUDING INTELLECTUAL PROPERTY

- 9.1. **Subsidiaries, Associates and Branches:** Attached to the Disclosure Letter are full particulars of:
- 9.1.1. all shares or other securities of bodies corporate held, owned or agreed to be acquired by the Company;
 - 9.1.2. all associated undertakings within the meaning of the European Communities (Companies: Group Accounts) Regulations, 1992 or associated companies within the meaning of the relevant financial reporting standard, of the Company; and
 - 9.1.3. all branches, agencies or places of business, or permanent establishments (as that expression is defined in the relevant double taxation relief orders current at the date of this Agreement), which the Company may have outside the country of its incorporation.
- 9.2. **Encumbrances:** The Disclosure Letter lists full particulars of all material Encumbrances.
- 9.3. **Factoring, Hire Purchase etc:** The Disclosure Letter lists full particulars of all factoring arrangements and all hire-purchase, conditional sale or credit sale agreements affecting the assets of the Company.
- 9.4. **Title to Assets:** All assets of the Company (other than the Properties, to the extent set out in Schedule 5) and all debts due to it which were included in its Balance Sheet or which were used or held for the purposes of its business at the Balance Sheet Date were at the Balance Sheet Date the absolute property of the Company and (save for those subsequently disposed of or realised in the ordinary course of trading) all such assets and all assets and debts which have subsequently been acquired or arisen are now the absolute property of the Company.
- 9.5. **Plant and Machinery:** The plant, machinery, vehicles and all other equipment used in connection with the business of the Company:
- 9.5.1. is in good repair and condition and in satisfactory working order, and has been regularly and properly maintained;
 - 9.5.2. is operating (or is capable of operating) safely and without danger to any person or property or to the environment, and in accordance with all relevant licences, regulations and permits governing its use;
 - 9.5.3. is not surplus to requirements and is in the possession and control of the Company; and

9.5.4. is capable and will (subject to normal wear and tear) remain capable, of doing the work for which it was designed or purchased.

9.6. **Maintenance of Assets:** Maintenance contracts are in full force and effect in respect of all assets of the Company which it is normal or prudent to have maintained by independent or specialist contractors and in respect of all assets which the Company is obliged to maintain or repair under any agreement. All such assets have been maintained regularly to a good technical standard, in accordance with safety regulations usually observed in relation thereto and in accordance with the terms of any leasing or other agreement relating to them.

9.7. **Intellectual Property and Information Technology:**

9.7.1. **Business IP:** The Disclosure Letter contains a complete and accurate list of the Business IP and the owner or applicant for each Intellectual Property Right specified in the Disclosure Letter is correctly stated. In respect of Business IP:

- (1) the Company owns all of the rights and interests in, and has title to, the Business IP and the Business IP is valid and subsisting;
- (2) the Company is the registered proprietor of the registrations and applications included in the Business IP, the registrations and applications are not subject to, or likely to be subject to, amendment, challenge, removal or surrender and there is nothing which might prevent the applications from being granted;
- (3) no compulsory licences, licences of right or anything similar have been, or are likely to be, granted for the Business IP; and
- (4) all application, filing, registration, renewal and other fees for the Business IP have been paid and the Disclosure Letter contains a complete and accurate list of renewal dates for the next 6 months.

9.7.2. **Licences In and Licences Out:** The Disclosure Letter contains a complete and accurate list of the Licences In and the Licences Out.

9.7.3. In respect of Licences In and Licences Out the Licences In and the Licences Out are binding and in force. None of the parties to them is in default and there are no grounds on which they might be terminated. No disputes have arisen or are foreseeable in connection with them.

9.8. **No Infringement by the Company:**

9.8.1. None of the operations of the Company infringes the Intellectual Property Rights of a third party.

9.8.2. No claim has been made by a third party which alleges that the operations of the Company infringe the Intellectual Property Rights of a third party or which otherwise disputes the right of the Company to use the Intellectual Property Rights owned or used by the Company. The Warrantors are not aware of any circumstances likely to give rise to a claim.

9.9. **No Infringement by Third Parties:**

9.9.1. No third party is infringing the Intellectual Property Rights owned or used by the Company.

9.9.2. No claim has been made by the Company which alleges that a third party is infringing the Intellectual Property Rights owned or used by the Company or which otherwise disputes the right of a third party to use the Intellectual Property Rights owned or used by the third party. The Warrantors are not aware of any circumstances likely to give rise to a claim.

9.9.3. The Company has not acquiesced in the unauthorised use by a third party of the Intellectual Property Rights owned or used by the Company.

9.10. **Confidential Information:**

- 9.10.1. Confidential information of the Company, or which has been used by the Company, has been kept confidential and has not been disclosed to third parties except in the ordinary course of business and subject to written confidentiality obligations from the third party. These confidentiality obligations have not been breached.
- 9.10.2. None of the operations of the Company involves the unauthorised use of confidential information disclosed in circumstances which might entitle a third party to make a claim against the Company.
- 9.10.3. Except for agreements entered into in the ordinary course of business, the Company is not subject to any obligation which restricts the free use or disclosure of confidential information used by the Company.
- 9.11. **Adequacy of Intellectual Property Rights:** The Company owns, or has licensed to it, all Intellectual Property Rights which are required to carry on the Company's business as it is currently carried on, and in accordance with the current documented plans of the Vendor for the Company's business.
- 9.12. **Loss of Intellectual Property Rights:** The Intellectual Property Rights owned or used by the Company will not be lost, or rendered liable to termination, by virtue of the acquisition of the Sale Shares by the Purchaser or the performance of this Agreement.
- 9.13. **Information Technology:**
 - 9.13.1. The Internal IT Systems are either owned by, or properly licensed or leased to, a member of the Company and the Company is not in default under the licences or leases and there are no grounds on which they might be terminated.
 - 9.13.2. The Internal IT Systems and the manual and automated data of the Company are maintained and operated by the Company. The Internal IT Systems comprise assets which are controlled by the Company only.
 - 9.13.3. The Company has binding maintenance and support contracts for the Internal IT Systems and there is no reason to believe that the contracts will not be renewed when they expire on the same or substantially similar terms.
 - 9.13.4. The Company has, in accordance with best industry practice, taken precautions to preserve the availability, security and integrity of the Internal IT Systems and the data and information stored on the Internal IT Systems.
- 9.14. **Data Protection:**
 - 9.14.1. The Company complies with all applicable data protection laws and guidelines.
 - 9.14.2. The Disclosure Letter contains a complete and accurate list of the information given to data subjects when personal data has been collected from them and of information provided to data subjects when personal data about them has been obtained from a third party.
 - 9.14.3. No notice or allegation has been received by the Company from a competent authority alleging that the Company has not complied with the matters listed in clause 9.14.1.
 - 9.14.4. No individual has claimed, and no grounds exist for an individual to claim, compensation from the Company for breaches of applicable data protection laws.

10. GENERAL LEGAL COMPLIANCE

- 10.1. **Compliance with the Law:** The Company has carried on its business in all material respects in accordance with applicable laws, regulations and bye-laws in Ireland and all foreign countries, and so far as the Warrantors are aware there is no investigation or enquiry by, or order, decree or judgment of, any court, governmental agency or regulatory body outstanding against the Company which may have a material adverse effect upon its assets or business.

