

4474711

We hereby certify that this is a true
and accurate copy of the original
dated this 10th day of February 2005

Signed.....
Osborne Clarke
One London Wall
London EC2Y 5EB

Agreement

relating to the sale and purchase of the whole of the issued
share capital of Big Communications Limited and Fuse
Digital Limited

- (1) The persons listed in Schedule 1
- (2) The Mission Marketing Group Limited

Dated 2nd February 2005

Osborne Clarke

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Letter re: Simon Davies

This Agreement is made on 2nd February 2005

Between:

- (1) **The persons** whose names and addresses are set out in schedule 1 (the "**Vendors**"); and
- (2) **The Mission Marketing Group Limited** (registered in England and Wales with company number: 04474711) whose registered office is at Trelawney House, Park Lane, Earls Colne, Colchester CO6 2RH (the "**Purchaser**").

Background:

The Vendors have agreed to sell and the Purchaser has agreed to purchase the Shares on the terms and conditions set out in this Agreement.

This Agreement witnesses as follows:

1. Definitions and interpretation

- 1.1 In this Agreement, unless the context otherwise requires, the following definitions shall apply:

"**2004/5 Big EBIT**" means the EBIT of Big for the actual 12 months ended 31 March 2005 which shall be determined by adding the EBIT of Big for the calendar month of April 2004 of £292,812 to the EBIT of Big for the 11 months ended 31 March 2005.

"**2005/6 Big EBIT**" means the EBIT of Big for the 12 months ended 31 March 2006.

"**2006/7 Big EBIT**" means the EBIT of Big for the 12 months ended 31 March 2007.

"**2007/8 Big EBIT**" means the EBIT of Big for the 12 months ended 31 March 2008.

"**2008/9 Big EBIT**" means the EBIT of Big for the 12 months ended 31 March 2009.

"**2004/2005 Fuse EBIT**" means the EBIT of Fuse for the actual 12 months ended 31 March 2005 which shall be determined by adding the EBIT of Fuse for the calendar month of April 2004 of £7,082 and to the EBIT of Fuse for the 11 months ended 31 March 2005.

"**2005/6 Fuse EBIT**" means the EBIT of Fuse for the 12 months ended 31 March 2006.

"**2006/7 Fuse EBIT**" means the EBIT of Fuse for the 12 months ended 31 March 2007.

"**2007/8 Fuse EBIT**" means the EBIT of Fuse for the 12 months ended 31 March 2008.

"**2008/9 Fuse EBIT**" means the EBIT of Fuse for the 12 months ended 31 March 2009.

"**Accounts**" means the audited balance sheet as at the Accounts Date and the audited profit and loss account for the financial period ended on the Accounts Date of the Companies, including all documents required by law to be annexed to them.

"**Accounts Date**" means 30 April 2004.

"**Act**" means the Companies Act 1985.

"**Additional Cash Consideration**" means the additional cash payments totalling £435,000 due to the Vendors pursuant to sub-clauses 3.1(a)(iii) and 3.1(b)(iii).

"**Agreement**" means this agreement executed as a deed (including any schedule or annexure to it which shall have the same force and effect as if set out in the body of this Agreement).

"**Base Big EBIT**" means £1,103,000.

"**Base Fuse EBIT**" means £34,000.

"**Base Big Valuation**" means £6,618,000.

"**Base Fuse Valuation**" means £204,000.

"**Big**" means Big Communications Limited, details of which are set out in Schedule 2.

"**Big Deferred Consideration**" means the amount, if any, calculated in accordance with clause 5.2 (Deferred Consideration) and payable to the Big Vendors as additional consideration for the Big Shares.

"**Big Shares**" means the 45,454 ordinary shares of £1 each in the capital of Big comprising the whole of its issued and allotted share capital.

"**Big Vendors**" means those Vendors listed in Part 1 of Schedule 1.

"**Business Day**" means a day (other than a Saturday or a Sunday) on which clearing banks are open for business in the City of London.

"**Cash Consideration**" means the aggregate sum of £3,411,000 due to the Vendors in cash at Completion pursuant to sub-clauses 3.1(a)(i) and 3.1(b)(i).

"**Claim**" means a Warranty Claim or a claim by the Purchaser against the Warrantors under the Tax Covenant (as the case may be).

"**Client**" means any person to whom or which either Company shall at any time during the 12 month period prior to the Relevant Date have provided Restricted Business and with whom the relevant Warrantor personally dealt or for whose business the relevant Warrantor had overall responsibility.

"**Combined 2003/4 EBIT**" means £1,042,000.

"**Combined Future EBIT**" means the aggregate of 2004/5 Big EBIT, 2004/5 Fuse

EBIT, 2005/6 Big EBIT, 2005/6 Fuse EBIT, 2006/7 Big EBIT, 2006/7 Fuse EBIT, 2007/8 Big EBIT, 2007/8 Fuse EBIT, 2008/9 Big EBIT and 2008/9 Fuse EBIT and "**Average Combined Future EBIT**" means the Combined Future EBIT divided by 5.

"**Companies**" means Big and Fuse and "**Company**" means each of Big and Fuse.

"**Company Accountant**" means Richard Glover, an employee of Big.

"**Completion**" means the completion of the sale and purchase of the Shares under this Agreement.

"**Consideration**" means the aggregate consideration payable by the Purchaser to the Vendors for the Shares under sub-clauses 3.1 and 3.2.

"**Consideration Shares**" means 'A' shares of 0.01p each in the capital of the Purchaser credited as fully paid to be issued as part of the Consideration.

"**Deferred Consideration**" means the amount, if any, calculated in accordance with clause 5 (Deferred Consideration) and payable to the Vendors as additional consideration for the Shares.

"**Deed of Termination**" means the agreement in the agreed form proposed to be entered into between the Vendors and Big at Completion relating to the termination of the shareholder agreement dated 9 September 1996.

"**Disclosed**" means fairly disclosed to the Purchaser in the Disclosure Letter.

"**Disclosure Letter**" means the letter of the same date as this Agreement in the agreed form from the Vendors' Solicitors (on behalf of the Vendors) to the Purchaser and delivered to the Purchaser's Solicitors immediately prior to the execution of this Agreement, together with any attachments, disclosing matters that are exceptions to the Warranties.

"**Earn-out Accounts**" means as defined in Schedule 7.

"**Earn-out Accounts Date**" means as defined in Schedule 7.

"**Earn-out Accounts Period**" means as defined in Schedule 7.

"**Earn-out Period**" means as defined in Schedule 8.

"**EBIT**" means earnings before interest and tax calculated in accordance with Schedule 7.

"**Encumbrance**" means any interest or equity of any person (including any right to acquire, option or right of pre-emption or conversion) or any mortgage, charge, pledge, lien, assignment, hypothecation, security interest, title retention, or any other security agreement or arrangement, or any agreement to create any of the above.

"**Environmental Consent**" means any consent, approval, authorisation, permit, exemption, filing requirement, licence or registration from time to time necessary or

desirable under Environmental Law.

"Environmental Law" means any common or statutory law, regulation, directive, treaty, code of practice, circular, guidance note and the like, in each case of any jurisdiction, in force or enacted relating or pertaining to the Environment (as defined in section 1(2) of the Environmental Protection Act 1990, any dangerous substance, human health, comfort, safety or the welfare of any other living organism.

"Escrow Account" means an interest bearing deposit account opened or to be opened by and in the name of the Vendors' Solicitors and the Purchasers' Solicitors.

"Fuse" means Fuse Digital Limited, details of which are set out in Schedule 2.

"Fuse Deferred Consideration" means the amount, if any, calculated in accordance with clause 5.3 (Deferred Consideration) and payable to the Fuse Vendors as additional consideration for the Fuse Shares.

"Fuse Shares" means the 8,000 ordinary shares of £1.00 each in the capital of Fuse comprising the whole of its issued and allotted share capital.

"Fuse Vendors" means those Vendors listed in Part 2 of Schedule 1.

"Guarantee" means any guarantee, suretyship, indemnity, bonding liability or similar contingent liability given or undertaken by a person to secure or support the obligations of any third party.

"Insolvency Event" means any one of the following events:

- (a) any distress, execution, sequestration or other similar process is levied or enforced upon the property of the party which is not discharged within 10 days of being so levied or enforced;
- (a) an encumbrancer or any other person takes possession of or any receiver or trustee is appointed over the whole or any part of the undertaking, property or assets of the party or if circumstances arise which would entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the party;
- (b) a petition is presented or a resolution is passed or an order is made for the winding up of the party or circumstances arise which would entitle a court of competent jurisdiction to make such an order;
- (c) an order is made for the appointment of an administrator to manage the affairs, business and property of the party or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the party or notice of intention to appoint an administrator of the party is given by the party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986);
- (d) the party makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or

- (e) the party takes or suffers any similar or analogous action in any jurisdiction outside England and Wales in consequence of debt.

"Intellectual Property" means patents, trade marks, registered designs, design rights, copyrights, database rights together with the rights in inventions, processes owned, used or licensed by the Company.

"Lease" means the lease under which the Property is held, brief particulars of which are set out in Part 2 of Schedule 2.

"Loan Note Instrument" means the loan note instrument in the agreed form to be entered into by the Purchaser on Completion and creating up to £4,320,600 unsecured loan notes of the Purchaser.

"Loan Notes" means the unsecured loan notes to be constituted and issued in accordance with the terms of the Loan Note Instrument by the Purchaser to the Vendors as part of the Consideration.

"Management Accounts" means the unaudited management accounts for the Company for the period from Accounts Date to 31 December 2004, a copy of which are annexed to the Disclosure Letter.

"Non-Tax Claim" means any Claim which is not a Tax Claim (as defined in the Tax Schedule).

"Non-Tax Warranties" means the warranties set out in schedule 3.

"notice" includes any notice, demand, consent or other communication.

"Pension Scheme" means the Scottish Equitable Group Personal Pension Plan in respect of employees of each of Big and Fuse and the Winterthur Life Executive Pension Plan in respect of each of the Warrantors.

"Planning Acts" means the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning and Compensation Act 1991 and all other statutes containing provisions relating to town and country planning.

"Policies" means all insurance policies maintained by the Company at the date of this Agreement and **"Policy"** means any of them.

"Property" means the leasehold property particulars of which are set out in Part 2 of Schedule 2.

"Property Documents" means the transfer of the Property by Big to the Big Vendors and the lease of part of the Property by the Big Vendors to Big.

"Prospective Client" means any person who or which was at any time during the 12 month period prior to the Relevant Date negotiating with or has been subject to any presentation or pitch by either Company for the provision of any Restricted Business

and with whom the relevant Vendor personally dealt or for whose business the relevant Vendor had overall responsibility.

"Purchaser Group Company" means the Purchaser and any holding company or parent company or any subsidiary or subsidiary undertaking of the Purchaser or such companies from time to time as defined in sections 736, 736A, 258 and 259 of the Act.

"Purchaser's Accountants" means Willott Kingston Smith of 141 Wardour Street, London W1F 0UT or such other firm nominated by the Purchaser from time to time.

"Purchaser's Solicitors" means Osborne Clarke of One London Wall, London EC2Y 5EB (or such other firm of solicitors in England as the Purchaser may from time to time nominate).

"Put Option" means the agreement between the Vendors and the Purchaser to be entered into at Completion giving the Vendors the right to require the Purchaser to purchase the Consideration Shares from the Vendors.

"Relevant Date" means the earlier of the Termination Date and 31 March 2009.

"Respective Proportions" means in relation to each Big Vendor, the percentage set out opposite his name in Part 1 of Schedule 1 and in relation to each Fuse Vendor, the percentage set out opposite his name in Part 2 of Schedule 1.

"Restricted Business" means the provision of advertising and design services which incorporates business development, planning, marketing and PR as carried on by the Company in the Territory during the 12 month period prior to the Relevant Date.

"Restricted Period" means the period of 6 months from the Relevant Date in the case of clause 14.1(a) and 12 months from the Relevant Date in the case of clauses 14.1(b) to (f).

"Senior Employee" means any person who is or was during the 12 month period prior to the Relevant Date employed by either Company in a senior managerial, sales, marketing, senior customer advisory or senior customer-facing capacity or who was a consultant to or a director of either Company or any person who was so employed or retained by either Company in each case whose fees and/or emoluments exceed £30,000 per annum at the relevant time and was a person with whom the relevant Vendor personally dealt during the 12 months prior to the Relevant Date.

"Shares" means the Big Shares and the Fuse Shares.

"Tax Covenant" means the covenant given by the Warrantors under Part 3 of the Tax Schedule.

"Tax Schedule" means the provisions of Schedule 5 of this Agreement.

"Tax Warranties" means the warranties and representations set out in Part 2 of the Tax Schedule and each of them.

"Tax", "Taxes" or "Taxation" means as defined in the Tax Schedule;

"Termination Date" means the date on which the relevant Warrantor's employment with the Company ceases for whatever reason other than where cessation is a result of:

- (a) the application of the Transfer of Undertakings (Protection of Employment) Regulations 1981 (as amended); or
- (b) the transfer of employment to any Purchaser Group Company.

in which case **"Termination Date"** means the cessation of employment with the successor employer (but subject to the application of the provisions of sub-clauses (a) – (b) above inclusive mutatis mutandis).

"Territory" means the United Kingdom.

"UK GAAP" means Generally Accepted Accounting Principles in the UK.

"Vendor Associate" shall have the meaning given to it in the Tax Schedule.

"Vendors' Accountants" means Bentley Jennison of Cedar House, Breckland, Linford Wood, Milton Keynes MK14 6EX or such other firm nominated by a majority of the Vendors from time to time.

"Vendors' Solicitors" means Howes Percival of 252 Upper Third Street, Grafton Gate East, Central Milton Keynes MK9 1DZ (or such other firm of solicitors in England as a majority of the Vendors may nominate from time to time).

"Warranties" means the Non-Tax Warranties and the Tax Warranties, and **"Warranty"** means any one of them.

"Warrantors" means all of the Vendors save for Brian McGowan

"Warranty Claim" means a claim by the Purchaser against the Warrantors for breach of any of the Warranties.

1.2 In this Agreement, unless the context otherwise requires:

- (a) words defined in paragraph 1 of the Tax Schedule shall bear the same meaning in this Agreement.
- (b) words in the singular include the plural and vice versa and words in one gender include any other gender;
- (c) a reference to a statute or statutory provision includes:
 - (i) any subordinate legislation (as defined in section 21(1) of the Interpretation Act 1978) made under it;
 - (ii) any repealed statute or statutory provision which it re-enacts (with or without modification); and
 - (iii) any statute or statutory provision which modifies, consolidates, re-enacts or supersedes it except to the extent that it would create or

increase the liability of any party under this Agreement;

(d) a reference to:

- (i) any "**party**" means any party to this Agreement as set out at the head of page 1 (and "**parties**" means all of the parties to this Agreement) and includes its successors in title and permitted assigns;
- (ii) a "**person**" includes any individual, firm, corporation, body corporate, association or partnership, trust, unincorporated organisation, employee representative body, government or state or agency or department thereof, executors administrators or successors in title (whether or not having a separate legal personality);
- (iii) clauses and schedules are to clauses and schedules of this Agreement;
- (iv) any document being "**in the agreed form**" means in a form which has been agreed by the parties on or before the date of this Agreement and for identification purposes signed by them or on their behalf by their solicitors;
- (v) an obligation due from any party to this Agreement including a reference to "**indemnify**", "**indemnified**" or words to that effect in relation to a particular circumstance:

(A) shall be an obligation by such party as applicable to pay to the indemnified party on a pound for pound basis a sum equal to all losses, claims, liabilities, damages and demands suffered and all costs and expenses reasonably and properly incurred by the indemnified party (and/or, where the indemnified party is the Purchaser, the Company) arising out of that circumstance; and

(B) shall include such additional amount as is necessary so as to ensure that the net receipt to the indemnified party shall be free of the effects of any deduction in relation to Taxation but shall take account of any Tax relief or reduction in Taxation arising from the matter or event giving rise to the indemnification;

(e) except as set out in sub-clause 1.1 and 1.2, terms defined in the Act have the meanings attributed to them by that Act.;

(f) general words shall not be given a restrictive meaning:

- (i) if they are introduced by the word "other" or "including" or similar words by reason of the fact that they are preceded by words indicating a particular class of act, matter or thing.
- (ii) by reason of the fact that they are followed by particular examples intended to be embraced by those general words;

(g) where any liability or obligation is undertaken by two or more Vendors, the

liability or obligation of each of them shall be joint and several unless expressly stated to the contrary; and

- (h) where any statement is qualified by the expression "**so far as the Vendors are aware**" or "**to the best of the Vendors' knowledge and belief**" or "**so far as the Warrantors are aware**" or "**to the best of the Warrantors' knowledge and belief**" or any similar expression it shall be deemed to include an additional statement that it has been made after all reasonable enquiry of each Vendor, Richard Glover and the Vendors' Accountants (in their capacity as auditors of the Company).

2. **Sale and purchase**

2.1 Subject to the terms of this Agreement:

- (a) the Big Vendors shall sell and the Purchaser shall purchase the Big Shares with effect from Completion; and
- (b) the Fuse Vendors shall sell and the Purchaser shall purchase the Fuse Shares with effect from Completion.

2.2 The Shares shall be sold with the benefit of all rights attaching to or accruing to them as at the date of Completion including all dividends and distributions declared, paid or made by the Companies on or after the date of Completion.

2.3 Neither the Purchaser nor the Vendors shall be obliged to complete the sale and purchase unless the sale and purchase of all the Shares is completed simultaneously.

2.4 Each of the Vendors hereby irrevocably and unconditionally waives all rights of pre-emption or similar rights over any of the Shares conferred on him by either the articles of association of either Company or in any other way.

2.5 Each Vendor severally covenants that:

- (a) the Shares set out opposite his name in Schedule 1 are fully paid up (or credited as fully paid) and when aggregated with all the other Shares set opposite the names of the other Vendors in Schedule 1, constitute the whole of the allotted and issued share capital of each of the Companies;
- (b) he is the sole legal and beneficial owner of such Shares and that he has the right to transfer such Shares on the terms of this Agreement and without the consent of any third party and that they are transferred free from any Encumbrance;
- (c) there is no agreement or commitment outstanding under which either of the Companies is or may be obliged to allot or issue any shares in its capital or under which any person is or may be entitled to the allotment, issue or transfer of any shares in the capital of either of the Companies;
- (d) he has the full power and authority to enter into and perform this Agreement and each of the documents to be executed by him and delivered pursuant to

this Agreement, each of which will constitute valid and binding obligations on him;

- (e) he is not bankrupt, and has not proposed a voluntary arrangement or made or proposed any arrangement or composition with his creditors or any class of his creditors;
- (f) no dividend has been made, paid or declared by either Company since 30 September 2004; and
- (g) (save for Chris Morris and Brian McGowan) his partner or spouse (being Bobby Wright in the case of Phil Wright, Kay Bogg in the case of Dylan Bogg and Sarah Court in the case of Mark Firth) has ceased to be an employee of the Companies, no further sums are owed to her in respect of her employment by either Company and she has no claims against either Company.

2.6 None of the covenants set out in sub-clause 2.5 are subject to any qualification whatsoever (save for paragraph 1 of Schedule 4) and no letter, document or other communication shall be deemed to constitute a disclosure against these covenants and the Vendors hereby agree to indemnify and keep indemnified the Purchaser against any breach of such covenants.

2.7 Part 1 of the Law of Property (Miscellaneous Provisions) Act 1994 shall not apply to any disposition of the Shares made under or pursuant to this Agreement.

3. Consideration

3.1 The Consideration shall be satisfied as follows:

(a) for the purchase of the Big Shares:

- (i) the payment by the Purchaser to the Big Vendors in their Respective Proportions of a sum in cash at Completion of £3,309,000 being equal to 50% of the Base Big Valuation;
- (ii) the allotment by the Purchaser to each of the Big Vendors of the number of Consideration Shares set out opposite such Big Vendor's name in Part 1 of Schedule 1;
- (iii) the payment by the Purchaser to the Big Vendors in their Respective Proportions of sums of:
 - (A) £260,000 in cash by close of business on the fifth Business Day following Completion (or, if later, the second Business Day following the making of a loan by the Companies in the amount set out in clause 7.5); and
 - (B) £105,000 in cash on or before the first anniversary of Completion; and

- (iv) the payment of the Big Deferred Consideration (if any becomes due) in accordance with clause 5 (Deferred Consideration).
- (b) for the purchase of the Fuse Shares:
 - (i) the payment by the Purchaser to the Fuse Vendors in their Respective Proportions of a sum in cash at Completion of £102,000 being equal to 50% of the Base Fuse Valuation;
 - (ii) the allotment by the Purchaser to each of the Fuse Vendors of the number of Consideration Shares set out opposite such Fuse Vendor's name in Part 2 of Schedule 1;
 - (iii) the payment by the Purchaser to the Fuse Vendors in their Respective Proportions of sums of:
 - (A) £50,000 in cash by close of business on the fifth Business Day following Completion (or, if later, the second Business Day following the making of a loan by the Companies in the amount set out in clause 7.5); and
 - (B) £20,000 in cash on or before the first anniversary of Completion; and
 - (iv) the payment of the Fuse Deferred Consideration (if any becomes due) in accordance with clause 5 (Deferred Consideration).
- 3.2 The Consideration shall be apportioned between the Vendors in accordance with Parts 1 and 2 of Schedule 1.
- 4. **Completion**
- 4.1 Completion shall take place at the offices of the Purchaser's Solicitors immediately after execution of this Agreement.
- 4.2 At Completion, the Vendors and the Purchaser shall perform their respective obligations under this Agreement and shall comply with the provisions of Schedule 6.
- 4.3 Each party to this Agreement severally undertakes to indemnify the others against any loss, expense or damage which the others may suffer as a result of any document or act delivered or undertaken by it to or for the benefit of the others under this clause 4 or Schedule 6 being unauthorised, invalid or for any other reason ineffective in relation to it.
- 5. **Deferred Consideration**
- 5.1 The Deferred Consideration shall be the payment to the Vendors (in further consideration for the Shares), in accordance with sub-clause 5.4, of such further sums, if any, as become payable in accordance with sub-clauses 5.2 and 5.3.
- 5.2 The Purchaser shall pay to the Big Vendors a sum equal to:

(a) either (subject to clause 5.5):

- (i) if Average Combined Future EBIT is equal to or greater than Combined 2003/4 EBIT, a sum equal to 30% of the Base Big Valuation; or
- (ii) if Average Combined Future EBIT is less than Combined 2003/4 EBIT, a sum equal to 30% of the Base Big Valuation less £5.82 for each £1 that Average Combined Future EBIT is less than Combined 2003/4 EBIT provided that the maximum reduction under this sub-clause (ii) shall be to reduce any payment under clause 5.2(a) to zero and shall not reduce any other part of the Consideration,

(b) plus (subject to clause 5.5):

- (i) if Combined Future EBIT is equal to or greater than 7.75 times Combined 2003/4 EBIT, a sum equal to two times Base Big EBIT; or
- (ii) if Combined Future EBIT is equal to or greater than 6.71 times Combined 2003/4 EBIT but less than 7.75 times Combined 2003/4 EBIT, a sum equal to Base Big EBIT.

5.3 The Purchaser shall pay to the Fuse Vendors a sum equal to:

(a) either (subject to clause 5.6):

- (i) if Average Combined Future EBIT is equal to or greater than Combined 2003/4 EBIT, a sum equal to 30% of the Base Fuse Valuation; or
- (ii) if Average Combined Future EBIT is less than Combined 2003/4 EBIT, a sum equal to 30% of the Base Fuse Valuation less £0.18 for each £1 that Average Combined Future EBIT is less than Combined 2003/4 EBIT provided that the maximum reduction under this sub-clause (ii) shall be to reduce any payment under clause 5.3(a) to zero and shall not reduce any other part of the Consideration,

(b) plus (subject to clause 5.6):

- (i) if Combined Future EBIT is equal to or greater than 7.75 times Combined 2003/4 EBIT, a sum equal to two times Base Fuse EBIT; or
- (ii) if Combined Future EBIT is equal to or greater than 6.71 times Combined 2003/4 EBIT but less than 7.75 times Combined 2003/4 EBIT, a sum equal to Base Fuse EBIT.

5.4 The Deferred Consideration shall be satisfied by:

- (a) the issue of Loan Notes in the Big Vendors' and the Fuse Vendors' Respective Proportions on or before 7 January 2009 (subject to the Purchaser's rights of set-off pursuant to this Agreement) in respect of 80% of the Purchaser's reasonable estimate of the amount of the Deferred Consideration, such Loan Notes to be:

- (i) redeemable on or after the later of:
 - (A) the date of final determination of the amount of the Deferred Consideration; and
 - (B) six months after their date of issue,
- (ii) subject to a downward adjustment in their face value on a pound-for-pound basis (pro rata between the Vendors in their Respective Proportions) in the event that the finally determined amount of the Deferred Consideration is less than the aggregate amount of the Loan Notes issued under sub-clause 5.4(a).
- (b) if the finally determined Deferred Consideration is greater than the aggregate amount of the Loan Notes issued under sub-clause 5.4(a), the issue of further Loan Notes in the Big Vendors' and the Fuse Vendors' Respective Proportions for the amount of such excess within 10 Business Days of the final determination of the Deferred Consideration (subject to the Purchaser's rights of set-off pursuant to this Agreement), such Loan Notes not to be redeemable earlier than six months from the date of issue.

5.5 For the purposes of clause 5.6 a Vendor will be deemed to be a "**Bad Leaver**" if he ceases to be employed by the Company within 3 years of Completion save where the termination of employment is as a result of:

- (a) the death or permanent ill-health of the Vendor (including dismissal because he is of unsound mind or a patient within the Mental Health Act 1983); or
- (b) unfair dismissal or wrongful dismissal (whether actual or constructive) of the Vendor by the Company (as agreed by the Purchaser or determined by an Employment Tribunal or other court of competent jurisdiction, from which there is no right of appeal or no appeal is made);
- (c) redundancy of the Vendor; or
- (d) his resignation in circumstances where the Vendor is to be employed by the Purchaser.

5.6 If:

- (a) one of the Big Vendors ceases to be employed by the Company within the time period set out in clause 5.5 under circumstances where he is a Bad Leaver then provided that there are no other Bad Leavers any Deferred Consideration payable to such Vendor shall pursuant to the terms of this Agreement remain payable to him in accordance with the terms of this Agreement;
- (b) more than one of the Big Vendors ceases to be employed by the Company within the time period set out in clause 5.5 and two or more of them are Bad Leavers then any Deferred Consideration payable to such Vendors who are Bad Leavers shall not be payable to such Bad Leavers but this shall not effect

or reduce the Deferred Consideration payable to the Vendors who are not Bad Leavers.

6. Release of Guarantees

6.1 The Purchaser shall use all reasonable endeavours on or after Completion (short of actual payment of any monies or the substitution of the guarantee of any person other than the Purchaser or Purchaser Group Company) to procure the release from Completion of the Vendors from any Guarantee given by them for the benefit of the Company and shall indemnify the Vendors against all liability arising after Completion in respect of it.

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

7. Post completion matters

7.1 The parties agree to comply with the provisions of Schedule 9 (Conduct of business during the Earn-out) from the date of this Agreement until 31 March 2009.

7.2 The Vendors declare that until they cease to be the registered holders of the Shares after Completion they will:

(a) hold the Shares and the dividends and any other moneys paid or distributed in respect of them after Completion and all rights arising out of or in connection with them in trust for the Purchaser;

(b) deal with the Shares and all such dividends, distributions and rights as the Purchaser may direct for the period between Completion and the day on which the Purchaser or its nominee is entered in the register of members of each Company as the holder of the Shares.

7.3 The Vendors irrevocably appoint the Purchaser as their attorney for the purpose of exercising any rights, privileges or duties attaching to the Shares including receiving notices of and attending and voting at all meetings of the members of the Companies from Completion to the earlier of the day on which the Purchaser or its nominee is entered in the register of members of the Company as the holder of the Shares or 60 days from Completion.

7.4 For the purpose of clause 7.3, the Vendors authorise:

(a) each Company to send any notices in respect of their shareholdings to the Purchaser;

(b) the Purchaser to complete and return forms of proxy, consents to short notice, written resolutions and any other document required to be signed by the Purchaser as a member of each Company.

7.5 The parties acknowledge that it is intended that the Companies will lend an aggregate

of £310,000 to the Purchaser as soon as practicable following Completion.

- 7.6 In the event that the Companies (without entering into any overdraft or loan facilities) have insufficient working capital for the purposes of continuing to carry on their business at any time within 3 months following Completion then the Warrantors jointly and severally agree to lend to the Companies (or either of them) on an interest free basis such amount as is required to enable the Companies to have sufficient working capital for the continuation of their business, such amount to be repaid once the Companies have sufficient working capital for the continuation of their business after such repayment to the Vendors **provided that** the obligation of the Warrantors pursuant to this clause 7.6 shall be reduced on a pound for pound basis if and to the extent that the Purchaser requires the Companies to loan, pay and/or dividend in the 36 (six) months following Completion amounts that exceed in aggregate £310,000 plus the amount of management charge payable pursuant to paragraph 3 of Schedule 8.

- 7.7 For the purposes of the articles of association of the Purchaser, it is agreed that:

- (a) Big and Fuse together are a 'Target' and are 'Company A';
- (b) the 'Base Valuation' of Big and Fuse together for the purposes of all calculations requiring 'Base Valuation' is £6,822,000; and
- (c) the figure determined by the calculation in article 4.3(b)(i) is £136.44 per 'A' Share.

8. Warranties

- 8.1 The Warrantors jointly and severally warrant to the Purchaser that save as Disclosed each of the Warranties is true and accurate at the date of this Agreement.

- 8.2 The only Warranties given:

- (a) in respect of Taxation are those given in the Tax Schedule and each of the other Warranties shall be deemed not to be given in relation to Taxation;
- (b) in respect of Accounts and Management Accounts are those given in paragraphs 8 to 10 (inclusive) of Schedule 3 and each of the other Warranties shall be deemed not to be given in relation to Accounts and Management Accounts;
- (c) in respect of employment are those given in paragraphs 20, 25 and 26 of Schedule 3 and each of the other warranties shall be deemed not to be given in relation to employment;
- (d) in respect of pensions are those given in paragraph 27 of schedule 3 and each of the other warranties shall be deemed not to be given in relation to pensions.
- (e) in respect of the Property are those given in paragraphs 20, 28 and 29 (inclusive) of Schedule 3 and each of the other Warranties shall be deemed not to be given in relation to the Property;

- (f) in respect of contamination and environmental matters are those given in paragraphs 30 (inclusive) of Schedule 3 and each of the other Warranties shall be deemed not to be given in relation to contamination and environmental matters;

8.3 The Purchaser shall not be entitled to rescind this Agreement or terminate any of the documents entered into pursuant to this Agreement either for breach of contract or warranty or for negligent or innocent misrepresentation or otherwise.

8.4 Each of the Warranties is a separate and independent Warranty and shall not be limited by reference to any other Warranty or anything in this Agreement (save to the extent expressly provided to the contrary in this Agreement).

9. **Tax Covenant**

The Warrantors covenant to the Purchaser in the terms of the Tax Covenant as set out in the Tax Schedule.

10. **Purchaser's remedies**

10.1 The rights and remedies of the Purchaser in respect of any breach of the Warranties or the Tax Covenant shall not be affected by Completion.

10.2 If any Claim is made, no Warrantor shall make any claim against either Company or any director or employee of either Company on whom he may have relied before agreeing to any terms of this Agreement or authorising any statement in the Disclosure Letter. This clause shall not preclude any Warrantor from claiming against any other Warrantor under any right of contribution or indemnity to which he may be entitled.

10.3 Any amount payable by the Warrantors to the Purchaser in respect of any of the provisions of this Agreement (other than clause 14) shall be treated as paid to the Purchaser by way of pro rata reduction in the Consideration.