- 10.2. **Licences and Consents:** All statutory, municipal and other licences, consents, permits and authorities necessary or desirable for the carrying on of the business and activities of the Company as now carried on have been obtained and are valid and subsisting and all conditions thereof have been complied with in all material respects and, to the best of the knowledge and belief of the Warrantors, none of them are likely to be suspended, cancelled, revised, refused or revoked.
- 10.3. **Compliance with Agreements:** To the best of the knowledge and belief of the Warrantors, the terms of all leases, tenancies, licences, concessions and agreements of whatsoever nature to which the Company is party have been duly complied with by all the parties thereto and there are no circumstances likely to give rise to any non-compliance.
- 10.4. **No Breach of Contract:** Compliance or co-operation by the Company with the implementation of this Agreement does not and will not conflict with or result in a breach of, or constitute a default under, any loan, security interest or other contract or instrument to which the Company is party, or relieve any other party thereto of its obligations or confer or facilitate any right of another party to terminate whether summarily or by notice.
- 10.5. **Competition Law:** The Company has not:
- 10.5.1. been or is not party to or engaged in any agreement, arrangement, decision, concerted practice, or activity which was or is prohibited or void or in breach of the Competition Acts, the Restrictive Practices Acts 1972 to 1987, the Mergers, Takeovers and Monopolies (Control) Act 1978, Articles 81 to 89 of the EC Treaty or legislation thereunder, Articles 65 or 66 of the Treaty establishing the European Coal and Steel Community or legislation thereunder, or any other competition or anti-trust laws in any jurisdiction world-wide, or which were or are required to be, which have or which it would be or have been advisable to be notified to the Competition Authority, the European Commission (or any other regulatory body) pursuant to the Competition Acts, Articles 81 to 89 of the EC Treaty (or any other competition, anti-trust, or analogous legislation);
 - 10.5.2. has made any notification to the Competition Authority requesting the grant of a licence or the issue of a certificate or to the European Commission requesting the grant of an exemption in respect of any agreements, decisions, or concerted practices (or engaged in a comparable procedure world-wide) or failed to make any such notification where it was reasonably advisable to do so;
 - 10.5.3. has committed any abuse, either alone or jointly with any other undertaking, of a dominant position which it held or holds within the whole or a substantial part of the European Union or the whole or any part of Ireland;
 - 10.5.4. has received or is in the process of receiving State aid from any EU Member State contrary to Articles 87 to 89 of the EC Treaty;
 - 10.5.5. has been or currently is, nor were or are any of its employees or officers, the subject of any investigation, enquiry, report, decision or proceedings by the Competition Authority, the Director of Consumer Affairs, the European Commission or any other competition, anti-trust or governmental authority or Court in any jurisdiction world-wide;
 - 10.5.6. is the subject of any investigation, enquiry, report, decision or proceedings (as mentioned in 11.5.5 above) that have been threatened or are pending and there are no circumstances likely to give rise to any such investigation, enquiry, report, decision or proceedings;
 - 10.5.7. has given any undertaking or assurance to the Competition Authority, the European Commission or any other competition, anti-trust or governmental authority or Court in any jurisdiction world-wide or is affected by any order, decision or regulation made by such bodies;
 - 10.5.8. has not been and currently is not, nor were or any of its employees or officers:
 - (1) required by the Competition Authority to produce any books, documents or asked to provide any information in relation to such books, documents or records or had any such books, documents or records, or extracts therefrom, copied or originals taken;

- (2) summoned to attend as a witness or been examined on oath before the Competition Authority; or

10.5.9. has been presented with a petition pursuant to the Competition Acts (or any other comparable anti-trust legislation) for an injunction or declaration or damages and no proceedings have been issued against the Company or any of its officers or employees pursuant to the Competition Acts (or any other comparable anti-trust legislation).

10.6. Contracts and Transactions with Directors: The Company has not

10.6.1. incorporated into any employment agreement any terms requiring approval under section 28 of the 1990 Act without obtaining such approval in accordance with section 28;

10.6.2. entered into any arrangement for the acquisition or disposal of non-cash assets requiring approval under section 29 of the 1990 Act without obtaining such approval in accordance with section 29; or

10.6.3. made any loans or quasi-loans, entered into any credit transactions as creditor, entered into any guarantees or indemnities or provided any security in connection with loans, quasi-loans or credit transactions in breach of section 31 of the 1990 Act.

10.7. **Invalid Transactions:** The Company has not been party to any transaction with any third party which, in the event of the third party going into liquidation or an administration order or a bankruptcy order being made, would constitute (in whole or in part) a transaction at an undervalue, a fraudulent preference, an invalid floating charge or part of a general assignment of debts, which could be set aside against the Company.

10.8. **Charges:** All charges in favour of the Company have (if appropriate) been registered in accordance with the provisions of section 99 of the 1963 Act.

10.9. **No Questionable Payments:** No current or former director, officer, agent, employee or other person acting on behalf of the Company has been party to:

10.9.1. the use of any of the assets of the Company for unlawful contributions, gifts or entertainment or for the making of any direct or indirect unlawful payment to government officials or employees;

10.9.2. the establishment or maintenance of any unlawful or unrecorded fund of corporate monies or other assets;

10.9.3. the making of any false or fictitious entries in the books or records of the Company; or

10.9.4. the making of any unlawful payment.

11. PROPERTIES

11.1. **Information about Properties:** Schedule 5 fully and correctly sets out

11.1.1. a description of the Properties, that is to say all premises and land owned or occupied by the Company or otherwise used in connection with the Company's business;

11.1.2. particulars of the Company's tenure of the Properties; and

11.1.3. particulars of all leases, licences, easements or other rights or informal arrangements which exist in favour of third parties or are in the course of being created or acquired;

11.2. **Title Deeds and Other Documents:** The Company has in its possession or under its control:

11.2.1. all of the deeds and documents of title which are necessary to prove title to the Properties, and the title documents are duly stamped and registered; and

- 11.2.2. all correspondence with the landlord and other relevant documentation (including notices under Part 4 of the Landlord and Tenant (Amendment) Act 1980) relating to any works carried out on or to any Properties held by the Company under lease by or at the expense of the Company or its predecessors in title.

11.3. **Properties Held Under Lease:** In the case of Properties held by the Company under Lease all rent accrued due has been paid and all covenants and conditions in the lease have been duly observed and performed to date by the landlord or the tenant as the case may be and will continue to be observed and performed up to Completion and no breaches have been waived or acquiesced in.