11. **Escrow arrangements**

11.1 In the event that any Claim Payment (as defined in clause 11.2) is due from the Warrantors (or any of them) to the Purchaser at any time prior to the date of payment of the Deferred Consideration (or if there is no Deferred Consideration the date on which it would have been payable):

- (a) the Warrantors and the Purchaser agree jointly to instruct the Vendors' Solicitors and the Purchasers' Solicitors (together the "**Escrow Agents**") to open an Escrow Account at such UK clearing bank as is nominated by the Purchaser;
- (b) the Warrantors shall pay the Claim Payment into the Escrow Account;
- (c) the Warrantors and the Purchaser shall irrevocably instruct the Escrow Agents to retain the Claim Payment in the Escrow Account until:
 - (i) the Purchaser makes full payment of all Deferred Consideration due

(including redemption of any Loan Notes issued as part of the Deferred Consideration) in which case the Claim Payment shall be paid to the Purchaser;

- (ii) it is determined pursuant to this Agreement that no Deferred Consideration is payable in which case the Claim Payment shall be paid to the Purchaser; or
- (iii) the Purchaser defaults in the payment of any of the Deferred Consideration when due (or redemption of Loan Notes issued as part of the Deferred Consideration but save where the Purchaser is entitled to exercise a right of set-off pursuant to clause 15.11 of this Agreement) in which case:

- (A) if the Claim Payment is less than or equal to the amount of Deferred Consideration unpaid by the Purchaser then the Claim Payment shall be paid to the Vendors and shall be deemed to satisfy the requirement of the Purchaser to pay an amount of the Deferred Consideration equal to the Claim Payment; or

- (B) if the Claim Payment is greater than the amount of the Deferred Consideration unpaid by the Purchaser then such amount of the Warranty Payment as equals the amount of Deferred Consideration unpaid by the Purchaser shall be paid to the Vendors in satisfaction of the Purchaser's obligation to pay such amount of Deferred Consideration and the balance shall be paid to the Purchaser.

- (d) Any interest earned on principal monies released from the Escrow Account shall be paid to the person receiving the same at the same time as they are released (less any tax which the Escrow Agents are required to deduct and any properly incurred bank charges and charges and expenses of the Escrow Agents in administering the Escrow Account but not those incurred in acting for their respective clients).

11.2 For the purposes of clause 11.1, a "**Claim Payment**" means a Claim but excluding a claim made pursuant to paragraphs 4.1(c) or 4.1(e) of Part 3 of the Tax Schedule.

12. **Limitations on liability**

The liability of the Warrantors in respect of any Claim (and any other claim under this Agreement) shall be limited as provided in Schedule 4 but provided always that notwithstanding any other provision in this Agreement, the provisions of Schedule 4 (other than paragraph 1 of Schedule 4) and Part 4 of the Tax Schedule shall not apply to any Claim made against the Warrantors to the extent that it arises or is increased due to fraud or dishonesty on the part of any of the Vendors in the preparation of the Disclosure Letter.

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

13.1 The Purchaser shall notify the Warrantors in writing of:

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

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

13.3 Subject to the prior entering into of reasonable confidentiality obligations by the Vendors and their professional advisers, the Purchaser shall provide and shall procure that the relevant Company provides to the Warrantors and the Warrantors' professional advisers reasonable access to premises and personnel and to any relevant assets, documents and records within their power, possession or control for the purpose of investigating any Non-Tax Claim and enabling the Warrantors to take the action referred to in sub-clause 13.2 and shall allow the Warrantors and their advisers to take copies of any relevant documents or records at their expense.

14. **Protection of Goodwill**

14.1 In order to assure to the Purchaser the full benefit of the business and goodwill of the Company, each Warrantor severally undertakes on his own behalf that (save as may be bona fide in fulfilling his duties as an employee of a Purchaser Group Company thereafter and save as provided in clause 14.4) he shall not directly or indirectly (whether as principal, shareholder, partner, employees, agent or otherwise), whether on his own account or in conjunction with or on behalf of any other person, do any of the following things:

- (a) during the Restricted Period carry on or be engaged, concerned or interested in (except as the holder of shares in a company whose shares are listed on a recognised investment exchange or overseas investment exchange (as such terms are defined in sections 285 and 313 of the Financial Services and Markets Act 2000) which confer not more than three per cent. of the votes which could normally be cast at a general meeting of that company) any business that competes with any part of the Restricted Business within the Territory; or
- (b) during the Restricted Period canvass or solicit or seek to entice away the custom of any Client or Prospective Client for the purposes of providing Restricted Business within the Territory; or
- (c) during the Restricted Period accept orders for the provision of Restricted Business within the Territory in respect of any Client or Prospective Client; or

- (d) during the Restricted Period endeavour to entice away from either Company or encourage to terminate his employment with either Company (whether or not such termination would be a breach of his contract of employment) any Senior Employee; or
 - (e) during the Restricted Period employ or otherwise engage any Senior Employee; or
 - (f) during the Restricted Period save as required by law at any time do or say anything likely or calculated to lead any person to withdraw from or cease to continue offering to either Company any rights (whether of purchase, sale, import, distribution, agency or otherwise) then enjoyed by it or in any other way to cease to do business or reduce the amount of business it transacts with either Company;
 - (g) save in the circumstances referred to in sub-clause 15.10(b) (Confidentiality), disclose to any other person any information which is secret or confidential to the business or affairs of either Company or any Purchaser Group Company or use any such information to the detriment of the business of either Company or any Purchaser Group Company for so long as that information remains secret or confidential;
 - (h) in relation to a business which is competitive or likely to be competitive with the Restricted Business, use any trade or business name or distinctive mark, style or logo used by or in the business of either Company at Completion or anything intended or likely to be confused with it.
- 14.2 The Vendors undertake to the Purchaser that they shall, as soon as practicable after Completion and in any event within 28 days of Completion, procure that the corporate name of Big Public Relations Limited is changed in order to remove any reference to "Big", or any confusingly similar variation thereof, and deliver to the Purchaser a certified copy of the resolution of its shareholders effecting such change.
- 14.3 Each undertaking contained in this clause 14 shall be construed as a separate and independent undertaking and while the restrictions set out in this clause are considered by the parties to be reasonable in all the circumstances it is agreed that if any one or more of such restrictions shall either be taken by itself or themselves together be adjudged to go beyond what is reasonable in all the circumstances for the protection of the Purchaser's legitimate interests but would be adjudged reasonable if any particular restriction or restrictions were deleted or in any part or parts of the wording thereof were deleted, restricted or limited in any particular manner (including without limitation any reduction in their duration or geographical scope) then the said restrictions shall apply with such deletions, restrictions or limitation as the case may be.
- 14.4 The provision of Clause 14.1 shall not be enforceable against a Warrantor if:
- (a) an Insolvency Event has occurred to the Purchaser;
 - (b) any Additional Cash Consideration, Deferred Consideration or other payments

due to that Warrantor under this Agreement and/or the Loan Note Instrument and/or the Loan Notes is not paid within 3 months of being due (save for where and to the extent that the Purchaser has a right of set-off under this Agreement);

- (c) any Loan Notes that are due to that Warrantor are not issued to him within 10 Business Days of the due date in accordance with clause 5.3 (subject to the Purchaser's rights of set-off pursuant to this Agreement); or
- (d) the Warrantor has been made redundant by a Purchaser Group Company or is dismissed in compliance with this Agreement in circumstances where he is not a Bad Leaver (as defined in clause 5.5).

14.5 Each of the Vendors severally agrees that, having regard to the facts and matters set out above and having taken professional advice, the restrictions contained in this clause 14 are reasonable and necessary for the protection of the legitimate business interests of the Purchaser.

15. General

15.1 *Entire Agreement*

This Agreement and all of the documents in the agreed form sets out the entire agreement and understanding between the parties and supersedes all prior agreements, understandings or arrangements (oral or written) in respect of the subject matter of this Agreement.

15.2 *Contracts (Rights of Third Parties) Act 1999*

Unless expressly provided in this Agreement, no term of this Agreement is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.

15.3 *Assignment*

- (a) This Agreement shall be binding upon and enure for the benefit of the successors in title of the parties but, except as set out in sub-clause (b), shall not be assignable by any party without the prior written consent of the other. In addition, no party to this Agreement may hold the benefit of this Agreement or any rights under it on trust for any third party or parties without the prior written consent of the others.
- (b) The Purchaser may assign the benefit of this Agreement (including, without limitation, the Warranties) to any provider of debt funding to the Purchaser where such assignment is a requirement of such funder.

15.4 *Variation*

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

15.5 *Effect of Completion*

Except to the extent already performed, all the provisions of this Agreement shall, so far as they are capable of being performed or observed, continue in full force and effect notwithstanding Completion.

15.6 *Invalidity*

If any part of this Agreement is found by any court or competent authority to be invalid, unlawful or unenforceable in any jurisdiction, then that provision shall be deemed not to be a part of this Agreement, and it shall not affect the enforceability of the remainder of this Agreement nor shall it affect the validity, lawfulness or enforceability of that provision in any other jurisdiction.

15.7 *Releases and waivers*

- (a) The rights, powers and remedies conferred on any party by this Agreement and remedies available to any party are cumulative and are additional to any right, power or remedy which it may have under general law or otherwise.
- (b) Any party may, in whole or in part, release, compound, compromise, waive or postpone, in its absolute discretion, any liability owed to it or right granted to it in this Agreement by any other party or parties without in any way prejudicing or affecting its rights in respect of that or any other liability or right not so released, compounded, compromised, waived or postponed.
- (c) No single or partial exercise, or failure or delay in exercising any right, power or remedy by any party shall constitute a waiver by that party of, or impair or preclude any further exercise of, that or any right, power or remedy arising under this Agreement or otherwise.

15.8 *Further assurance*

After Completion, each party shall at the cost of the requiring party execute such documents and take such steps as the other(s) may reasonably require to give full effect to the provisions of this Agreement.

15.9 *Counterparts*

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

15.10 *Confidentiality*

- (a) Except as referred to in sub-clauses (b) and (c) respectively, the Vendors and the Purchaser shall treat as strictly confidential all information received or obtained as a result of entering into or performing this Agreement which

relates to the provisions or subject matter of this Agreement, to any other party to this Agreement to or the negotiations relating to this Agreement.

- (b) Any Vendor may disclose information which would otherwise be confidential if and to the extent:
 - (i) he is required to do so by law or any securities exchange or regulatory or governmental body to which it is subject wherever situated;
 - (ii) he considers it necessary to disclose the information to its professional advisers, auditors and bankers provided that it does so on a confidential basis;
 - (iii) the information has come into the public domain through no fault of that Vendor; or
 - (iv) each party to whom it relates has given its consent in writing.
- (c) The Purchaser may disclose information which would otherwise be confidential if and to the extent:
 - (i) it is required to do so by law or any securities exchange or regulatory or governmental body to which it is subject wherever situated;
 - (ii) it considers it necessary to disclose the information to its professional advisers, auditors and bankers provided that it does so on a confidential basis;
 - (iii) required for subsequent acquisitions by the Purchaser provided that the proposed recipient of the information has signed a legally binding confidentiality agreement;
 - (iv) the information has come into the public domain through no fault of the Purchaser; or
 - (v) each party to whom it relates has given its consent in writing.

15.11 *Set-off*

If, at any time prior to the date on which the Deferred Consideration and/or any sums to be paid to the Warrantors in respect of the Loan Notes or any part thereof remains outstanding or is due to be paid, the Purchaser has made a Claim and the Claim has not at that date been paid or satisfied by the Warrantors in accordance with the terms of this Agreement (and payment into the Escrow Account by the Warrantors in accordance with clause 11 shall be deemed to be payment) then:

- (a) if the Claim has been finally decided (as defined below) the Purchaser shall be entitled to deduct from any payment of the Deferred Consideration and/or any sums to be paid to the Warrantors in respect of the Loan Notes the amount due in respect of the Claim;

(b) if the amount of the Claim has not been finally decided then

- (i) if such payment is due to be made in cash the Warrantors and the Purchaser shall jointly instruct the Escrow Agents to open an Escrow Account at such UK clearing bank as is nominated by the Warrantors and the Purchaser shall pay the Relevant Amount into the Escrow Account; or
- (ii) if such payment is due to be made by the issue of Loan Notes the Purchaser shall withhold the issue of a Relevant Amount of the Loan Notes

and such action shall pro tanto satisfy the obligation of the Purchaser to make the relevant payment in respect of the Relevant Amount of the Deferred Consideration and/or in respect of the Loan Notes.

15.12 The "**Relevant Amount**" shall be the Purchaser's reasonable estimate of the quantum of its Claim but if such amount is not agreed by a majority of the Warrantors it shall be referred to a single independent chartered accountant or to an independent firm of chartered accountants (the "**Expert**") whose identity shall be agreed between a majority of the Warrantors and the Purchaser within 7 days or, failing such agreement, to be appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales upon the application of any party. The Expert shall act as an expert and not as an arbitrator in connection with the giving of any decision and the decision of the Expert shall be final and binding on the parties, except in the case of manifest error. In making such decision, the Expert shall have regard to any representations made by the Company Accountant, the Warrantors, the Vendors' Accountants, the Purchaser and the Purchaser's Accountants.

15.13 If a payment is made into an Escrow Account in accordance with clause 15.12, the Warrantors and the Purchaser shall irrevocably instruct the Escrow Agents to retain such sum in the Escrow Account until the Claim in respect of which the payment has been placed in the Escrow Account has been finally decided and at such time an amount of the Relevant Amount equal to the liability of the Warrantors (if any) shall be paid to the Purchaser and the balance (if any) shall, provided that no other Claim shall then be outstanding, be released to the Vendors' Solicitors.

15.14 When any Claim in respect of which there are withheld Loan Notes has been finally decided, the Purchaser shall be entitled to set off the liability of the Vendors against the face value of the withheld Loan Notes and shall forthwith issue to the Warrantors Loan Notes equal in value to the balance (if any), provided that no other Claim shall then be outstanding (in which case the provisions of this clause 15 shall apply to such Claim).

15.15 For the purposes of this clause 15, a Claim shall be deemed to be "**finally decided**" if either:

- (a) it has been determined by a court of competent jurisdiction from which there is no appeal or from whose judgment the Warrantors or the Purchaser do or does not appeal within any applicable time limit; or

(b) the Warrantors and the Purchaser shall so agree in writing.

15.16 Any interest earned on principal monies released from the Escrow Account shall be paid to the person receiving the same at the same time as they are released (less any tax which the Escrow Agents are required to deduct and any properly incurred bank charges and charges and expenses of the Escrow Agents in administering the Escrow Account but not those incurred in acting for their respective clients). Where any Loan Notes are withheld pursuant to this clause 15 and subsequently issued to the Warrantors, interest shall be borne from the date on which such Loan Notes were due to have been issued pursuant to this Agreement.

16. Announcements

Save as may be required by law, no announcement concerning the terms of this Agreement shall be made by or on behalf of any of the parties without the prior written consent of the others, such consent not to be unreasonably withheld or delayed.

17. Costs and expenses

17.1 Except as otherwise expressly provided, each party shall bear its own costs and expenses incurred in the preparation, execution and implementation of this Agreement.

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

18. Notices

18.1 Any notice to a party under this Agreement shall be in writing signed by or on behalf of the party giving it and shall, unless delivered to a party personally, be left at, or sent by prepaid first class post, prepaid recorded delivery or fax to the address of the party as set out on page 1 or in schedule 1 of this Agreement or as otherwise notified in writing from time to time.

18.2 Except as referred to in sub-clauses 18.3 and 18.4, a notice shall be deemed to have been served:

(a) at the time of delivery if delivered personally;

(b) 48 hours after posting in the case of an address in the United Kingdom and 96 hours after posting for any other address;

(c) 2 hours after transmission if served by fax on a Business Day prior to 3pm or in any other case at 10 am on the Business Day after the date of despatch.

18.3 If the deemed time of service is not during normal business hours in the country of receipt, the notice shall be deemed served at or, in the case of faxes, two hours after the opening of business on the next Business Day of that country.

18.4 A party shall not attempt to prevent or delay the service on it of a notice connected with this Agreement.

19. **Governing law and jurisdiction**

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

19.2 Each of the parties irrevocably submits for all purposes in connection with this Agreement to the exclusive jurisdiction of the courts of England.

In witness whereof the parties or their duly authorised representatives have executed this Agreement as a deed and delivered it on the date appearing at the head of this Agreement.

Schedule 1 – Part 1

The Big Vendors

Name	Address	No. of Big Shares	Vendors' Respective Proportions	No. of Consideration Shares
Dylan Bogg	8 Hornbeam Close Oadby Leicester LE2 4EQ	11,818	26%	2,522
Mark Paul Firth	The Old Farm House Mayns Lane Burton Overy Leicestershire LE8 9DP	11,818	26%	2,522
Chris Morris	Spring Cottage Kington Lane Claverdon Warwickshire CV35 8PL	10,000	22%	2,134
Philip Charles Wright	Cleavers Church Lane Welford on Avon Warwickshire CV37 8EL	11,818	26%	2,522
Total		45,454	100%	9,700

Schedule 1 – Part 2

The Fuse Vendors

Name	Address	No. of Fuse Shares	Vendors' Respective Proportions	No. of Consideration Shares
Dylan Bogg	8 Hornbeam Close Oadby Leicester LE2 4EQ	1,920	24%	72
Mark Paul Firth	The Old Farm House Mayns Lane Burton Overy Leicestershire LE8 9DP	1,920	24%	72
Chris Morris	Spring Cottage Kington Lane Claverdon Warwickshire CV35 8PL	1,920	24%	72
Philip Charles Wright	Cleavers Church Lane Welford on Avon Warwickshire CV37 8EL	1,920	24%	72
Brian McGowan	Beamhurst Hall Beamhurst Uttoxeter Staffordshire ST14 5EA	320	4%	12
Total		8,000	100%	300

Schedule 2 – Part 1

Big

Company Name	Big Communications Limited
Registered number	03162997
Date of incorporation	22 February 1996
Place of incorporation	England and Wales
Address of registered office	252 Upper Third Street Grafton Gate East Central Milton Keynes MK9 1DZ
Authorised share capital	£50,000 divided into 50,000 ordinary shares of £1.00 each
Issued share capital	£45,454 divided into 45,454 ordinary shares of £1.00 each
Charges	Natwest legal mortgage 18/5/2001
Directors	Dylan Bogg Mark Firth Chris Morris Phil Wright
Secretary	HP Secretarial Services Limited
Accounting reference date	30 April
Auditors	Bentley Jennison of Cedar House, Breckland, Linford Wood, Milton Keynes MK14 6EX

Fuse

Company Name	Fuse Digital Limited
Registered number	03978965
Date of incorporation	25 April 2000
Place of incorporation	England and Wales
Address of registered office	252 Upper Third Street Grafton Gate East Central Milton Keynes MK9 1DZ
Authorised share capital	£10,000 divided into 10,000 ordinary shares of £1.00 each
Issued share capital	£8,000 divided into 8,000 ordinary shares of £1.00 each
Charges	None
Directors	Dylan Bogg Simon Davies Mark Firth Chris Morris Phil Wright
Secretary	HP Secretarial Services Limited
Accounting reference date	30 April
Auditors	Bentley Jennison of Cedar House, Breckland, Linford Wood, Milton Keynes MK14 6EX

Schedule 2 – Part 2

The Property

<i>Leasehold property</i>				
Address	Date and Parties	Term	Current Rental	Rent Reviews
223 London Road Leicester LE2 1ZE	The date of this Agreement	5 years from the date of this Agreement	£66,000p.a.	None

Schedule 3

Non-Tax Warranties

For the avoidance of doubt, each reference to 'Company' or 'the Company' in this Schedule is a reference to each of Big and Fuse.

The Vendors

1. *Arrangements with Vendor Associates*

Save in relation to employment contracts of a Vendor that have been Disclosed, there are no contracts, arrangements or liabilities outstanding or remaining in whole or in part to be performed between the Company and any Vendor or Vendor Associate.

2. *Other interests of Vendors and Vendor Associates*

No Vendor has or intends to acquire any interest, direct or indirect, in any business which has a close trading relationship with or which competes or is likely to compete with any business now carried on by the Company and, so far as the Vendors are aware, no Vendor Associate has or intends to do so. This warranty 2 is given by the Warrantors on a several basis.

Share capital

3. *Company*

3.1 None of the Shares was, or represents assets which were, the subject of a transfer at an undervalue, within the meaning of sections 238 or 339 of the Insolvency Act 1986, within the past 5 years.

3.2 Save as Disclosed, the Company has not at any time in the last 6 years:

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

4. *Subsidiaries*

4.1 The Company does not have, nor has it agreed to acquire, any interest in any undertaking or in the share capital of any body corporate.

4.2 The Company does not hold nor is it liable on any share or relevant security which is not fully paid up or which carries any liability.

4.3 The Company does not reside, operate or have any branch, agency, place of business or establishment outside England & Wales.

- 4.4 The Company is incorporated and validly subsisting under the laws of its country of incorporation. The Company has full corporate power to carry on its business and to own and operate its assets, properties and business as now carried on and owned and operated.

Corporate matters

5. *Insolvency of the Company*

- 5.1 No order has been made, no resolution has been passed, and so far as the Vendors are aware no petition presented or meeting convened for the winding up of the Company or for a provisional liquidator to be appointed in respect of the Company.
- 5.2 No administration order has been made and so far as the Vendors are aware no petition for one has been presented in respect of the Company.
- 5.3 No administrator, receiver or administrative receiver has been appointed in respect of the Company or any of its assets. No application for the appointment of an administrator has been made in accordance with the out of court procedure under the Enterprise Act 2002.
- 5.4 The Company is not insolvent, nor is it unable to pay its debts as they fall due, within the meaning of section 123 of the Insolvency Act 1986.
- 5.5 No voluntary arrangement has been proposed under section 1 of the Insolvency Act 1986 in respect of the Company and the Company has not made or proposed any arrangement or composition with its creditors or any class of them.
- 5.6 No distress, execution or other process has been levied on the Company's assets or action taken to repossess goods in the possession of the Company.
- 5.7 No unsatisfied judgment is outstanding against the Company and no demand has been served on the Company under section 123(1)(a) of the Insolvency Act 1986
- 5.8 So far as the Vendors are aware, no event analogous to any referred to in subparagraphs 5.1 to 5.7 has occurred anywhere in the world.

6. *Statutory books and documents filed*

- 6.1 The statutory books, including all registers and minute books, of the Company have been properly kept and are up to date and contain an accurate and complete record of the matters with which those books should deal.
- 6.2 All documents which should have been delivered by the Company to the Registrar of Companies in England and Wales are complete and accurate and have been properly so delivered.
- 6.3 The copy of the memorandum and articles of association of the Company Disclosed has embodied in it or annexed to it a copy of each resolution as referred to in section 380 of the Act, and is accurate and complete.

- 6.4 Since the Accounts Date the members of the Company in general meeting, or of any class of them, have not passed any resolution other than resolutions relating to the ordinary business of annual general meetings.

Information

7. *Accuracy and adequacy of information*

- 7.1 The information contained in schedules 1 and 2 of this Agreement is accurate and complete.

Accounts

8. *Preparation and contents of the Accounts*

- 8.1 The Accounts:

- (a) have been prepared in accordance with the requirements of all relevant statutes and generally accepted United Kingdom accounting practices including, without limitation, all applicable Financial Reporting Standards issued by the Accounting Standards Board, Statements of Standard Accounting Practice issued by the Institute of Chartered Accountants of England and Wales and Statements from the Urgent Issues Task Force current at the Accounts Date;
- (b) have been audited by a statutory or certified auditor (as applicable) who has rendered an auditor's certificate without qualification; and
- (c) have been duly filed in accordance with the Act.

- 8.2 Without prejudice to the generality of paragraph 8.1 of this Schedule:

- (a) the Accounts:
 - (i) gave a true and fair view of the state of affairs of the Company at the Accounts Date and the profits or losses of the Company for the financial period ending on that date;
 - (ii) to the extent required by the Act and the relevant Financial Reporting Standards, contain adequate provision or reserve for all liabilities and for all capital and revenue commitments of the Company as at the Accounts Date;
 - (iii) to the extent required by the Act and the relevant Financial Reporting Standards, disclose all the assets of the Company as at the Accounts Date;
 - (iv) make adequate provision for bad and doubtful debts;
 - (v) do not include any figure which is referable to the value of an intangible asset; and
 - (vi) make provision for depreciation of the fixed assets in accordance with

Financial Reporting Standard 15.

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

9. *Accounting records*

- 9.1 The accounting records of the Company comply with the requirements of sections 221 and 222 of the Act.
- 9.2 All relevant financial books and records of the Company are in its possession or otherwise under its direct control.
- 9.3 Where any of the records of the Company are kept on computer, the Company:
 - (a) is the owner of or has licensed rights to use all hardware and all software necessary to enable it to use the records as they have been used in its business to the date of this Agreement; and
 - (b) in the Warrantors' reasonable opinion maintains adequate back up records and support in the event of any fault or failure of such computer hardware and software.

10. *Management Accounts*

The Management Accounts have been prepared:

- (a) in accordance with the accounting policies and principles used in the preparation of the Accounts;
- (b) such that they are not misleading in any material respect;
- (c) with all reasonable care such that the cumulative turnover and profits, (or losses) since the Accounts Date and assets (as at the date of the Management Accounts) as stated in the Management Accounts have not been materially misstated.

11. *Events since the Accounts Date*

- 11.1 Since the Accounts Date there has been no material change in the financial or trading position of the Company except as a result of factors generally affecting similar businesses;
- 11.2 The Company has since the Accounts Date carried on its business in the ordinary course and without interruption, so as to maintain it as a going concern and paid its creditors in the ordinary course and on a consistent basis with the period ended on the Accounts Date.
- 11.3 Since the Accounts Date no supplier of the Company has ceased or restricted supplies

or threatened in writing so to do, there has been no material loss or material curtailment of the business transacted by the Company with any client which at any time in the preceding financial year represented 10 per cent or more of the turnover of the Company and the Vendors are not aware of any circumstances likely to give rise to any of the above.

11.4 Since the Accounts Date, the Company has not:

- (a) incurred or committed to incur:
 - (i) material capital expenditure; or
 - (ii) any liability whether actual or contingent except for fair value or in the ordinary course of business;
- (b) acquired or agreed to acquire:
 - (i) any substantial asset otherwise than in the ordinary course of business and on arms' length terms; or
 - (ii) any business or substantial part of it or any share or shares in a body corporate;
- (c) disposed of or agreed to dispose of, any of its substantial assets except in the ordinary course of business and on arms' length terms;
- (d) repaid wholly or in part any loan except upon the due date or dates for repayment;
- (e) issued or allotted share or loan capital, increased its authorised share capital, purchased or redeemed any shares, reduced or re-organised its share capital or agreed to do so; or
- (f) declared or paid any distribution of profit.

11.5 None of the debts included in the Accounts or any of the debts subsequently arising have been the subject of factoring by the Company and the Vendors are not aware of any circumstances that could result in any presently outstanding debt in excess of £10,000 not being paid in full.

Financial

12. *Financial commitments and borrowings*

- 12.1 A summary of all overdraft, loan and other financial facilities available to the Company have been Disclosed and there is no amount owed by the Company under them at Completion.
- 12.2 The Company is not a party to, or has agreed to enter into, any lending, or purported lending, agreement or arrangement (other than agreements to give credit in the ordinary course of its business).

- 12.3 The Company is not exceeding any borrowing limit imposed upon it by its bankers, other lenders, its articles of association or otherwise nor has the Company entered into any commitment or arrangement which might lead it so to do.
- 12.4 No overdraft or other financial facilities available to the Company are dependent upon the guarantee of or security provided by any other person.
- 12.5 So far as the Warrantors are aware, no event has occurred or been alleged which is or, with the passing of any time or the giving of any notice, certificate, declaration or demand, would become an event of default under, or breach of, any of the terms of any loan capital, borrowing, debenture or financial facility of the Company or which would entitle any person to call for repayment prior to normal maturity.
- 12.6 The Company is not, nor has it agreed to become, bound by any guarantee, indemnity, surety or similar commitment.
- 12.7 The Company does not have any credit cards in issue in its own name or that of any officer or employee of the Company or any person connected with any officer or employee.
- 12.8 The Company has not received any grants, allowances, loans or financial aid of any kind from any government departmental or other board, body, agency or authority which may become liable to be refunded or repaid in whole or in part.
- 12.9 The Company has not engaged in financing of a type which is not required, to be or has not been, shown or reflected in the Accounts.
- 12.10 The Company has no outstanding obligations in respect of a derivative transaction, including but not limited to, any foreign exchange transaction other than as Disclosed.

13. *Insurances*

- 13.1 The Disclosure Letter sets out details of the Policies. The Policies have been taken out at the recommendation of the Company's insurance brokers and the Company has not refused or otherwise failed to take out any policy so recommended in the last 12 months.
- 13.2 All premiums due have been paid in respect of the Policies.
- 13.3 There are no outstanding claims or so far as the Warrantors are aware circumstances likely to give rise to a claim under the Policies or which would be required to be notified to the insurers.
- 13.4 So far as the Warrantors are aware nothing has been done or omitted to be done by the Warrantors and/or the Company which has made or could make any Policy void or voidable.
- 13.5 There are no claims outstanding or, so far as the Warrantors are aware, threatened or pending, against the Company which are not fully covered by insurance.

Trading and contracts

14. *Contracts and commitments*

- 14.1 All contracts, agreements, transactions, obligations, commitments, understandings or arrangements requiring in relation to its discharge any payment by the Company in excess of £10,000 to which the Company is a party are Disclosed.
- 14.2 Save for contracts of employment and the Lease, the Company is not a party to any agreement, arrangement or commitment which:
- (a) relates to matters outside its ordinary business or was not entered into on arms' length terms;
 - (b) constitutes a commercial transaction or arrangement which deviates from the usual pattern for it;
 - (c) can be terminated in the event of any change in the underlying ownership or control of it;
 - (d) cannot readily be fulfilled or performed by it on time; or
 - (e) cannot be terminated in accordance with its terms by the Company giving 6 months' notice or less.
- 14.3 The Company has not granted any power of attorney or other such authority (whether express or implied) which is still outstanding.
- 14.4 All of the current clients of the Company are Disclosed and the Disclosure Letter annexes complete and accurate copies of each such client agreement ("**Client Agreements**") and there are no collateral or implied terms that materially affect the Purchaser's understanding of the Client Agreements and save as mentioned therein none of the clients or customers represents more than 10% of turnover invoiced during the financial year ended 30 April 2004 and the Warrantors are not aware of any facts that lead them to believe there is a risk (outside the risk ordinarily existing in the nature of the business which the Company undertakes) that any client of the Company is considering withdrawing from or not placing with the Company all or any part of the work placed with the Company during the twelve months immediately preceding the date of this Agreement.
- 14.5 No material matter has arisen and is outstanding in respect of any Client Agreement with a client representing more than 10% of income as referred to in paragraph 14.4 above that, so far as the Vendors are aware, is or could be construed as a potential or actual breach by any party thereto giving the right to terminate such Client Agreement.
- 14.6 There have been no material written complaints within the last 12 months made by any party thereto in respect of any aspect of any of the contracts with clients or customers nor with regard to the performance of any agents or sub-contractors appointed by the Company to perform any part of any such contract.
- 14.7 Within the 12 months preceding this Agreement no surcharges have been levied or arisen with regard to any expenditure whether due to delay in payment by any client of any sums due in respect thereof or otherwise.

- 14.8 No current client or customer has since the Accounts Date sought to negotiate a reduction or material change in the terms of remuneration as contained in its contract with the Company.
- 14.9 There is not outstanding any contract or arrangement to which the Company is a party and to which any director of the Company and/or any associate thereof is or has been interested whether directly or indirectly.
- 14.10 No person is entitled to receive from the Company any introduction fee brokerage or other commission in connection with the introduction of or continuation of any business to or with the Company.
- 14.11 Neither the Company, nor, so far as the Vendors are aware, any director, officer, employee or agent of the Company, has directly or indirectly, (a) made any contribution, gift, bribe, rebate, payoff, influence payment, kickback or other payment to any person or governmental or quasi-governmental body, regardless of form, whether in money, property, or services (other than promotional gifts or corporate hospitality made in the ordinary course of business), either (i) to obtain favourable treatment in securing any contract, or (ii) to pay for favourable treatment for any contract secured; or (iii) to obtain special concessions or for special concessions already obtained for or in respect of the Company, or (b) established or maintained any fund or asset that has not been recorded in the books and records of the Company.
- 14.12 With regard to the Agreement for the Provision of Services entered into between Alliance & Leicester and Big dated 17 June 2002, the Disclosure Letter contains brief details of all current projects either Company is undertaking for Alliance and Leicester and Alliance & Leicester has not issued to Big any notice that it believes any warranties contained within the agreement have been breached by Big.
- 14.13 With regard to the Website Design Agreement between Glaxosmithkline UK Limited (GSK) and Fuse, Fuse has not received notice of any claim from GSK, nor are the Warrantors aware of any such potential or pending claim regarding any failure by Fuse to meet GSK's requirements under the agreement or deliver acceptable standards of service.