12. TAX

12.1. General:

- 12.1.1. **Tax Returns and Information:** All returns, computations, notices and items of information which are, or have been, required to be made or given by the Company for any Tax purpose have been made or given within the requisite periods and on a proper basis and are up-to-date and correct, and none of them is, or is likely to be, the subject of any dispute with the Revenue Commissioners or other Tax authorities.
- 12.1.2. **Payment of Tax Due:** All Tax, including amounts required by statute to be deducted by the Company in respect of payments made by it has been or will be so paid prior to Completion.
- 12.1.3. **Penalties, Interest and Revenue Offences:** The Company has not paid, or become liable to pay, any fine, penalty or interest charged by virtue of the TCA, the VAT Act or any other statutory provision relating to Tax, and the Company has not committed any act or made any omission which might constitute an offence under section 1078 of the TCA.
- 12.1.4. **Agreements with Tax Authorities:** The Disclosure Letter sets out full particulars of any agreement or arrangement between the Company and the Revenue Commissioners or other Tax authorities pursuant to which the Company or the Company is authorised not to comply with a requirement which, but for such agreement or arrangement, would be its statutory obligation, and the Company has not taken any action which has had, or will have, the result of altering, prejudicing or in any way disturbing any arrangement or agreement which it has previously had with the Revenue Commissioners or other Tax authorities.
- 12.1.5. **Transactions since Balance Sheet Date:** The Disclosure Letter contains full and accurate particulars of all transactions effected otherwise than in the ordinary course of business since the Balance Sheet Date in respect of which the Company is required to make a specific return to the relevant Tax authorities and in respect of which the time for making such return will expire on or after Completion.
- 12.1.6. **Tax Consents and Clearances:** No transaction has been effected by the Company in respect of which any consent or clearance from the Revenue Commissioners or other Tax authorities was required:
- (1) without such consent or clearance having been validly obtained before the transaction was effected;
 - (2) otherwise than in accordance with the terms of, and so as to satisfy any conditions attached to, such consent or clearance; or
 - (3) otherwise than at a time when, and in circumstances in which, such consent or clearance was valid and effective,

and, in any case where such consent or clearance was required, no circumstances have arisen which might reasonably be expected to cause such consent or clearance to be or become invalid or to be withdrawn by the Tax authority concerned.

- 12.1.7. **Applications since Balance Sheet Date:** All particulars furnished to the Revenue Commissioners or other Tax authorities in connection with the application for any consent or clearance by the Company or the Company made since the Balance Sheet Date fully and accurately disclosed all facts and circumstances material to the decision of the Revenue Commissioners or such other authorities.
- 12.1.8. **Liability for Others:** Neither the Company nor the Company is or will become liable to pay, or make reimbursement or indemnity in respect of, any Tax (or amounts corresponding thereto) in consequence of the failure by any other person to discharge that Tax within any specified period or otherwise, where such Tax relates to a profit, income or gain, transaction, event, omission or circumstance arising, occurring or deemed to arise or occur (whether wholly or partly) prior to Completion.
- 12.1.9. **Outstanding Entitlements:** The Disclosure Letter includes a correct and complete list and full particulars with express reference to this clause 12.1.9, of all matters relating to Tax in respect of which the Company or the Company (either alone or jointly with any other person) has, or at Completion will have, an outstanding entitlement:
- (1) to make any claim for relief under the TCA or any other statutory provision relating to Tax;
 - (2) to make any election for one type of relief, or one basis, system or method of Tax, as opposed to another;
 - (3) to make any appeal (including a further appeal) against an assessment to Tax;
 - (4) to make any application for the postponement, or payment by instalment of, Tax; or
 - (5) to disclaim any allowance or relief,
- such particulars being reasonably sufficient to enable the Purchaser to procure that any time limit to such entitlement expiring within six months after Completion can be met.
- 12.1.10. **Dividend Withholding Tax:** The Company has fully complied with all the obligations imposed on it in relation to dividend withholding tax in accordance with Chapter 8A of Part 6 and Schedule 2A of the TCA.
- 12.1.11. **Notice of Attachment:** No notice of attachment has been served on the Company under section 1002 of the TCA.
- 12.1.12. **Deposit Interest Retention Tax:** The Company has not received, or will not, prior to Completion, earn, deposit interest subject to retention of tax under section 257 of the TCA.
- 12.1.13. **Charges on Book Debts:** The Company has not since 27th May, 1986 taken a fixed charge on the book debts of any company, or will take any such fixed charge prior to Completion.
- 12.1.14. **Agency for Non-Residents:** The Company has never been, or is not now, assessable to tax under section 1034 or 1035 of the TCA.
- 12.1.15. **Anti-Avoidance Provisions:** The Company has not received any notice under section 811(6) of the TCA or been engaged in, or been a party to, a tax avoidance transaction within the meaning of section 811(2) of the TCA or any other transaction or series of transactions or scheme or arrangement of which the main purpose, or one of the main purposes, was or could be said to be the avoidance or deferral of, or a reduction in the liability to, Tax.
- 12.1.16. **Pay As You Earn (PAYE) and Social Welfare:** The Company has properly operated the PAYE and social welfare contribution systems (including levies), deducting and accounting for Tax and maintaining records as required by law, and the Company has not suffered any PAYE audit by the Revenue Commissioners since the Balance Sheet Date, or has not been notified that any such audit will or is expected to be made.

12.2. Corporation Tax:

- 12.2.1. **Company Residence:** The Company is not, nor has at any stage since its incorporation been, resident for tax purposes in a country other than Ireland.
- 12.2.2. **Foreign Tax:** The Disclosure Letter includes a correct and complete list and full particulars of any liability to Tax in a country other than Ireland.
- 12.2.3. **Manufacturing Relief:** Where relief under chapter 1 of Part 14 of the TCA has been claimed by the Company, such relief was claimed, and is being claimed, on a correct and proper basis.
- 12.2.4. **Loss of Relief etc:** No relief (whether by way of deduction, reduction, set-off, exemption, repayment, allowance or otherwise) from, against or in respect of any Tax has been claimed or given to the Company which could or might be effectively withdrawn, postponed, restricted or otherwise lost as a result of any act, omission, event or circumstance arising or occurring at, or at any time after, Completion, and the Company has not at any time claimed any relief from Tax under Part 10 of the TCA.
- 12.2.5. **Carry Forward of Losses:** Nothing has been done, and no event or series of events has occurred or will as a result of any contract, agreement or arrangement entered into before Completion occur, which might when taken together with the entry into or Completion of this Agreement cause or contribute to the disallowance to the Company of the carry forward of any losses or excess charges on income or surplus advance corporation tax.
- 12.2.6. **Restriction on Losses and Charges:** The use of losses incurred by, or charges paid by, the Company is not restricted by section 243A, 396A, 420A, 454, 455 or 456 of the TCA.
- 12.2.7. **Capital Losses:**
- (1) The Company has not incurred a loss on the disposal or deemed disposal of an asset (other than trading stock) in relation to which its ability to set the whole of that loss against any chargeable gain arising in the same or later accounting period is or may be restricted or excluded.
 - (2) The Company has not made, nor is it entitled to make, a claim under section 538 of the TCA.
- 12.2.8. **Capital Allowances:** The Company has not made a claim for capital allowances in respect of any asset which is leased to or from, or hired to or from, the Company, and since the Balance Sheet Date the Company has not done or omitted to do, or agreed to do or permitted to be done, any act, or suffered any occurrence, as a result of which any balancing charge has arisen or may arise under section 274 or 288 of the TCA, nor has there been or might there be any disallowance of excess relief by virtue of section 403 of the TCA.
- 12.2.9. **Base Values and Costs of Acquisition:**
- (1) If each of the assets (other than trading stock) of the Company was disposed of for a consideration equal to the book value of that asset shown in or adopted for the purpose of the Accounts, no liability to corporation tax on chargeable gain or balancing charge under section 274 or 288 of the TCA not fully provided for in the Accounts would arise.
 - (2) For the purpose of determining the liability to corporation tax on chargeable gains, there shall be disregarded any reliefs and allowances available to the Company other than amounts falling to be deducted under Chapter 2 of Part 19 of the TCA.
 - (3) Since the Balance Sheet Date, the Company has not acquired any asset (other than trading stock) in circumstances such that section 584, 585 or 586 of the TCA applied to its acquisition.