15. ***Terms of trade***

The Company has not given any guarantee or warranty (other than any implied by law) or made any representation in respect of any product or services sold or supplied by it nor has it accepted any liability to do or refrain from doing anything in relation to such goods or services after they have been sold or supplied by it except for those contained in its standard conditions of trading, a copy of which is Disclosed.

16. ***Licences and consents***

- 16.1 Complete details of all material licences, consents, permissions, authorisations and approvals held by the Company (except in relation to the Property and Intellectual Property) for the carrying on of its business are contained in the Disclosure Letter.

17. ***Trading partners***

- 17.1 The Company does not act or carry on business in partnership with any other person and is not a member of any corporate or unincorporated body, undertaking or association.
- 17.2 The Company is not a party to any joint venture agreement or arrangement or any agreement or arrangement under which it is to participate with any other person in any business.
- 17.3 The Company is not a party to any agency, distributorship, licence or management agreement or is a party to any contract or arrangement which restricts its freedom to carry on its business in such manner as it may think fit in any part of the world.

18. ***Competition and trade regulation law***

- 18.1 The Company is not nor has it been a party to any agreement or arrangement nor has it been engaged in any practice, which in whole or in part infringes or will be invalidated by Articles 81 or 82 of the EC Treaty or any subordinate regulations or directives, the Fair Trading Act 1973, Chapters I or II of the Competition Act 1998, the Enterprise Act 2002 or any secondary legislation made under any of them.

- 18.2 The Company has not:

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

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

- 18.3 The Company has not received nor applied for any aid from any European Community member state or through any state resources in breach of Articles 87 and 88 of the Treaty of Rome.

19. ***Compliance with law***

- 19.1 So far as the Warrantors are aware the Company has not committed nor is it liable for, and no claim has been made for, any criminal, illegal, unlawful or unauthorised act or breach of any obligation or duty whether imposed by or pursuant to statute, contract or otherwise which could have a material adverse effect on the business of the Company.
- 19.2 The Company has not received notification that any investigation or inquiry is being, or has been, conducted by, or received any request for information from any

governmental or other authority, department, board, body or agency in respect of its affairs and, so far as the Warrantors are aware, there are no circumstances which would give rise to such investigation, inquiry or request.

19.3 None of the activities, contracts or rights of the Company is ultra vires.

20. *Litigation and disputes*

20.1 Except for actions to recover any debt incurred in the ordinary course of the business owed to the Company where each individual debt and its costs outstanding amounts to less than £10,000:

- (a) neither the Company directly nor so far as the Vendors are aware any person in the course of their employment duties for whose acts the Company may be liable is engaged in any litigation, arbitration, administrative or criminal proceedings, whether as claimant, respondent or otherwise;
- (b) no litigation, arbitration, administrative or criminal proceedings by or against the Company directly or so far as the Vendors are aware any person in the course of their employment duties for whose acts it may be liable are threatened or expected and, as far as the Warrantors are aware, none are pending;
- (c) so far as the Warrantors are aware there are no facts or circumstances likely to give rise to any litigation, arbitration, administrative or criminal proceedings against the Company or any person for whose acts it may be liable.

20.2 The Company is not subject to any outstanding order or judgment given by any court or governmental or other authority, department, board, body or agency and is not party to any undertaking or assurance given to any court or governmental or other authority, department, board, body or agency which is still in force, nor so far as the Warrantors are aware are there any facts or circumstances likely to give rise to it becoming subject to such an order or judgment or to be a party to any such undertaking or assurance.

Assets

21. *Ownership and condition of assets*

21.1 Each of the assets included in the Accounts or acquired by the Company since the Accounts Date (other than the Properties and current assets subsequently disposed of or realised in the ordinary course of business) is owned both legally and beneficially by the Company free from Encumbrance and any third party rights and, if capable of possession, is in its possession.

21.2 Each item of plant and machinery, vehicle and office equipment used by the Company is:

- (a) in a reasonably satisfactory condition with reference to age and, where required by law, are certified as safe;
- (b) currently capable of doing the work for which it was purchased; and

- (c) not expected in the Vendors' reasonable opinion to require replacement or additions within 6 months of Completion.

21.3 The Company has not acquired, or agreed to acquire, any asset on terms that title to that asset does not pass until full payment is made or all indebtedness incurred in connection with the acquisition is discharged.

22. *Charges and Encumbrances over assets*

22.1 No Encumbrance (other than a lien arising by operation of law in the ordinary course of trading) or other form of security or encumbrance or equity on, over or affecting the unissued shares or the whole or any part of the undertaking or assets of the Company, including any investment in any other company, is outstanding and, apart from this Agreement, there is no agreement or commitment to give or create any of them and no claim has been made by any person to be entitled to any of them.

22.2 There are no outstanding notices that the Company has received from any person intimating that it will enforce any security which it may hold over the assets of the Company, and so far as the Warrantors are aware there are no circumstances likely to give rise to such a notice.

22.3 All charges in favour of the Company have, if required, been registered in accordance with the provisions of Part XII of the Act.

23. *Intellectual Property*

23.1 All Intellectual Property is either:

- (a) in the sole legal and beneficial ownership of the Company free from all licences, charges or other encumbrances; or
- (b) the subject of binding and enforceable licences from third parties in favour of the Company:
 - (i) of which no notice to terminate has been received;
 - (ii) in relation to which the Company and so far as the Warrantors are aware all other parties have complied with all material obligations; and
 - (iii) in relation to which no disputes have arisen or so far as the Warrantors are aware are threatened;

and in either case nothing has been done or omitted to be done whether by the Company or as far as the Warrantors are aware by any person which would jeopardise the validity, enforceability or subsistence of any Intellectual Property or any such licences.

- (c) The Company has not registered or applied for the registration of any Intellectual Property.

23.2 Except in the ordinary course of business, no licences, registered user or other rights

have been granted or agreed to be granted by the Company to any person in respect of any Intellectual Property owned by the Company.

- 23.3 So far as the Vendors are aware the Company owns or has the right to use all intellectual property rights required in connection with the conduct of its business as presently carried on.
- 23.4 So far as the Vendors are aware, at no time during the past 6 years has there been any unauthorised use or infringement by any person of any Intellectual Property owned by the Company.
- 23.5 So far as the Vendors are aware, none of the processes employed, or products or services dealt in, by the Company infringes any rights of any third party relating to intellectual property nor makes the Company liable to pay a fee or royalty outside of those payable in the ordinary course of business and no claims have been made, threatened or so far as the Vendors are aware are pending, in relation to any Intellectual Property against the Company.
- 23.6 Except in the ordinary course of business and on a confidential basis, no disclosure has been made of any of the confidential information, know how, technical processes, financial or trade secrets or customer or supplier lists of the Company.
- 23.7 Any names used by the Company other than its corporate name are contained in the Disclosure Letter and so far as the Warrantors are aware do not infringe the rights of any person
- 23.8 There are Disclosed all internet domain names registered in the name of the Company and the Company does not use or operate any domain name registered in the name of any other party.

24. ***Data Protection Act***

- 24.1 The Company has not received a statutory notice served by the Registrar under the Data Protection Act 1984 (as amended, and where such provisions have not been superseded by the Data Protection Act 1998) or by the Commissioner under the Data Protection Act 1998 ("DPA") and the principles contained in the DPA.
- 24.2 Except as registered or notified under the DPA, the Company has either not held or processed any sensitive personal data or is exempt from registering or notifying under the DPA under one of the exemptions contained in the DPA.
- 24.3 Insofar as personal data are subject to registration or notification:
 - (a) the Company has at all times maintained full and accurate registration or notification under the DPA and has operated wholly within the terms of such registration or notification;
 - (b) no disclosure has taken place outside the terms of the Company's registration or notification.
- 24.4 The Company has not been served with a notice under sections 10, 11 or 12 of the

Data Protection Act 1998.

- 24.5 The Company has not been served with any information or enforcement notice under the DPA nor so far as the Warrantors are aware are there any circumstances which might give rise to the Company being served with such a notice in the future.

Employment

25. *Directors and employees*

- 25.1 Summary details of all material terms and conditions of employment of all employees of the Company, including the date of commencement of their continuous period of employment, their remuneration, notice periods, holiday entitlement and sick pay entitlement are contained in the Disclosure Letter or the documents annexed thereto.
- 25.2 Details of the terms of engagement of all persons who are consultants to or workers in the Company, including the date of commencement of their engagement, the role they undertake, the number of hours per week they commit to the Company, the fees paid to them, any other benefits provided to them, the notice period required to terminate the relationship and holiday arrangements are contained in the Disclosure Letter.
- 25.3 Details are Disclosed of any arrangements or assurances made by the Company as to any future changes to remuneration or benefits to be provided to any officer or employee of the Companies or as to any compensation or payment to be made to any such person in the event of termination of such employee's employment (whether by reason of early retirement, redundancy or otherwise).
- 25.4 Copies of the Company's standard terms of employment and copies of any contracts of employment that deviate from the standard terms in any material way are contained in the Disclosure Letter.
- 25.5 The Company has maintained adequate records regarding the service and terms and conditions of employment of each of its employees.
- 25.6 There are Disclosed details of the Company's procedures for keeping records for the purposes of the Working Time Regulations 1998 and so far as the Warrantors are aware there are no claims pending or threatened by any officer or employee or former officer or employee or the Health and Safety Executive or any local authority Environmental Health Department or employee representative related to the Working Time Regulations 1998.
- 25.7 Since the Accounts Date save as Disclosed there has been:
- (a) no material alteration in the terms of employment or any material change in the number of employees employed by the Company; or
 - (b) any material increase in any fees, remuneration or benefits paid or payable to any officer or employee of the Company, nor are any negotiations for any such increase current or likely to take place in the next 6 months.
- 25.8 No officer, employee or worker of the Company is remunerated on a profit-sharing,

bonus or commission basis.

- 25.9 Other than salary for the current month and pay in respect of accrued but untaken holiday for the current holiday year and expenses incurred by the employees or officers of the Company in respect of the current month, no amount is owing to any present or former officer, employee or worker of the Company.
- 25.10 There is no share option or share incentive scheme or phantom share scheme in operation by or in relation to the Company for any of its officers, employees or workers nor is the introduction of such a scheme proposed.
- 25.11 The Company has at all relevant times complied with all material obligations under statute and otherwise concerning the health and safety at work of its employees and so far as the Warrantors are aware there are no claims capable of arising or pending or threatened by any employee of the Company against the Company or third party in respect of any accident or injury which are not fully covered by insurance.
- 25.12 Save as provided for or taken into account in the Accounts:
- (a) no claim or liability to make any payment of any kind to any person who is or has been an officer, employee or worker has been received or incurred by the Company whether under the Employment Rights Act 1996, Sex Discrimination Act 1975, the Race Relations Act 1976 and the Disability Discrimination Act 1995 or otherwise; and
 - (b) no gratuitous payment of a material amount has been made or promised by the Company in connection with the actual or proposed termination or suspension of employment or variation of any contract of employment of any present or former officer or employee.
- 25.13 No officer or employee of the Company has given notice or is under notice of dismissal nor are there any service contracts between the Company and its officers or employees which cannot be terminated by the Company by 3 months' notice or less without giving rise to a claim for damages or compensation (other than a statutory redundancy payment) or unfair dismissal claim.
- 25.14 The Company has not, in contravention of the Companies Act 1985:
- (a) entered into any arrangement involving the acquisition of non-cash assets from or disposal to;
 - (b) granted any loan or quasi-loan to or entered into any guarantee or credit transaction with; or
 - (c) provided any security in connection with any loan, quasi-loan or credit transaction to or with
- any director or person connected with a director within the meaning of the Companies Act 1985.
- 25.15 Details of any employee who is currently absent from work and who has been absent

for a period of 10 days or more in the 12 months prior to Completion are Disclosed.

26. Industrial relations

26.1 The Company is not a party to any contract, agreement or arrangement with any trade union or other body or organisation representing any of its employees.

26.2 Within the last 12 months, the Company has not:

(a) given notice of any redundancies to the Secretary of State, started consultations with any appropriate representatives or failed to comply with any obligation under the provisions of Chapter II Trade Union and Labour Relations (Consolidation) Act 1992;

(b) been a party to any relevant transfer as defined in the Transfer of Undertakings (Protection of Employment) Regulations 1981 or has failed to comply with any duty to inform and consult any appropriate representatives under the Regulations.

26.3 No dispute has arisen between the Company and a material number or category of its employees or workers nor are there any present circumstances known to the Vendors which are likely to give rise to any such dispute.

26.4 No investigation is in progress or, so far as the Vendors are aware, threatened to be made in respect of the Company by the Health and Safety Executive, the Commission for Racial Equality, the Equal Opportunities Commission or the Disability Rights Commission or any similar body.

26.5 There are Disclosed summary details of all persons who have left the employment of the Company in the last eight months and the reason for such departure where known to the Vendors.

27. Pensions

27.1 Save for the Pension Schemes, there is not in operation by the Company and there has not, at any time, been in operation by the Company (and no proposal has been announced by the Company to enter into or establish) any legally enforceable plan, scheme or agreement (whether or not approved by the Inland Revenue) for the payment of (or for the payment of any contribution towards), any pensions, allowances, lump sum or other like benefits payable on retirement or death or during periods of sickness or disablement, for the benefit of any of the employees (or ex-employees) or directors (or ex-directors) of the Company or for the benefit of the dependants of any of such employees or directors of the Company.

27.2 In relation to the Pension Schemes and each other plan, scheme or agreement that is Disclosed:

(a) all material details:

(i) of the basis on which the Company and the employees who are members of it make, or are liable to make, contributions to it; and

- (ii) of any arrangements or assurances in respect of any compensation or payment (including without limitation any pension payments) to be made to any employee of the Company in the event of early retirement, however arising (including but not limited to grounds of ill-health), however funded and whether or not legally binding

are Disclosed;

- (b) all contributions which are due by the Company in respect of it have been duly made.
- (c) no undertakings or assurances have been given to any of the employees of the Company as to the continuance, introduction, increase or improvement of any rights or entitlements in relation to pension, death, disability or retirement;
- (d) it is an exempt approved scheme (within the meaning of Chapter I Part XIV of ICTA) or a personal pension plan (within the meaning of Chapter IV Part XIV of ICTA) and nothing has been done or omitted to be done which will or may result in the cessation of such approval under ICTA and/or ITEPA;
- (e) all fees, charges and expenses of whatever nature due to be paid by the Company (including without limitation, all levies to be paid under the Pensions Act 1995) have been paid;
- (f) every person who has had a right to join, or apply to join, it has been advised of that right and no employee of the Company has wrongly been excluded from membership of it;

27.3 In relation to each Pension Scheme:-

- (a) in respect of all periods during which any National Insurance Contributions have been paid on a contracted-out basis, there is or has been in force in respect of employments to which the Pension Scheme relates an appropriate contracting-out certificate (within the meaning of section 7 Pension Schemes Act 1993) and nothing has been done or omitted to be done which will or may result in the contracting-out certificate in respect of the Pension Scheme being cancelled, surrendered or varied;
- (b) (save in relation to death benefits) it provides only money purchase benefits as defined in section 181 Pensions Schemes Act 1993;
- (c) its assets do not include any securities issued by, properties leased to or occupied by, or loans made to, the Company or any connected person (as defined under section 112 Pension Schemes Act 1993);
- (d) there has been no claim or complaint threatened or made or litigation commenced against the Company in respect of any matter arising out of or in connection with Pension Scheme;

27.4 So far as the Warrantors are aware the Company has complied with its obligations

relating to stakeholder pension schemes under the Welfare Reform and Pensions Act 1999, the Personal Pension Schemes (Payments by Employers) Regulations 2000 (SI 2000/2692), and the Financial Services and Markets Act 2000.

- 27.5 None of the employees of the Company has been transferred to the Company as a result of a transfer to which the Transfer of Undertakings (Protection of Employment) Regulations 1981 applies.

Properties

28. *Title*

- 28.1 The Property comprises the only property presently owned, occupied, held, controlled or otherwise used by the Company.
- 28.2 The Company has not since the Accounts Date made any claim or complaint in relation to any neighbouring property or its use or occupation and there are no disputes, claims, actions, demands or complaints in respect of the Property which are ongoing.
- 28.3 So far as the Warrantors are aware, the Company has complied with and is continuing to comply with all applicable statutory and by-law requirements with respect to the Properties, and in particular with the requirements as to fire precautions under the Fire Precautions Act 1971 and under the Public Health Acts, the Offices, Shops and Railway Premises Act 1963, the Health and Safety at Work Act 1974, the Factories Act 1961 and the Shops Acts 1950 to 1956.

29. *Encumbrances*

- 29.1 The Property is not subject to any outgoing other than business rates, water rates and insurance premiums and, in the case of leasehold properties, rent, insurance rent and service charges.
- 29.2 The Company has not in the past been the tenant of or guarantor of any leasehold premises not listed in Part 2 of schedule 2 in respect of which any obligations or liabilities could still accrue to the Company.

Environment

30. As far as the Warrantors are aware the Company does not need to hold any Environmental Consents for the lawful conduct of its business and the Company has not received written notice of any breach of Environmental Laws.

Schedule 4

Limitations on liability

1. The maximum aggregate liability of the Vendors in respect of all claims (including Claims but excluding a claim for a breach of clause 14) under this Agreement (and under any document entered into pursuant to this Agreement) (and including interest, fines, penalties, damages and all legal and other professional fees and expenses borne by the Vendors) shall not in any event exceed the aggregate of the Cash Consideration, the Additional Cash Consideration (to the extent paid) and the principal sums paid to the Vendors in cash upon the redemption of the Loan Notes (on the basis that any amount properly set off against (a) the Loan Notes in accordance with this Agreement or (b) on the redemption of the Loan Notes in accordance with their terms shall be deemed to have been paid in cash) (for this Schedule 4 the "**Loan Note Consideration**") and the individual liability of each Vendor for all such claims shall not exceed the aggregate of the Cash Consideration, the Additional Cash Consideration and Loan Note Consideration in each case paid or deemed paid to that Vendor.
2. The Warrantors shall not be liable for a Claim unless they have received written notice from the Purchaser giving reasonable details of the Claim and, if practicable, the Purchaser's estimate of the amount involved:
 - (a) in the case of a Non-Tax Claim, on or before the third anniversary of Completion; or
 - (b) in the case of any Tax Claim, not later than seven years from Completion;and, in every such case (if it has not been previously satisfied, settled or withdrawn), the Warrantors shall have no liability in respect of any Claim unless legal proceedings in respect of it have been commenced by being issued and served on the Warrantors (or any of them) within 6 months of such notification of the Claim to the Warrantors.
3. The Warrantors shall have no liability under or in respect of any Warranty Claim:
 - 3.1 until and unless the liability of the Warrantors in respect of such Warranty Claim (excluding interest, fees, costs and expenses) when aggregated with the liability of the Warrantors in respect of all other Warranty Claims (excluding interest, fees, costs and expenses), but excluding all and any Warranty Claims in respect of which the Warrantors do not have liability pursuant to paragraph 3.2 below, is £125,000 (in which event the Vendors shall be liable for the whole amount and not only the excess over £125,000);
 - 3.2 unless and until the liability of the Warrantors in respect of any single Warranty Claim (excluding interest, fees, costs and expenses) exceeds £3,000;
 - 3.3 to the extent that the Purchaser or the Company is entitled to receive compensation either from an insurer under a policy of insurance (or would have been entitled to receive such compensation had the policies of insurance of the Company current at the date of Completion been maintained in force) or from a third party in respect of the

matter which gives rise to any Warranty Claim;

3.4 to the extent that, in relation to a Non-Tax Claim:

- (a) the Non-Tax Claim arises or is increased in whole or in part as a result of any change in legislation or regulatory requirements or published practice of the revenue authorities or introduction of any legislation not in force at the date of this Agreement or any increase in the rate of Taxation in force at the date of Completion; or
 - (b) the Non-Tax Claim arises or is increased as a result of any voluntary act, omission, transaction or arrangement of the Purchaser or the Company after the date of Completion done or suffered outside the ordinary and normal course of business and other than pursuant to a legally binding obligation entered into by the Company before Completion, and in particular (without prejudice to the generality of the foregoing) the Warrantors shall not be liable in respect of:
 - (i) any cessation or diminution of any of the Company's trading activities occurring within two years following the date of this Agreement; or
 - (ii) any act or omission carried out pursuant to any document entered into pursuant to this Agreement; or
 - (iii) any change in accounting policy or practice of the Company introduced or having effect after the date of Completion; or
 - (v) if any Non-Tax Claim is based upon a liability which is contingent only, the Warrantors shall not be liable to make any payment to the Purchaser or to the Company, unless and until such contingent liability becomes an actual liability and is discharged.
 - (c) an allowance or provision or reserve is made in respect of such matter in the Accounts or in the Management Accounts; or
 - (d) such Non-Tax Claim would not have arisen but for the withdrawal of any extra-statutory concession previously made by the Inland Revenue and whether or not such change purports to be effective retrospectively in whole or in part ; or
 - (e) the Non-Tax Claim arises as a result of any change after the date of Completion to the accounting reference date of the Company or in the accounting bases upon which the Company values its assets; or
5. Nothing in this Schedule shall in any way restrict or limit the Purchaser's general legal obligation to mitigate any loss or damage it may suffer in consequence of any matter giving rise to any Warranty Claim.
6. The Warrantors shall not have any liability under a Non-Tax Claim to the extent that any losses, reliefs, allowances or credits, deductions, counterclaims, or rights of set-off arising in respect of any period up to Completion are available to set against or

otherwise mitigate any liability.

7. To the extent that any matter giving rise to a Non-Tax Claim is capable of remedy by the Warrantors, the Purchaser shall (and shall procure that the Company does) afford the Warrantors such opportunity as is reasonable to remedy the breach or situation complained of and a failure by the Purchaser to afford such opportunity to the Warrantors may reduce or extinguish the quantum of the Non-Tax Claim if and to the extent that the Warrantors suffer any loss or prejudice as a result of the Purchaser's failure to provide such opportunity.
8. If the Warrantors pay to the Purchaser and/or the Company an amount in respect of any Non-Tax Claim and the Purchaser or the Company subsequently recovers from a third party or an insurer a sum which is referable to such Non-Tax Claim or otherwise mitigates the loss, the Purchaser shall forthwith pay (or procure that the Company) shall repay to the Warrantors any sums received from such third party or insurer in respect of such Non-Tax Claim up to a maximum equal to the lesser of the total amount paid by the Warrantors in respect of such Non-Tax Claim and the amount received from such third party/insurer (net of reasonable expenses in recovering such sums).
9. The Warrantors shall not be liable for any Claim (or part of a Claim) to the extent that the same loss has been recovered for breach of any other provision of this Agreement.
10. The Warrantors shall not be liable for any Warranty Claim if, and to the extent that it is Disclosed.

Provided that

- (a) only the disclosures in the section of the Disclosure Letter headed 'Schedule 5 – Part 2 – Tax Warranties' (to the extent Disclosed) shall be treated as having been Disclosed against the Tax Warranties; and
 - (b) nothing in the Disclosure Letter shall limit the Warrantors' liability under the Tax Covenant.
11. If the same set of facts or circumstances give rise to a claim and result in the Combined Future EBIT being lower than it otherwise would have been and the Warrantors make payment to the Purchaser in respect of a Claim relating to such set of facts or circumstances then in determining EBIT for the relevant period(s) there shall be added back a sum equal to the amount of any diminution in EBIT that results from such set of facts of circumstances (with the intention that the Purchaser should not benefit both from a Claim and a reduction in the Deferred Consideration as a result of the same set of facts or circumstances).

Schedule 5

Tax Schedule

Tax Schedule

Part 1 - Definitions and interpretation

1. Definitions and interpretation

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

"CAA" means Capital Allowances Act 2001.

"**Claim for Taxation**" means any notice, demand, assessment, letter or other document issued or action taken by any Tax Authority or any person (including the Company) indicating that the Company is or may be placed under either a Liability to Taxation or a claim for Taxation to which paragraph 5 may apply.

"**Conditional Share Scheme**" means the arrangements entered into by the Company (and known as the conditional share scheme arrangements) in each of the two successive accounting periods ending on 30 April 2002 and 2003 with a view to rewarding employees with distributions assessable under Schedule F.

"ICTA" means the Income and Corporation Taxes Act 1988.

"**Liability to Taxation**" means:

- (a) any liability to make an actual payment of Taxation regardless of whether such Taxation is chargeable or attributable directly or primarily to the Company or to any other person;
- (b) the loss of any Purchaser's Relief falling with (a) of the definition;
- (c) references to a Liability to Taxation shall include the settlement of a Claim for Taxation.

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

"**Purchaser's Relief**" means

- (a) any Relief which was treated as an asset of the Company in the Accounts or taken into account in computing (and so reducing) or obviating any provision for deferred taxation which appears in the Accounts; and
- (b) any Relief which arises in respect of any period after Completion or in respect of any Transaction effected on or after Completion.

"Relief" means any relief, loss, allowance, exemption, set-off, deduction or credit in computing or against Profits or Taxation or any right to repayment of Taxation and references to the **"loss of any Relief"** or as the case may be **"loss of a Purchaser's Relief"** include the loss, reduction, counteraction, disallowance, setting-off against Profits, crediting against a liability to make an actual payment of Taxation or failure to obtain a Relief, or as the case may be a Purchaser's Relief, and **"lose"** and **"lost"** shall be construed accordingly.

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

"Tax Authority" means any taxing or other authority, body or official competent to administer, impose or collect any Taxation.

"Tax Claim" means a claim by the Purchaser against the Warrantors under the Tax Covenant or that any of the Taxation Warranties is untrue or inaccurate in any respect or is misleading or, as the case may be, a claim by the Warrantors against the Purchaser under the covenant in paragraph 5.

"TCGA" means the Taxation of Chargeable Gains Act 1992.

"TMA" means the Taxes Management Act 1970.

"Transaction" means any transaction, deed, act, event, omission, payment or receipt of whatever nature and whether actual or deemed for Tax purposes and references to **"any Transaction effected on or before Completion"** include the combined result of two or more Transactions, the first or any one of which shall have taken place or commenced (or be deemed to have taken place or commenced) on or before Completion outside the ordinary course of the business of the Company.

"VATA" means the Value Added Tax Act 1994.

"Vendor Associate" means any Vendor or the Company and any other person with whom the Vendors or the Company is either associated (within the meaning of section 417 ICTA) or connected (within the meaning of Section 839 ICTA).

1.2 In this Schedule:

- (a) a reference to a jurisdiction shall include any union, country, state, province, district or division of whatever nature which imposes or raises Taxation;
- (b) a reference to any law shall include any statute, law, regulation, notice, directive or similar provision relating to Taxation, whether of the United Kingdom or elsewhere;
- (c) references to specific parts of the law of the United Kingdom shall be taken to

include a reference to the law of any other jurisdiction so far as the same may apply to the Company and may be similar to or have a similar purpose to the law of the United Kingdom to which reference is made; and

- (d) references to the VATA shall include all law relating to value added tax in the United Kingdom and any value added, turnover, sales, purchase or similar tax of any other jurisdiction and references to value added tax shall be construed accordingly.

Part 2 - Tax Warranties

2. Tax Warranties

Events since the Accounts Date

2.1 Since the Accounts Date:

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

Records and compliance

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

- (a) the Company has paid all Taxation for which it is liable and made all withholdings and deductions in respect, or on account, of any Taxation from any payments made by it which it is obliged or entitled to make and has paid to the appropriate Tax Authority all amounts so withheld or deducted;
- (b) the Company will not be liable to pay any Tax the due date for payment of which will arise in the 30 days following Completion;
- (c) the Company has properly prepared and submitted all notices, returns and applications for clearances or consents required for Tax purposes and provided complete and accurate information to any Tax Authority and all such notices, returns, applications and information remain complete and accurate and in compiling the same the Company has not taken the benefit of any doubt, such that the relevant Tax Authority may discover information of which it was not reasonably aware and thereby make an enquiry into or

dispute the Tax affairs of the Company;

- (d) the Company has kept and maintained complete and accurate records, invoices and other documents and information of whatever nature appropriate or requisite for Tax purposes and has sufficient such records, invoices and other documents and information relating to past events to calculate its liability to Taxation or the relief from Taxation which would arise on any disposal or on the realisation of any assets owned at Completion;
 - (e) there are no disputes, unsettled or outstanding assessments or appeals in respect of Taxation and the Company has not within the last six years been subject to any enquiry, investigation or other dispute with any Tax Authority and so far as the Warrantors are aware there are no circumstances which may give rise to such an enquiry or dispute;
 - (f) the Company has not within the last six years been liable or will in respect of any Transaction occurring on or before Completion become liable to pay any interest, penalty, fine or sum of a similar nature in respect of Taxation nor, in relation to value added tax, has received any penalty liability notice, surcharge liability notice or other written notice or warning under the VATA; and
 - (g) the Company has duly submitted all claims and elections which have been assumed to have been made for the purposes of the Accounts.
- 2.3 The Company has at all times been resident for Tax purposes in the United Kingdom and the Company has not during the past six years paid and is not liable to pay Tax in any other jurisdiction.
- 2.4 The Company has not within the last six years received any audit, visit or inspection from any Tax Authority and no such audit, visit or inspection to take place on or after Completion has been arranged or requested.
- 2.5 The amount of Tax chargeable on the Company or subject to withholding or deduction by the Company during any accounting period ending on or within the last six years has not to any material extent depended on any concession, agreement, dispensation or other formal or informal arrangement with any Tax Authority.
- 2.6 The Company is not liable to be assessed to Tax as agent for, or on account of, or otherwise on behalf of, any other person.
- 2.7 The Company has not made any claim or application to pay any Tax by instalments or to defer the payment of any Tax.
- 2.8 The Company is not liable to pay corporation tax by instalments pursuant to Section 59E, TMA, or any regulations made thereunder.

Employee shares

- 2.9 No shares or securities have been issued by the Company, and no options have been granted or issued in respect of such shares or securities, such that the Company will or

may be liable to account for income tax under the PAYE system or to collect or pay any national insurance contributions.

- 2.10 No shares or securities have been issued by the Company, and no reportable event under Section 421K, Income Tax (Earnings and Pensions) Act 2003 has occurred, such that the Company will or may be liable to make a notification to the Inland Revenue under Section 421J, Income Tax (Earnings and Pensions) Act 2003.

VAT

- 2.11 The Company:

(a) is registered for the purpose of, and has complied in all respects with, the VATA and is not subject to any conditions imposed or agreed with any Tax Authority; and

(b) is not, and has not within the last three years been a member of a group for value added tax purposes under Section 43, VATA (groups of companies).

- 2.12 The Company is not subject to The Value Added Tax (Payments on Account) Order 1993.

- 2.13 All supplies made by the Company are taxable supplies, and all input tax for which the Company has claimed credit has been paid by the Company, in respect of supplies made to it relating to goods or services used or to be used for the purpose of the business of the Company.

- 2.14 The Company has not been required to give security under paragraph 4, Schedule 11, VATA (power to require security and production of evidence).

- 2.15 The Company has not made, nor will prior to Completion make, any election to waive exemption under paragraph 2, Schedule 10, VATA (election to waive exemption).

- 2.16 The Disclosure Letter contains full details of all assets owned by the Company to which the provisions of Part XV, Value Added Tax Regulations 1995 (the Capital Goods Scheme) may apply, including the date of acquisition, the cost of the asset, the amount of the input tax for which credit has been claimed and the adjustment period relating to that asset.

- 2.17 The Company has not claimed credit for any input tax where the whole or any part of the consideration for the relevant supply remains outstanding for more than 6 months after the date of the invoice.

Customs duties

- 2.18 The Company has made all necessary returns in relation to the collection and payment of customs duties, excise duties and other Taxes having an equivalent effect and has provided to any relevant Tax Authority all necessary information, returns and documentation and paid all amounts due in relation to the same and within the prescribed time limits.

- 2.19 Details of all bonds, recognisance and guarantees given to any relevant Tax Authority, or of any duty deferment scheme or arrangement taken or claimed, by or in relation to the Company are set out in the Disclosure Letter.