- 12.2.10. **Patent Income Exemption:** The Disclosure Letter includes a correct and complete list and full particulars of all dividends paid in the last six years out of patent income disregarded for the purposes of corporation tax by virtue of section 234 of the TCA.
- 12.2.11. **Close Companies:** The Company is not, or never has been, a close company for the purposes of Irish Tax.
- 12.2.12. **Trading Company Status:** The Company, at the date of this Agreement, carries on an activity which is a trade for the purposes of tax and has not ceased, and will not as a result of any contract, agreement or arrangement entered into before Completion cease, to carry on such activity.
- 12.2.13. **Unremittable Income and Capital Gains:** The Company has not either received or become entitled to any income which is particular income within the meaning of section 1004 of the TCA or any particular gains to which section 1005 of the TCA could apply.
- 12.2.14. **Transactions not at Arm's Length:** The Company:
- (1) does not own or has not agreed to acquire any asset, or has not received or agreed to receive any services or facilities (including the benefit of any licences or agreements), the consideration for the acquisition or provision of which was or will be in excess of its market value, or otherwise than on an arm's length basis;
 - (2) does not own or has not agreed to dispose of any asset, or has not provided or agreed to provide any services or facilities (including the benefit of any licences or agreements), the consideration for the disposal or provision of which was or will be less than its market value, or otherwise than on an arm's length basis;
 - (3) has not disposed of or acquired any asset in such circumstances that the provisions of section 547 of the TCA applied or could apply thereto; and
 - (4) has not since the Balance Sheet Date appropriated any asset owned by it to or from trading stock.
- 12.2.15. **Return of Capital etc:** The Company has not since its incorporation
- (1) repaid or agreed to repay, or redeemed or agreed to redeem, or purchased or agreed to purchase, any of its share capital; or
 - (2) capitalised or agreed to capitalise in the form of debentures or redeemable shares any profits or reserves of any class or description.
- 12.2.16. **Payments:** No rents, interest, annual payments, emoluments or other sums of an income nature paid or payable by the Company or which the Company is under an obligation to pay in the future are, or (under the law as presently in force) may be, wholly or partially disallowable as deductions or charges in computing profits for the purpose of corporation tax by reason of any statutory provision relating to tax.
- 12.2.17. **Issue of Securities:** No securities (within the meaning of section 135(8) of the TCA) issued by the Company and remaining in issue at the date of this Agreement were issued in such circumstances that any interest or other distribution out of assets in respect thereof fails to be treated as a distribution under section 130(2)(d) of the TCA, nor has the Company agreed to issue securities (within that meaning) in such circumstances.
- 12.2.18. **Preference Share Dividends:** Section 138 of the TCA does not apply to dividends paid or received by the Company.
- 12.2.19. **Depreciatory Transactions:** No asset owned by the Company has at any time since its acquisition by the Company been subjected to a reduction in value such that any allowable loss arising on its disposal is likely to be reduced or eliminated or any chargeable gain arising on its disposal is likely to be increased.

12.2.20. **Premiums and Sale and Lease Back of Land:** The Company has not entered into any transaction to which the provisions of sections 98, 99 or 100 of the TCA have been or could be applied.

12.2.21. **Pension Schemes:** The Company has not since the Balance Sheet Date received any payment to which section 782 of the TCA is applicable.

12.2.22. **Share Schemes:**

- (1) There are set out in the Disclosure Letter details of all share schemes established by the Company and approved pursuant to Part 17 of the TCA.
- (2) The Company has not been a qualifying research and development company or a qualifying sponsoring company within the meaning of Chapter 3 of Part 1 of the Finance Act 1986.

12.2.23. **Group Relief Surrenders of Group Income:**

- (1) The Disclosure Letter includes a correct and complete list and full particulars of all arrangements and agreements relating to group relief (as described in Chapter 5 of Part 12 of the TCA) to which the Company is or has been a party in the last three years.
- (2) All claims made by the Company for group relief were, when made, valid and have been or will be allowed by way of relief from corporation tax.
- (3) Save as disclosed in the Accounts, the Company has not since the Balance Sheet Date made, or is not liable to make, any payment under any such arrangement or agreement.
- (4) The Company has received any payments due to it under any such arrangement or agreement for surrender of group relief made by it.

12.2.24. **Replacement of Business Assets:** The Company has not purchased an asset subject to a claim made under section 620 of the TCA, or made any other claim which would affect the amount of the chargeable gain or allowable loss which would, but for such claim, have arisen on a disposal of any of its assets.

12.2.25. **Dealings in Land:** The Company has not entered into any transaction as a result of which it could be assessed to tax under Chapter 1 of Part 22 of the TCA.

12.3. **Value Added Tax:**

12.3.1. The Company has complied fully with all statutory requirements, orders, provisions, directions or conditions relating to value added tax (VAT) including (for the avoidance of doubt) the terms of any agreement reached with the Revenue Commissioners.

12.3.2. The Company is registered for the purposes of VAT, and has been so registered at all times that it has been required to be registered by the relevant legislation.

12.3.3. The Company has not at any time been a member of a group registration made pursuant to section 8(8) of the VAT Act or been served with a notice in writing from the Revenue Commissioners under that section.

12.3.4. The Company maintains and has at all times maintained complete, correct and up-to-date records for the purpose of VAT, and has preserved such records in such form and for such periods as are required by the relevant legislation.

12.3.5. The Company is not in arrears with any VAT payment or returns, or liable to any abnormal or non-routine payment or any forfeiture or penalty or to the operation of any penal provision.

12.3.6. The Company has not received a notice within the meaning of Section 37 of the VAT Act.

- 12.3.7. The Disclosure Letter includes a correct and complete list and full particulars of any claim for bad debt relief which has been or may be made by the Company under section 10(3)(c) of the VAT Act.
- 12.3.8. The Company has not since the Balance Sheet Date, made exempt supplies such, or of such amount, that it is unable to recover in full VAT incurred on expenditure.
- 12.3.9. The Company has not exercised a waiver of exemption within the meaning of Section 7, VAT Act.
- 12.3.10. The Company has not recovered VAT incurred in circumstances set out in Section 12(3) VAT Act.
- 12.3.11. The Company has fully complied with the requirement to account for VAT in respect of services listed in the Fourth Schedule to the VAT Act.
- 12.3.12. The Company has fully complied with the requirement to account for VAT on intra-community acquisitions within the meaning of Section 3A VAT Act.
- 12.3.13. The Company has fully complied with the requirement to account for VAT in circumstances where the provisions of Section 4(8) VAT Act apply.
- 12.3.14. The Company has not received authorisation within the meaning of Section 13A VAT Act.

12.4. Stamp Duty:

- 12.4.1. All documents to which the Company is a party or which form part of any of the title of the Company to any asset owned or possessed by it have been duly stamped and (where appropriate) adjudicated.
- 12.4.2. Within the two years ending on the date of this Agreement, the Company has not made any claim for relief or exemption under section 79 or section 80 of the Stamp Duties Consolidation Act 1999 (SDCA), and no such claim will be made prior to Completion.
- 12.4.3. The Company has not entered into any agreement with the Revenue Commissioners pursuant to section 5 of the SDCA.

12.5. Capital Duty:

- 12.5.1. The Company has duly paid all capital duty, and interest, fines and penalties thereon, payable in accordance with the provisions of section 116 of the SDCA, whether or not the due date for payment has passed.
- 12.5.2. Within the five years ending on the date of this Agreement, the Company has not made any claim for relief or exemption under section 119 of the SDCA.