Balance sheet values

- 2.20 No Liability to Taxation will arise or be incurred on a disposal by the Company of any of its assets for:
- (a) in the case of each asset owned at the Accounts Date, a consideration equal to the value attributed to that asset in preparing the Accounts; and
 - (b) in the case of each asset acquired since the Accounts Date, a consideration equal to the consideration given for the acquisition.

- 2.21 The Company has not at any time in respect of any asset owned at the date hereof made, nor will prior to Completion make, any claim under Sections 152 to 158 (inclusive), TCGA (replacement of business assets) and there is no proposal or plan to make any such claim either in the claims and elections assumed to have been made for the purposes of the Accounts or otherwise.

Close company

- 2.22 The Company is not, nor has it at any time within the last six years been, either a close company within the meaning of Section 414, ICTA (close companies) or a close investment holding company for the purposes of Section 13A, ICTA (close investment-holding companies).
- 2.23 The Company has not at any time made any loan or advance or payment or given any consideration or effected any transaction falling within Sections 419 to 422 (inclusive), ICTA (loans to participators etc).

Group transactions

- 2.24 Within the last six years the Company has not:
- (a) been a member of a group of companies within the meaning of Section 170 TCGA (groups of companies),;
 - (b) acquired any asset from any other company which was at the time of acquisition a member of the same group of companies as that of which the Company was also a member; or
 - (c) entered into any group payment arrangements in respect of corporation tax pursuant to Section 36, Finance Act 1998 (arrangements with respect to the payment of corporation tax).
- 2.25 The Company has not claimed relief from stamp duty under or stamp duty land tax which is liable to be or could in any circumstances be withdrawn at any time on or after Completion.

- 2.26 The Company has not made, nor is proposing to make an election under any law whereby a Liability to Taxation that arises primarily upon another person, or by reference to Profits which are not earned, accrued or received by the Company, may fall upon the Company.

Deductible expenses

- 2.27 The Company has not since the Accounts Date made or provided and is not under any obligation currently or for the future to make any payment of an income or revenue nature which, or to provide a benefit the cost of which, will be prevented from being deductible for Tax purposes, whether as a deduction in computing the profits of a trade or as an expense of management or as a charge on income.
- 2.28 The accounting treatment adopted by the Company in its accounts in relation to any loan relationship as defined in Section 81, Finance Act 1996 (meaning of "**loans relationships**" etc.) will be treated as an authorised accounting method for the purposes of Section 85, Finance Act 1996 (authorised accounting methods).
- 2.29 The Company has not been a party to a loan relationship treated as being for an unallowable purpose within the meaning of Paragraph 13 Schedule 9, Finance Act 1996 (loan relationships for unallowable purposes).

Dividends and distributions

- 2.30 The Company has not at any time purchased, repaid or redeemed or agreed to purchase, repay or redeem its share capital, or capitalised or agreed to capitalise in the form of redeemable shares or debentures any profits or reserves, or otherwise issued any share capital or other security as paid up otherwise than by the receipt of new consideration within the meaning of Section 254, ICTA (interpretation of Part VI).
- 2.31 The Company has not at any time been a party to or otherwise involved in any transaction to which Sections 213 to 218 (inclusive), ICTA (exempt distributions etc.) applied.

Inheritance tax and gifts

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

Anti-avoidance

- 2.34 The Company has not:

- (a) in the last four years knowingly entered into, or been party to, any scheme or arrangement of which the main purpose, or one of the main purposes, was the avoidance of a liability to Taxation such that a Liability to Taxation may arise after Completion as a result of or in consequence of such a scheme or arrangement.
- (b) acquired or disposed of any asset, or entered into any Transaction whatsoever, otherwise than by way of a bargain at arms length.

ACT

- 2.35 As at 6 April 1999, no surplus advance corporation tax existed within the Company, such that Section 32, Finance Act 1998 or any regulations made thereunder could apply.

Liability for tax primarily due from another person

- 2.36 No Transaction has occurred in consequence of which the Company has or may incur a Liability to Taxation primarily chargeable against some other person (whether by reason of another company being or having been a member of the same group of companies or otherwise).

Capital Allowances

- 2.37 All expenditure which the Company has incurred or may incur under any subsisting commitment on the provision of machinery or plant or industrial buildings (in each case within the meaning of the CAA) has qualified or will qualify (if not deductible as a trading expense of a trade carried on by the Company) for writing-down allowances under the CAA.
- 2.38 The value attributed in the Accounts to each asset or pool of assets is such that on a disposal of each such asset or pool of assets on the Accounts Date for a consideration equal to such value or aggregate value no balancing charge would have arisen under any law relating to capital allowances.
- 2.39 All capital expenditure incurred by the Company on the provision of machinery or plant or industrial buildings (in each case within the meaning of the CAA) since the Accounts Date and all such capital expenditure which may be incurred by the Company under any existing contract has qualified or will be capable of qualifying for capital allowances. Such allowances have been or will be made in taxing the trade of the Company.
- 2.40 Since the Accounts Date the Company has not done or omitted to do or agreed to do or permitted to be done any act as a result of which the Company could be required to bring a disposal value into account or suffer a balancing charge or be subject to recovery of excess relief or a withdrawal of allowances for the purpose of the CAA.

Stamp duty land tax

- 2.41 The Company has not incurred a liability to stamp duty land tax and is not and has not been required to make a return for the purposes of stamp duty land tax.

3. **Stamp duty**

3.1 The Warrantors jointly and severally covenant and undertake to the Purchaser that:

- (a) all documents which are liable to stamp duty and which are in the possession of the Company, or by virtue of which the Company has any right, have been duly and sufficiently stamped, and
- (b) no such document has been executed and retained outside the United Kingdom in circumstances in which a liability to stamp duty would arise if such document were to be brought into the United Kingdom.

3.2 The covenant and undertaking given pursuant to this paragraph 3 is separate and distinct from the Warranties and the Tax Covenant and, in the event of any breach of such covenant and undertaking, the Purchaser shall be entitled to procure that the relevant document is stamped together with any interest, penalty, fine or similar charge in respect thereof, and the Purchaser shall be entitled to claim the liability, costs and other expenses thereby incurred from the Warrantors by way of liquidated damages for breach of the covenant and undertaking.

Part 3 - Covenants to and from the Purchaser

4. Tax Covenant

4.1 The Warrantors jointly and severally shall pay to the Purchaser an amount equal to any Liability to Taxation of the Company:

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

and none of the limitations on liability or other exclusions provided for by paragraph 6 apart from 6.3 (a), (d),(e),(f), (i) and (m) below or any other provision of this Agreement other than paragraphs 1 and 2 of Schedule 4 shall apply to this sub-paragraph (c);

- (d) which arises on or with respect to any income, emoluments or other payment or sum (whether in cash or in kind) paid or payable at any time, benefits given or to be given at any time (including the Consideration) or loans or advances made or to be made at any time (or which are deemed for tax purposes to be made) to the Warrantors or any Vendor Associate;

- (e) which arises:

- (i) as a result of or in relation to the Conditional Share Scheme; or
- (ii) as a result of the sale and leaseback of the Property,

and none of the limitations on liability or other exclusions provided for by paragraph 6 below or any other provision of this Agreement shall apply to this sub-paragraph (e) other than paragraphs 1 of Schedule 4 which shall apply to both sub-paragraph (e) (i) and (e) (ii) and paragraph 2 of Schedule 4 which shall only apply to sub-paragraph (e)(ii).

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

4.2 Where the Warrantors become liable to make any payment under the Tax Covenant, the due date for the making of that payment shall be:

- (a) in a case that involves an actual payment of Taxation by the Company, the date that is the last date on which the Company is liable to pay to the appropriate Tax Authority the Taxation in question in order to avoid incurring a liability to interest or penalties or, if later, five days following a written demand from the Purchaser;
- (b) in the case of the loss of any Purchaser's Relief, the date that is the last date on which an actual payment of Taxation would have been due but for the use of the Purchaser's Relief the loss of which has given rise to the Liability to Taxation;
- (c) in any other case, the date falling five days following the date on which the Warrantors receive a written demand for such amount from the Purchaser.

4.3 In a case of a loss of any Purchaser's Relief, the amount that is to be treated under the Tax Covenant as a Liability to Taxation shall:

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

4.4 If, in respect of or in connection with any Claim, or otherwise in connection with any payment made hereunder, any amount payable to the Purchaser by the Warrantors is subject to Taxation (ignoring the availability of any Purchaser's Relief), the amount to be paid to the Purchaser by the Warrantors shall be increased by such additional amount as will ensure that the net amount received by the Purchaser after such Taxation has been taken into account is equal to the full amount which would be payable to the Purchaser had the amount not been subject to Taxation and the Purchaser shall be entitled to claim any additional amount due hereunder at any time and on any number of occasions at or after the time that the initial Claim is made or is payable and any limitation as to time or quantum contained in this Agreement shall not apply to the claim for any such additional amount.

5. Covenant to Warrantors

5.1 The Purchaser hereby covenants with the Warrantors to pay to the Warrantors an amount equal to any Taxation which is assessed on the Warrantors or on any Vendor

Associate pursuant to either section 767A or section 767AA, ICTA by reason of Taxation assessed on or primarily or directly attributable to the Purchaser, any member of the Purchaser's group or the Company for any accounting period remaining unpaid provided that this covenant shall not apply to any Taxation in respect of which the Purchaser is entitled to bring a Tax Claim against the Warrantors or would have been so entitled but for paragraphs 6 (Limitations), 7 (Repayment) and 8 (Over-provision and Reliefs) below or clause 12 of the Agreement (Limitations).

- 5.2 The Warrantors hereby covenant that it shall make no claim under paragraph 5.1 above to the extent that it has recovered the Taxation in question under section 767B(2), ICTA and that to the extent that it recovers any amount under paragraph 5.1 it shall not seek to recover payment under section 767B(2).
- 5.3 The provisions of paragraphs 4.2 (date of payment), 4.4 (grossing up), 7 (Repayment) shall apply to this covenant as if references to the "**Purchaser**" were to the "**Warrantors**" (and vice versa), references to the "**the Company**" were also to the "**Warrantors**" and references to "**Tax Covenant**" were to the "**covenant under paragraph 5**".

Part 4 - Limitations and general

6. Limitations on liability

- 6.1 For the avoidance of doubt the Warrantors shall not be liable for a Tax Claim in respect of a Liability to Taxation to the extent that liability is excluded or limited under Schedule 4 (Limitations on liability) of this Agreement.
- 6.2 The liability of the Warrantors under the Tax Covenant shall be reduced if and to the extent that the Liability to Taxation shall have been recovered under the Warranties or under any other part of the Tax Covenant (and vice versa).
- 6.3 The Warrantors shall not be liable to the Purchaser for a Tax Claim in respect of any Liability to Taxation:
- (a) to the extent that provision or reserve in respect of that Liability to Taxation was included in the Accounts;
 - (b) to the extent that the Liability to Taxation arises or is increased as a result only of:
 - (i) any increase in rates of Taxation;
 - (ii) the introduction of new legislation, any change in law or in the published practice thereof including the withdrawal of extra statutory concessions;
 - (iii) any change in the bases upon which the Accounts of the Company are prepared (including the bases on which the Company values its assets) or any change in accounting practice or principles except in either case in order to comply with generally accepted accounting principles in force at Completion; or
 - (iv) any change in the date to which the Company makes up its Accounts, made in any such case after Completion with retrospective effect.
 - (c) to the extent that such Liability to Taxation is:
 - (i) upon income, profits or gains which were actually earned, accrued or received by the Company; or
 - (ii) upon any Transaction carried out by the Company,in each case since the Accounts Date in the ordinary and normal course of the business of the Company provided that any failure to comply with any requirement imposed on it by law shall not for the purposes of this paragraph be within the ordinary and normal course of the business of the Company;
 - (d) to the extent that there is available to the Company to relieve or mitigate such Liability to Taxation any Relief which is not a Purchaser's Relief;

- (e) to the extent that such Liability to Taxation would not have arisen but for a voluntary act, omission, transaction or arrangement carried out or effected by the Company at any time after Completion, other than any act, omission, transaction or arrangement carried out or effected:
 - (i) under a legally binding commitment created on or before Completion;
 - (ii) in order to comply with any law or in order to comply with generally accepted accounting principles;
 - (iii) in the ordinary and normal course of the business carried on by the Company; or
 - (iv) at the request of or with the consent of the Warrantors;
- (f) to the extent that such Liability to Taxation can be properly and fully discharged out of monies deducted for the purpose from sums payable or paid by the Company;
- (g) to the extent that the Liability to Taxation arises as a result of the disclaiming, revoking or waiving by the Purchaser or the Company after the date of Completion of any part of the benefit of any capital allowances against Taxation or any exemptions, set-off or deductions claimed by the Company prior to the date of Completion and provided for in the Accounts;
- (h) to the extent that it is in respect of stamp duty or stamp duty reserve tax on the sale of the Shares pursuant to this Agreement;
- (i) to the extent that the Liability to Taxation would not have arisen or would have been reduced or eliminated but for a failure on the part of the Company after Completion to make any claim, election, surrender or disclaimer the making or claiming of which was taken into account in computing the provision or reserve for Taxation in the Accounts;
- (j) to the extent that the Liability to Taxation is stamp duty land tax payable on the Lease;
- (k) to the extent that such Liability to Taxation would not have arisen but for the Company ceasing to carry on any trade or business after the date of this Agreement or effecting a major change in the nature or conduct of any trade or business carried on by it;
- (l) to the extent that such Liability to Taxation would not have arisen but for the withdrawal or amendment by the Purchaser after the date of this Agreement of any election, claim, surrender, disclaimer, notice or consent made by the Company prior to the date of the Agreement in relation to any Purchaser's Relief;
- (m) to the extent that such Liability to Taxation would not have arisen but for any failure or delay by the Purchaser in paying over to any Tax Authority any payment previously made by the Warrantors under the Tax Covenant or under

the Tax Warranties.

7. Repayment

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

(a) a sum equal to such amount; or

(b) if lesser a sum equal to the Tax Claim paid by the Warrantors to the Purchaser,

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

8. Over-provision and Reliefs

8.1 If the auditors for the time being of the Company shall certify (at the request and expense of the Warrantors) that any provision for Taxation in the Accounts (excluding any provision for deferred taxation) has proved to be an over-provision, then the amount of such over-provision shall be dealt with in accordance with paragraph 8.3 below.

8.2 If the auditors for the time being of the Company shall certify (at the request and expense of the Warrantors) that any Liability to Taxation which has resulted in a payment having been made or becoming due from the Warrantors under the Tax Covenant will give rise to a Relief for the Company (other than a Purchaser's Relief) which would not otherwise have arisen, then as and when such Relief reduces a liability to make an actual payment of Tax (other than a liability for which the Purchaser would be entitled to bring a Tax Claim), the amount of that reduction shall be dealt with in accordance with paragraph 8.3 below.

8.3 Where it is provided under paragraphs 8.1 or 8.2 that any amount (the "**relevant amount**") is to be dealt with in accordance with this sub-clause:

(a) the relevant amount shall first be set-off against any payment then due from the Warrantors under the Tax Covenant;

(b) to the extent that there is an excess, a refund shall be made to the Warrantors of any previous payment made by the Warrantors under the Tax Covenant (to the extent not previously refunded under this paragraph 8) up to the amount of such excess; and

(c) to the extent that the excess referred to in paragraph 8.3(b) above is not exhausted under that paragraph, the remainder of the excess shall be carried forward and set off against any future payment or payments which become due from the Warrantors under the Tax Covenant.

- 8.4 Where any certification referred to in paragraphs 8.1 or 8.2 has been made, the Warrantors or the Purchaser or the Company may request the auditors to review such certification in the light of all relevant circumstances, including any facts which have become known only since such certification, and to certify whether such certification remains correct or whether the certified amount should be amended.
- 8.5 If the auditors certify under paragraph 8.4 that an amount previously certified should be amended, that amended amount shall be substituted for the purposes of paragraph 8.3 as the relevant amount in respect of the certification in question in place of the amount originally certified, and such adjusting payment (if any) as may be required shall be made as soon as practicable by the Warrantors or (as the case may be) to the Warrantors to give effect to the revised certification.