12.6. Capital Acquisitions Tax:

- 12.6.1. There is no outstanding charge for unpaid capital acquisitions tax over any asset of the Company or in relation to any shares in the capital of the Company.
- 12.6.2. There are not in existence any circumstances whereby any such power as is mentioned in section 45(8) of the Capital Acquisitions Tax Consolidation Act 2003 could be exercised in relation to any shares, securities or other assets of or owned by the Company.
- 12.6.3. Since the Balance Sheet Date, no taxable gift (as defined by section 6 of the Capital Acquisitions Tax Consolidation Act 2003) or taxable inheritance (as defined by section 11 of the same Act) has been received by the Company, nor has the Company been a donor (as defined by section 2 of the same Act) for the purposes of capital acquisitions tax.

SCHEDULE 4

COMPLETION OBLIGATIONS

1. **Documents to be Delivered by the Vendors:** On Completion, the Vendors shall deliver to the Purchaser:
 - 1.1. transfers of the Sale Shares duly executed by the registered holders thereof in favour of the Purchaser or its nominee(s) together with the relevant share certificates in the names of such registered holders or an indemnity in a form acceptable to the Purchaser;
 - 1.2. a copy of the minutes of the board meeting required to be held pursuant to clause 3 of this Schedule, certified by the Secretary of the Company;
 - 1.3. the Tax Deed duly executed under seal by each of the parties to it other than the Company and the Purchaser;
 - 1.4. signed copies (appropriate for filing at the Companies Registration Office) of special resolutions to adopt the New Articles in such form as the Purchaser may require together with a copy (appropriate for filing) of such articles;
 - 1.5. such waivers, consents or other documents (including any power of attorney under which any document required to be delivered pursuant to this clause 1 of this Schedule has been executed) in the agreed form to enable the Purchaser to be registered as the holders of the Sale Shares;
 - 1.6. the registers of allotment, transfers, members and directors and minute books (properly written up to the time immediately prior to Completion), a certified copy of the memorandum and articles of association, the common seal, the certificate of incorporation and (if applicable) any certificate of incorporation on change of name of the Company;
 - 1.7. copies of the leases for the Properties;
 - 1.8. the Service Agreements and the Consultancy Agreement duly executed by the parties to them;
 - 1.9. the written resignations in the agreed form of all the Directors (except the Continuing Directors) of the Company from their respective offices, such resignations to take effect upon Completion;
 - 1.10. the written resignation of the auditors of the Company in the agreed form to take effect upon Completion containing the statement referred to in section 185(2)(a) of the 1990 Act that they consider there are no such circumstances as are mentioned in that section and confirming that they have deposited or will deposit that statement in accordance with section 185(3)(a) of the 1990 Act at the respective registered offices of the Company and at the Companies Registration Office;
 - 1.11. bank statements from each of the banks at which the Company maintains an account of the amount standing to the credit or debit of all such accounts as at the close of business on the last Business Day prior to Completion;
 - 1.12. the cash book balances of the Company as at Completion with statements reconciling such cash book balances and the relevant cheque books with the balances on the bank accounts of the Company as shown by the bank statements referred to in paragraph 1.11 of this Schedule;
2. **Board Meetings:** On Completion, the Vendors shall cause a board meeting of the Company to be held at which:
 - 2.1. the transfers of the Sale Shares are approved for registration and registered (subject to those transfer being duly stamped, which will be at the cost of the Purchaser);
 - 2.2. the resignations referred to in paragraphs 1.9 and 1.10 of this Schedule are tendered and accepted so as to take effect at the close of the meeting;
 - 2.3. persons nominated by the Purchaser (in the case of directors, subject to any maximum number imposed by the relevant articles of association) are appointed additional directors and appointed secretaries;

- 2.4. all existing instructions and authorities to bankers are revoked and replaced with alternative instructions, mandates and authorities in such form as the Purchaser may require;
- 2.5. Baker Tilly O'Hare are appointed auditors;
- 2.6. approval and authorisation is given for the execution of the Tax Deed and the Shareholders' Agreement under seal and the Service Agreements and the Consultancy Agreement;

3. Purchaser's Obligations:

3.1. Prior to or at Completion, the Purchaser:

- 3.1.1. shall procure that a meeting of the directors of the Purchaser is held at which it is resolved that the Consideration Shares be allotted and issued to the Vendors as set out against the name of each Vendor in Schedule 2;
- 3.1.2. shall ensure that the directors of the Purchaser are entitled in accordance with section 80 of the United Kingdom Companies Act 1985 to allot the Consideration Shares to the Vendors; and
- 3.1.3. shall ensure that any rights of priority or pre-emption in relation to the allotment of shares in the Purchaser that would be inconsistent with the allotment of the Consideration Shares (whether arising under statute, contract or otherwise) have been waived or satisfied in a manner acceptable to the Vendors, acting reasonably.

3.2. On Completion, the Purchaser shall:

- 3.2.1. execute and deliver the Tax Deed and the Shareholders' Agreement;
- 3.2.2. perform its obligations under clause 3.3 of the Agreement that are required to be performed at Completion; and
- 3.2.3. deliver to the Vendors a copy of the minutes (certified by the Secretary of the Purchaser) of a board meeting of the Purchaser authorising the execution and performance by the Purchaser of its obligations under this Agreement, the Tax Deed and the Shareholders' Agreement.

SCHEDULE 5
PROPERTIES
(Cross refer to Warranty 11)

- 1.**
Address: 51A and 51B Dawson Street, Dublin 2.
- Description:** Demised Premises.

All that portion of the building comprising the ground floor shop and basement room together with the front and rear rooms on the first floor of 51A Dawson Street, in the Parish of St Ann and City of Dublin and including:
- Details of tenure:** Leasehold for the term of 10 years from 1st August 2003.
- Other Particulars:** Lease dated 27th September 2004.

Landlord
Terence Lynsky and John Lynsky.

Tenant
J.S (City) Limited.
- 2.**
Address: 51A Dawson Street, Dublin.
- Description:** Demised Premises.

All That and Those the rear ground floor office and rear basement of 51B Dawson Street in the Parish of St Ann and City of Dublin.
- Details of tenure:** Leasehold for the term of 35 years from 1st February 1983.
- Other Particulars:** Lease dated 3rd February 1984.

Landlord
MEPC Ireland Limited.

Tenant
Jackson Stops McCabe.
- 03.**
Address: 51A Dawson Street, Dublin 2.
- Description:** Demised Premises

ALL THAT portion of the Building comprising the 2nd floor of 51A Dawson Street (comprising 778 square feet approximately) in the Parish of Parish of St Ann and City of Dublin:
- Details of tenure:** Leasehold for the term of 15 years from 15th October 1999.
- Other Particulars:** Lease dated 14th December 1999.

Landlord
Terence Lynsky and John Lynsky.

Tenant
TIU Management Consultants Limited.

Guarantor
Garrett J. Hickey.

4.

Address: 51A/B Dawson Street, Dublin 2.

Description: Demised Premises.

ALL That one front room and one rear room on the first floor of the premises known as 51 A/B Dawson Street in the City of Dublin.

Details of tenure: Leasehold for the term of 35 years from 1st March 1982.

Other Particulars: Lease dated 11th March 1982.

Landlord
MEPC Ireland Limited.

Tenant
Kierans Life & Pensions Limited.

SCHEDULE 6

WARRANTY INFORMATION LIST [to be completed]

1. Current Memorandum & Articles of Association as amended by special resolution dated 25th May 2006
2. Annual Return made up to 30 September 2005
3. Written Resolution dated 25th May 2006
4. Updated electronic format Combined Company Register
5. Share purchase documentation consisting of:
 - a. Members Consent to Short Notice of EGM dated 12 April 2006;
 - b. Minutes of Board Meeting held 25 April 2006 re authorisation and approval of Share Purchase Agreement;
 - c. Minutes of EGM of the Board dated 25 April 2006 re passing of special resolution;
 - d. Minutes Board Meeting held 25 April 2006 re purchase and cancellation of Roderick Downer Shareholding;
 - e. Share Purchase Agreement dated 25 April 2006;
 - f. Form G1 dated 25 April 2006;
 - g. Notice Pursuant to S.69 of the Companies Acts dated 25 April 2006.
6. Copy Minutes of Board Meeting dated 28th April 2006 approving and adopting the Director's Report and Financial Statements for the year ended 31st December 2005
7. Copy Certificate of Incorporation of Jackson Stops McCabe Limited on re-registration as a limited company.
8. Copy Certificate of Incorporation on Change of Name
9. Director's Report and Financial Statements for the year ended 31st December 2005
10. Directors Report and Financial Statements for the year ended 31 December 2004
11. Directors Report and Financial Statements for the year ended 31 December 2003
12. Directors Report and Financial Statements for the year ended 31 December 2002
13. Letter from Bank of Ireland dated 3 March 2006 detailing company credit facilities
14. Copy of credit agreement dated 30 June 2005 with Bank of Ireland
15. April Management Accounts
16. Organisation chart
17. Details of current employee information including consultant details, prospective employee details, redundancies in previous twelve months, employee salary information and resignations/dismissals since 2000 as amended by supplemental information supplied in the course of due diligence or disclosure.
18. Career Development Handbook

19. Memorandum to Declan Stone from the Board re his appointment as MD dated 30 April 2004
20. Template staff contract
21. Caroline Ashcroft Staff Review dated 26 January 2006 and copy contract dated 1 April 2005
22. Clodagh Barry Staff Review dated 26 January 2006 and copy contract dated 7 March 2005
23. Memo to Henry Jones from Declan Stone dated 27 February 2006 re details of Shane Cahir's salary together with Shane Cahir's Staff Review dated 31 January 2006 and contract of 7 March 2005
24. Ron Cregan Staff Review dated 26 January 2006 and contract of 28 February 2005
25. Paul Finnucane Staff Review dated 26 January 2006 and contract dated 25 February 2005
26. Memo to Declan Stone from Caroline Ashcroft dated 3 October 2005 re Jonathan Hillyer's club subscription together with his contract dated 28 February 2005
27. Henry Jones contract dated 7 March 2005
28. Peter Kenny Staff Review dated 26 January 2006 and contract dated 28 February 2005
29. Aiden McDonnell contract dated 7 March 2005
30. Michele McGarry contract dated 3 March 2005
31. Jason Miller Staff Review dated 31 January 2006 and contract dated 28 February 2005
32. Martin Reaney Staff Review dated 31 January 2006 with undated contract
33. Gillian Ryan contract dated 7 March 2005
34. Elaine Torpey Staff Review dated 26 January 2006 and contract dated 18 February 2005
35. Edward Townshend's contract dated 28 February 2005
36. Lisa Gaynor's contract dated 28th February 2005 together with email re staff review dated 11th April 2006.
37. Jack Hazell's staff review dated 8th March 2006 and contract dated 7th March 2005
38. Sarah Kemp's staff review dated 8th March 2006 and contract dated 3rd May 2005.
39. Mandy L'estrang's staff review dated 26th January 2006 and contract dated 7th March 2005.
40. Michael Conran's staff review dated 26th January 2006 and contract dated 25th February 2005.
41. Eleanor Bourke's contract dated 7th March 2005.
42. Ingrid Gardiner's contract dated 26th January 2006.
43. Emily Morrissey's staff review dated 16th March 2006 and contract dated 3rd May 2005.
44. Lynn Murray's contract dated 4th October 2005.
45. Arthur Phelan's contract dated 16th November 2005.
46. Patricia Roche's contract dated 21st November 2005.
47. George Saurin's staff review dated 26th January 2006 and contract dated 7th April 2005.
48. Claire Shanon's staff review dated 23rd February 2006 and contract dated 7th March 2005.
49. Ann Smyth's staff review dated 31st January 2006 and contract dated 26th July 2005.

50. Copy contract sent to Ann-Marie McNulty;
51. Yvonne Kiernan contract dated 23 May 2006;
52. KieranMcCarthy contract dated 13 March 2006;
53. Copy contract sent out to Rose Holden;
54. Memorandum to J.B.C Hamilton from Declan Stone dated 13 August 2004 re consultancy arrangement / retirement
55. Copy Letter from David Rowe to Michael Donohoe dated 28 March 2001
56. Copy Letter from David Rowe to Michael Donohoe dated 31 October 2001
57. Copy e-mail from Michael Donohoe to Eamon Moore dated 21 December 2005
58. Copy e-mail from Eamon Moore to Michael Donohoe dated 21 December 2005
59. Copy e-mail from Michael Donohoe to Henry Jones dated 26th November 2004
60. Copy e-mail from Michael Donohoe to Eamon Moore dated 26th November 2004
61. Copy e-mail from Eamon Moore to Michael Donohoe dated 12th November 2004 enclosing E-MIT proposal
62. Letter from Kinman Public Relations dated 6 August 2004
63. Proposal from Persuasion dated June 2005
64. Audit Engagement Letter update from Garland McDonald & Co Auditors dated 30 January 2006
65. Staff commission rates for years 2006, 2005, 2004,2003,2002
66. Copy email from Siobhra Rush of MOP, solicitors to Caroline Ashcroft dated 21st March 2006
67. Copy email from Caroline Ashcroft to Siobhra Rush of MOP, solicitors dated 21st March 2006
68. Copy email from Caroline Ashcroft to Siobhra Rush of MOP, solicitors dated 15th March 2006
69. Copy letter from MOP to Declan Stone dated 5 October 2005
70. Copy Invoice from MOP dated 30 September 2005 together with bill narrative
71. Copy Fax from MOP to Declan Stone dated 15 September 2005
72. Copy Fax to Declan Stone from Shiobhra Rush, MOP, dated 16 August 2005
73. Copy letter to Julie Dobson dated 5 June 2005 from Henry Jones
74. Copy Company cheque payable to Julie Dobson in the amount of €8,539.37
75. Copy Julie Dobson's P45
76. Julie Dobson P45 details Report
77. Copy Julie Dobson's Form RP2 - Redundancy Certificate
78. Memo to Declan Stone, c.c'd to Julie Dobson, from Linda O'Carroll dated 9 March 2005 of meeting between parties on that date

79. Details of Julie Dobson's attendance for one week, from Wednesday 2 March to Wednesday 9 March. Year not noted.
80. Internal Memo to Julie Dobson from Declan Stone dated 15 February 2005 re Notice of Redundancy
81. Email dated 1 April 2004 from Siobhra Rush to Declan Stone re Sharon Byrne-v-Jackson Stops, EAT Hearing
82. Email dated 21 March 2006 from Siobhra Rush to Caroline Ashcroft Re Sharon Byrne.
83. Employee Handbook
84. All Staff Memo from Declan Stone dated 23 February 2006 re VHI contributions
85. Breakdown of VHI contributions
86. Copy PRSA contract signed by TJ Kearns on the 11 August 2003 with Bank of Ireland Life;
87. Copy letter from Bank of Ireland Life to Michael Donohoe dated 22 August 2003;
88. Copy letter to Bank of Ireland Life from Michael Donohoe dated 18 July 2003;
89. Copy letter to Michael Donohoe from Bank of Ireland Life dated 15 July 2003;
90. Copy letter to Barry Doak of Bank of Ireland Insurance & Investments from Michael Donohoe dated 10 July 2003;
91. Copy template letter sent to all CJS employees dated August 2003 Re announcing PRSA agreement;
92. Copy template form sent to all CJS employees Re PRSA agreement;
93. List of Forms returned by CJS employees Re PRSA agreement;
94. Form signed by Frances Kenny dated 9 September 2003;
95. Form signed by Jason Miller dated 8 September 2003;
96. Form signed by Nick Coveney dated 3 September 2003;
97. Form signed by Philippa Cozzolino dated 4 September 2003;
98. Form signed by Henry Jones dated 2 September 2003;
99. Form signed by Elaine Torpey undated;
100. Form signed by Anna Stone dated 27 August 2003;
101. Form signed by Caroline Ashcroft dated 27 August 2003;
102. Form signed by Claire Shannon dated 27 August 2003;
103. Form returned by Aidan McDonald ticked but unsigned and undated;
104. Form signed by Julie Dobson dated 2 September 2003;
105. Form signed by Lynn Dawson dated 28 August 2003;
106. Form signed by Elaine McGarry dated 27 August 2003;
107. Form signed by Peter Watchman dated 27 August 2003;
108. Form signed by Katherine Dwyer dated 27 August 2003;

109. Form signed by Ingrid Gardiner dated 9 September 2003;
110. Form signed by Mary Jo Hanlon undated;
111. Letter to Henry Jones from New Ireland Assurance dated 1 November 2005 re Group Employer PRSA with attached breakdowns
112. Copy letter from Invest & Prosper Limited dated 15 January 1997 to Michael Donohoe;
113. Scottish Provident policy document number 26371D;
114. Retirements Benefits Plan Rules
115. Trust Deed undated 1997 Re Jackson Stops & McCabe Retirement Benefit Plan to commence 1 January 1997;
116. Revenue Approval letter dated 6 January 1997;
117. Copy letter from the Pensions Board dated 12 February 1997 Reference 26371D confirming registration of the Scheme with the Pensions Board;
118. Announcement of Retirement Benefits Plan;
119. Benefits Notice from the Trustees of the Jackson Stops & McCabe Retirement Benefit Plan to Michael Donohoe;
120. Premium Schedule in respect of Plan No. 26371D;
121. Declaration of Trust dated 7 May 1985;
122. Rules Jackson Stops & McCabe Limited Retirement Benefit Scheme;
123. Copy of the Revenue Approval letter dated 17 April 1986 together with copy compliments slip from Fred Graham Insurances Limited dated 16 May 1986.
124. Notice to Employees of Jackson Stops McCabe Limited dated March 1985 of Retirement Benefit Scheme;
125. Letter from Fred Graham Insurances Limited dated 7 May 1985;
126. Letter from Life Association Ireland Limited dated 3 May 1985 re Group Retirement Benefit Scheme No. 66399;
127. Membership Certificate Retirement Benefit Scheme;
128. Benefit Certificate;
129. Statement of Account as at 3 May 1985 from Life Association Ireland Limited;
130. Schedules of Benefits and costs;
131. Schedule of insurances in place;
132. Copy of WR Berkley Insurance (Europe) Limited Surveyor's professional indemnity insurance;
133. Renewal Schedule Policy HU P16 1299413 (31);
134. Certificate Policy No. HU P16 1299413 (31);
135. Royal & Sun Alliance Insurance Schedule re Policy No. PP92180234/06;

136. Email from Invest & Prosper Limited dated 3 May 2006 to TJ Kearns Re details of Group Salary Protection Scheme No. G32588 with Friends First, Group Key Person Insurance with Hibernian Life & Pensions and Group Company Buy Back Insurance with Hibernian Life & Pensions;
137. Schedule of Benefits & Premiums of Friends First Scheme Number G34698
138. Letter to TJ Kearns from Coyle Hamilton Willis Insurance Brokers dated 3 May 2006 Re claims history over the previous five years;
139. Letter from Coyle Hamilton Willis to TJ Kearns dated 21 December 2005 containing extract of Renewal Report for 2005/2006;
140. Letter from Coyle Hamilton Willis to TJ Kearns dated 30 March 2005
141. Copy letter to Tony Mooney of Premier Property Management dated 25 June 1993
142. Letter to Frank Ryan, Collier Jackson Stops Cork, from Roderick Downer dated 8 November 2004
143. Signed Technology Finance Agreement of 1 June 2004 together with a schedule of goods under contract.
144. Copy print plan from GE Woodchester Finance re lease of digital copier
145. Copy invoice no: 103028 from Keyhouse Networks Limited dated 23 February 2006
146. Copy invoice from Keyhouse Computing Limited dated 21 November 2005
147. Copy Invoice from Super Developer Systems Limited dated 14 February 2006
148. Copy invoice from Experian Ireland Limited dated 24 February 2006
149. Copy invoice from Experian Ireland Limited dated 28 February 2005
150. Copy invoice from Belgrave Solutions dated 12 February 2006
151. Copy invoice from Belgrave Solutions dated 4 February 2006
152. Copy invoice from Prime Investor dated 14 November 2005
153. Copy Eircom invoice dated 15 March 2006 re domain name
154. Copy Eircom Proforma invoice dated 3 March 2006 re domain name
155. List of hardware/software used by the Company
156. Copy Eircom invoice dated 29 August 2005
157. All Staff email from Michael Donohoe dated 8 April 2005 with attached guidance notes for estate agents and auctioneers re money laundering under the Criminal Justice Act 1994
158. Letter from IAVI dated 28 July 2005 re Collective Licence 2005/06
159. Copy of JS (City) Limited Auctioneers Licence
160. Copy of Auction Permit for Peter Kenny
161. Copy of Auction Permit for Edward Townsend
162. Copy of Auction Permit for Nick Coveney
163. Copy of Auction Permit for Declan Stone
164. Copy of Auction Permit for Magnus Magnier

- 165. Copy of Copyright Licence 2006 from Ordnance Survey Ireland
- 166. Copy Lease dated 11 March 1983
- 167. Copy Lease dated 14 December 1999
- 168. Copy Lease dated 3 February 1984
- 169. Copy Lease dated 27 September 2004

SCHEDULE 7

PURCHASER'S WARRANTIES

1. **Power and Authority of Purchaser:** The Purchaser has full power, legal capacity and authority:
 - 1.1. to enter into this Agreement and the Tax Deed and any other agreement to be entered into pursuant to any of them to which it is a party; and
 - 1.2. to perform the obligations set out in those documents.
2. **Valid and Binding on Purchaser:** The obligations set out in this Agreement and the Tax Deed and any other agreement to be entered into pursuant to any of them to which it is a party constitute legal obligations that are valid and binding on the Purchaser in accordance with their terms.
3. **No Breach of Purchasers' Obligations:** Neither entering into this Agreement nor performing the obligations referred to in this Agreement has resulted or will result in the breach of any obligation of the Purchaser under:
 - 3.1. its memorandum or articles of association, statutes, by-laws or other terms of charter or corporate regulation;
 - 3.2. any law or any order, judgment or decree of any court or governmental agency; or
 - 3.3. any contract, undertaking or agreement to which the Purchaser is a party.
4. **Consideration Shares:** The directors of the Purchaser will be duly authorised and the Purchaser will, on Completion, have sufficient authorised but unissued share capital to allot the Consideration Shares to the Vendors in accordance with this Agreement and the Consideration Shares will rank *pari passu* with the existing ordinary shares in the capital of the Purchaser in issue at the date of Completion.

SCHEDULE 8

THE RETENTION

1. Subject to clause 3 of this Schedule, the Purchaser shall pay the Retention to the Vendors within 5 Business Days of the finalisation of the June Management Accounts in accordance with clause 6 of this Schedule.
2. The Retention shall be paid to the Vendors pro rata to their respective shareholdings in the Company immediately prior to Completion and to the Vendors' Solicitors in accordance with clause 3.2.2 of the Agreement.
3. The Retention shall be reduced by one euro for each euro by which either:
 - 3.1. the Net Asset Value as stated in the June Management Accounts is less than €775,000; or
 - 3.2. the June Management Accounts shows a cash balance of less than €625,000 overdrawn,whichever is the greater difference.
4. In the event that the Retention is insufficient to cover in full any shortfall pursuant to clause 3 of this Schedule, the Vendors shall pay such shortfall to the Purchaser on a euro for euro basis pro rata to their respective shareholdings in the Company immediately prior to Completion.
5. For the avoidance of doubt, nothing in the operation of this Schedule, (including any payment of the Retention), shall preclude the Purchaser from making any subsequent claim pursuant to clause 4 of the Agreement for any Breach of the Warranties provided however that the Purchaser shall not be entitled to be compensated more than once in respect of the same matter or circumstance.
6. **June Management Accounts:**
 - 6.1. Following 30 June, 2006, the Vendors shall prepare the draft June Management Accounts and shall submit such draft June Management Accounts to the Purchaser within 5 Business Days following 30 June, 2006.
 - 6.2. The June Management Accounts shall be prepared in accordance with accounting policies consistent with those used in preparing the Accounts and on a basis consistent with the management accounts in the preceding two years.
 - 6.3. If within 10 Business days after receipt of the draft June Management Accounts pursuant to clause 6.1 of this Schedule:
 - 6.3.1. the Purchaser does not notify the Vendor in writing of any difference of opinion relating to the draft June Management Accounts; or
 - 6.3.2. the Purchaser notifies the Vendor of any difference of opinion relating to the draft June Management Accounts (**Notice**) and the Purchaser and Vendor are able to resolve such difference of opinion within 10 Business Days of the Notice,the parties will be deemed to have accepted the draft June Management Accounts as accurate and they will become the **June Management Accounts** for the purposes of this Schedule.
 - 6.4. If the Purchaser and the Vendor are unable to reach agreement within 10 Business Days of the Notice, the matter in dispute shall be referred to the decision of an independent chartered accountant (**Independent Accountant**) to be selected (unless by agreement between the Vendors and the Purchaser) by the President for the time being of the Institute of Chartered Accountants in Ireland, the costs of which selection are to be borne half each by the Purchaser and the Vendors.
 - 6.5. The Independent Accountant shall be instructed to determine what (if any) adjustments are necessary in order to ensure that the draft June Management Accounts comply with the requirements of the Agreement and shall act as an expert and not as an arbitrator. His decision will (in the absence of manifest error) be final and binding on the Vendors and the Purchaser for the purposes of this

Agreement. The draft June Management Accounts adjusted in accordance with the Independent Accountant's decision will become the **June Management Accounts** for the purposes of this Schedule.

- 6.6. The costs of the Independent Accountant shall be apportioned between the Vendors and the Purchaser as the Independent Accountant decides but each party shall be responsible for its own costs of presenting its case to the Independent Accountant.

7. Retention Repayment

- 7.1. In the event that the Purchaser retains any of the Consideration pursuant to this Schedule 8 as a direct result of a failure by the Company to fully collect the book debts of the Company as at Completion and the Company subsequently receives a payment of a debt (the **Debt**) forming part of such book debts, the Purchaser shall repay to the Warrantors the amount of the Retention held by it that equals the Debt received by the Company provided that:

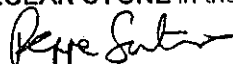
7.1.1. the Debt is in excess of €1,000;

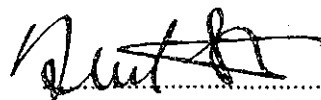
7.1.2. the Debt is collected by the Company in cleared funds without set off within twelve months of the finalisation (in accordance with clause 6 of this Schedule) of the June Management Accounts; and

7.1.3. there are no Warranty Claims outstanding against the Warrantors in respect of clause 3.8 of Schedule 3.

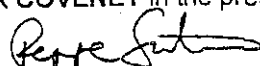
- 7.2. Any repayment by the Purchaser to the Warrantors shall be made in accordance with the payment provisions of clause 3.3.2 of the Agreement and for the avoidance of doubt no repayment pursuant to this clause 7 shall exceed the Retention.


SIGNED sealed and delivered
by DECLAN STONE in the presence of


Solicitor

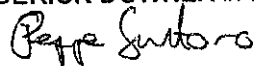

.....
Signature


SIGNED sealed and delivered
by DECLAN STONE
the lawfully appointed attorney of
NICK COVENEY in the presence of


Solicitor



.....
Signature

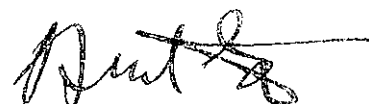
SIGNED sealed and delivered
by DECLAN STONE
the lawfully appointed attorney of
RODERICK DOWNER in the presence of


Solicitor



.....
Signature


SIGNED sealed and delivered
by DECLAN STONE
the lawfully appointed attorney of
MARCUS MAGNIER in the presence of


Solicitor

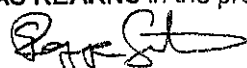

.....
Signature

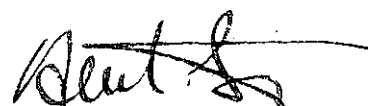
SIGNED sealed and delivered
by DECLAN STONE
the lawfully appointed attorney of
P MICHAEL DONOHOE in the presence of


Solicitor


.....
Signature

SIGNED sealed and delivered
by DECLAN STONE
the lawfully appointed attorney of
THOMAS KEARNS in the presence of


Solicitor

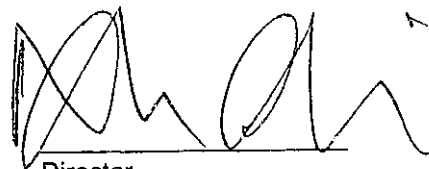

.....
Signature

EXECUTED as a Deed
by **COLLIERS CRE PLC**

Director

Director/Secretary

EXECUTED as a Deed
by COLLIERS CRE PLC



Director



Director/~~Secretary~~