9. Claims Procedure

- 9.1 Upon the Purchaser or the Company becoming aware of a Claim for Taxation which may result in a Tax Claim the Purchaser shall:
- (a) as soon as reasonably practicable (but not as a condition precedent to the making of a Tax Claim) give written notice of that Claim for Taxation to the Warrantors or, as the case may be, shall procure that the Company forthwith give written notice of that Claim for Taxation to the Warrantors,
 - (b) subject always to the terms of this paragraph 9 and the Warrantors agreeing to indemnify and secure the Purchaser and/or the Company to its reasonable satisfaction against all losses, costs, damages and expenses, including interest on overdue Tax, which may be incurred, further procure that the Company take such action and give such information and assistance in connection with the affairs of the Company as the Warrantors may reasonably by written notice request to avoid, resist, appeal or compromise the Claim for Taxation;
- 9.2 The Purchaser shall not be obliged to procure that the Company appeals against any tax assessment if, the Warrantors having been given written notice of the receipt of that Claim for Taxation in accordance with paragraph 9.1 above, the Company has not within 21 days (or, if there is a statutory time limit of not more than 30 days, within 14 days) thereafter received instructions in writing from the Warrantors, in accordance with the preceding provisions of this paragraph 9, to make that appeal.
- 9.3 The Purchaser shall not be obliged to procure that the Company take any action under paragraph 9.1 above which involves contesting any matter with any Tax Authority (excluding the authority or body demanding the Tax in question) or any court or tribunal unless the Warrantors furnish the Company with the written opinion of leading tax counsel to the effect that the appeal in question will, on the balance of probabilities, succeed. Such tax counsel shall be instructed by the Warrantors and at the Warrantors' expense but the Warrantors shall promptly provide the Purchaser with a copy of such instructions and give the Purchaser or its representative a reasonable opportunity to attend any conference with Counsel.
- 9.4 The Purchaser shall not be required to take any action or procure that the Company take any action under this paragraph 9 if it reasonably determines that such action

would have an adverse effect on the amount of tax payable by the Purchaser or the Company or adversely affect the relationship of either the Company or the Purchaser with any Tax Authority in respect of a period after Completion.

10. Tax Returns

- 10.1 The Warrantors or their duly authorised agent shall at the Company's expense to the extent provided for in the Accounts and otherwise at the expense of the Warrantors prepare the corporation tax returns of the Company for the accounting period ended on the Accounts Date to the extent that they have not been prepared prior to Completion
- 10.2 The Purchaser shall procure that the Company shall cause the tax returns mentioned in paragraph 10.1 above to be authorised, signed and submitted to the relevant Tax Authority without amendment or with such amendments as the Warrantors shall reasonably agree provided that the Purchaser shall not be obliged to procure that the Company takes any such action as is mentioned in this paragraph 10 in relation to any tax return that is not true and accurate in all material respects.
- 10.3 The Warrantors or their duly authorised agent shall at the Company's expense to the extent provided for in the Accounts and otherwise at the expense of the Warrantors, prepare all documentation and deal with all matters (including correspondence) relating to the tax returns of the Company for all accounting periods ended on or prior to the Accounts Date and the Warrantors shall provide the Purchaser with copies of any correspondence relating to such tax returns prior to their submission and copies of any correspondence from the Inland Revenue. The Warrantors shall give the Purchaser a reasonable opportunity to comment on such correspondence prior to submission and shall take account of the Purchaser's reasonable comments. The Purchaser shall upon reasonable notice (having regard to the circumstances) being given by the Warrantors procure that the Company shall afford such access to its books, accounts and records as is necessary and reasonable to enable the Warrantors or their duly authorised agent to prepare those tax returns and conduct matters relating thereto in accordance with the Warrantors' rights under this paragraph 10.
- 10.4 The provisions of paragraph 10.3 shall be without prejudice to the rights of the Company in relation to any audit or any enquiry resulting therefrom and if the Purchaser shall at any time become aware of a Claim for Taxation which may result in a Tax Claim, the Purchaser may at any time thereafter by notice in writing to the Warrantors require that the provisions of paragraph 10.3 shall lapse, in which case the provisions of paragraph 9 (Claims Procedure) shall come into operation in accordance with its terms.

Schedule 6

Completion requirements

The Vendors shall deliver to the Purchaser at Completion:

1. stock transfer forms, duly completed and executed by the registered holders, in favour of the Purchaser in respect of the Shares together with the relevant share certificates;
2. the certificate of incorporation, any certificates of incorporation on change of name or re-registration, the statutory books written up to date, share certificate books, minute books, all unused cheque books and the common seal (if any) of each Company;
3. letters of resignation in the agreed form from each of the directors and the company secretary of each Company;
4. a letter of resignation from the auditors of each Company containing the statement specified in section 394(1) of the Act;
5. a statement of all overdraft and credit balances from each Company's bankers and other lenders as at the close of business on the day preceding Completion, together with a reconciliation statement;
6. evidence that the Vendors have repaid all monies then owing by them to each Company whether due and payable or not;
7. the Deed of Termination duly executed;
8. the Disclosure Letter duly signed;
9. the Property Documents, duly executed;
10. evidence satisfactory to the Purchaser of the release of the Legal Mortgage given by Big
11. the Put Option agreement, duly executed;
12. Service agreements between each of the Warrantors and Big;
13. Signed bonus letter from Simon Davies, including waiver of his existing entitlement.
14. minutes in the agreed form of a duly held meeting of the board of directors of each Company at which, amongst other things:
 - (a) the stock transfer forms referred to in (1) above are approved and (subject only to them being appropriately stamped) registered in that Company's books;

- (b) each director and the secretary of that company ceases to be an officer with immediate effect;
 - (c) the persons nominated by the Purchaser are appointed as directors and secretary of that company;
 - (d) the service agreements between the Warrantors and Big are approved;
 - (e) the Deed of Termination is approved;
 - (f) the accounting reference date of that company is changed to 31 March;
 - (g) Bentley Jennison resign from their office as auditors to that company and Willott Kingston Smith are appointed in their place;
 - (h) the registered office of that company is changed to such address as the Purchaser may require;
 - (i) the mandates given by that company to its bankers are revoked and new mandates with a replacement bank are entered into as the Purchaser may require; and
 - (j) the execution and completion of the other documents to be entered into by the Company under this Agreement is approved as appropriate.
15. Bank statements and reconciliations as at close of business on the day preceding Completion for all bank accounts of the Companies.

Part B

The Purchaser shall at Completion:

1. pay £3,245,932.57 of the Cash Consideration to the Vendors by telegraphic transfer to the client account of the Vendors' Solicitors at Barclays Bank plc, Howes Percival Client Account, account number 50495522, sort code 20-61-51 and the balance of the Cash Consideration of £165,067.43 to the current account of Big at National Westminster Bank plc, Leicester, Granby Street Branch, Sort Code 56-00-55, Account Number 91302730. The Vendors hereby irrevocably authorise the Vendors' Solicitors and Big to receive the Cash Consideration as aforesaid and receipt by the Vendors' Solicitors and Big of such sums will constitute full and valid discharge of the Purchaser;
2. procure the allotment and issue of the Consideration Shares to the Vendors;
3. procure the entry in the register of members of the Purchaser of the names of the Vendors in respect of the number of Consideration Shares allotted to each of the Vendors;
4. issue to the Vendors share certificates in respect of the number of Consideration

Shares to be issued to each of the Vendors;

5. deliver the Property Documents duly executed;
6. deliver the Put Option Agreement, duly executed;
7. deliver certified copy minutes to the Vendors in the Agreed Form of a duly held meeting of the board of directors of the Purchaser at which, amongst other things:
 - (a) the execution and completion of the other documents to be entered into by the Company under this Agreement is approved as appropriate.
 - (b) the Purchaser creates the Loan Note Instrument;
 - (c) the Purchaser irrevocably resolves to issue the Loan Notes and relevant certificates;
8. Service Agreements between each of the Warrantors and Big.

Schedule 7

Earn-out Accounts and EBIT

Part A – Preparation

1. The Purchaser shall procure that the Purchaser's Accountants shall within 60 days of 31 March 2005, 31 March 2006, 31 March 2007, 31 March 2008 and 31 March 2009 (each such date being an "**Earn-out Accounts Date**" and the accounting period ending on such date being an "**Earn-out Accounts Period**"), prepare:
 - (a) a draft profit and loss account of each Company in respect of such Earn-out Accounts Period;
 - (b) a draft balance sheet of each Company as at such Earn-out Accounts Date; and
 - (c) a draft statement of the EBIT of each of Big and Fuse for such Earn-out Accounts Period,(such profit and loss accounts, balance sheets and statements being the "**Earn-out Accounts**") and the Vendors shall procure (so far as they are able) that the Purchaser and the Purchaser's Accountants and other advisers and representatives shall be given full access to the Companies' accounts and records and shall be permitted to take copies of the same and generally be provided with such other information and assistance as they may reasonably require to prepare such accounts and in a timely fashion.
2. The Purchaser shall procure that the draft Earn-out Accounts shall be prepared in accordance with the provisions of Part B of this schedule and that on their preparation the draft Earn-out Accounts (together with a statement from the Purchaser's Accountants confirming the EBIT for such Earn-out Accounts Period and that the draft Earn-out Accounts have been prepared in accordance with this Schedule) shall be delivered to the Vendors for review.
3. In order to enable the Vendors to review the draft Earn-out Accounts, the Purchaser shall procure that:
 - (a) their Accountants and other advisers and/or representatives preparing the draft Earn-out Accounts shall be instructed to immediately give to the Vendors full access to their working papers and to use all reasonable efforts to provide promptly upon request such information and explanations as they may request during the course of their review of the draft Earn-out Accounts;
 - (b) the Vendors and their Accountants and other advisers and/or representatives are given all reasonable access at all reasonable times and without delay to the books, records and working papers in his or his adviser's respective possession or control relating to the Companies and to all its staff and shall permit the Vendors and their Accountants and other advisers and/or representatives to

take copies of such books, records and working papers; and

- (c) generally provide the Vendors and their Accountants with such other information and assistance that they may reasonably require and in a timely fashion.
- 4. Unless the Vendors serve written notice (the "**Notice**") on the Purchaser within 30 Business Days of delivery of the draft Earn-out Accounts pursuant to paragraph 1 above that they do not accept the same, the parties shall at the end of that period be deemed to have accepted such draft Earn-out Accounts which shall then be final and binding on the parties and which together shall be the Earn-out Accounts for that Earn-out Accounts Period for the purposes of this Agreement.
- 5. A Notice (if any) served in accordance with paragraph 4 shall specify particulars of the dispute and any adjustments proposed to be made to the draft Earn-out Accounts.
- 6. If the Vendors serve a Notice, then the Vendors and the Purchaser shall each use all reasonable endeavours to reach agreement upon the matter or matters in dispute. If agreement on all disputed matters cannot be reached within 20 Business Days of the date of the Notice, any matter still in dispute may upon the direction of any party be referred to a single independent chartered accountant or to an independent firm of chartered accountants (the "**Expert**") to be agreed between the Vendors and the Purchaser within 7 days or, failing such agreement, to be appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales upon the application of any party. The Expert shall act as an expert and not as an arbitrator in connection with the giving of any decision and the decision of the Expert shall be final and binding on the parties, except in the case of manifest error. In making such decision, the Expert shall have regard to any representations made by the Vendors and the Vendors' Accountants and the Purchaser and the Purchaser's Accountants. The costs of the Expert shall be borne as may be determined by him or, failing such determination, shall be borne as to half by the Purchaser and half by the Vendors. Upon the agreement or determination (as the case may be) of the matter which is in dispute, such draft Earn-out Accounts shall then be the Earn-out Accounts for the purposes of this Agreement.
- 7. The costs of the Vendors' Accountants in relation to all matters arising from this schedule shall be borne by the Vendors and the costs of the Purchaser's Accountants in relation to all matters arising from this schedule shall be borne by the Purchaser.

Part B - Basis of Preparation

- 8. The Earn-out Accounts shall be prepared in accordance with:
 - (a) the specific accounting policies set out in paragraph 2 of this Part B; and
 - (b) otherwise on a basis consistent with the Accounts using the same accounting procedures, bases, policies and practices.
 - (c) otherwise in accordance with UK GAAP

9. The following specific accounting policies will be applied in preparation of the Earn-out Accounts:
- (a) full provision shall be made for corporation tax, advance corporation tax and income tax liabilities for the Companies, including provision for corporation tax on the profits for the period of the Earn-out Accounts;
 - (b) full provision shall be made for any management fees levied by the Purchaser, up to a maximum of 2% of each Company's gross income (meaning gross profit as detailed in the accounts) in any Earn-out Accounts Period (with any management fees and other director fees (other than those of the Vendors) in excess of this sum being added-back for the purposes of calculating EBIT) save for the financial period of the Companies ending 31 March 2005 in respect of which all management fees levied by the Purchaser will be added-back for the purposes of calculating EBIT; and
 - (c) in the event that the Purchaser changes the accounting reference date of the Companies following Completion resulting in 2 sets of audited account being required to be produced in respect of any 12 month period then the cost of one such audit (whichever is the higher) shall be added-back for the purposes of calculating EBIT;
 - (d) any third party expenses that are borne by the Companies and incurred in connection with the pre-Completion financial assistance procedure undertaken by the Companies shall be added-back for the purposes of calculating EBIT;
 - (e) any stamp duty paid by the Companies on the grant of the Lease shall be added-back for the purposes of calculating EBIT.
 - (f) any third party costs in preparing the schedule of condition to be attached to the Lease shall be added back for the purposes of calculating EBIT.
 - (g) if any work is undertaken or services provided by Big or Fuse for another Purchaser Group Company and such work is done or services provided at less than market value at the instruction of the Purchaser then the full market value shall be substituted for the purposes of calculating EBIT.
 - (h) the costs of any investigation or report required by the Purchaser's funders and which is charged to the Companies shall be added back for the purposes of calculating EBIT.
 - (i) any additional cost or expense arising due to a breach by the Purchaser of Schedule 8 shall be added back for the purposes of calculating EBIT.

Schedule 8

Conduct of business during the Earn-out

1. The parties shall each procure, so far as they are respectively able, that the business of each Company shall be conducted in good faith and with the intention of achieving, so far as practicable, maximum sustainable profits both during and after the period ending on 31 March 2009 (the period from the date of this Agreement to 31 March 2009 being the "**Earn-out Period**")
2. The day-to-day management of each Company will be vested in such of the Warrantors who remain employed by either Company during the Earn-out Period, subject to the matters requiring approval of the Purchaser pursuant to this Agreement.
3. Each Company shall be required to pay to the Purchaser an annual management fee equal to 2% of its annual gross income with effect from Completion, such payment to be made by monthly instalments and which will cover any directors fees of directors of the Companies (other than that of the Vendors).
4. The Warrantors shall be responsible for the accurate and timely preparation of such management accounts, forecasts and budgets as the Purchaser shall require.
5. The Warrantors shall be entitled during the Earn-out Period to nominate up to 4 persons (or such lesser number as is from time to time equal to the number of Warrantors employed by Big, subject to a minimum of 1) and, in relation to Fuse, Simon Davies (so long as he is still employed by Fuse) to be appointed as directors of each of Big and Fuse and the Purchaser undertakes so far as it is legally able to procure the appointment of such person(s), provided that the prior approval of the Purchaser in its absolute discretion shall be required to the identity of any such appointee who is not a Warrantor.
6. All dealings between either Company and any other Purchaser Group Company shall be on arms' length commercial terms as may be agreed by the relevant parties from time to time.
7. The Warrantors agree that they shall not undertake or permit either Company to carry out without the prior approval of the Purchaser and the Purchaser agrees that it will not undertake or permit either Company to carry out without the prior approval of the majority of the Warrantors any of the following matters (save as may be properly required by a lender pursuant to any debt financing or facilities entered into or proposed to be entered into by the Purchaser from time to time):
 - (a) (save as provided for in paragraph 10 of this schedule) the acquisition of any business or undertaking or the subscription, acquisition or purchase of any stocks, bonds, shares, debentures, options or other securities of any other company, firm, association or entity or the amalgamation or merger of the Company with any such body or the formation of any subsidiary other than one which will be a dormant company;

- (b) the disposal of the whole or any part of its business or undertaking or (otherwise than in the ordinary and usual course of business) of its assets, in all cases whether by a single transaction or a series of transactions over a period of time and whether or not related;
- (c) save for loans to the Purchaser, the lending, borrowing or raising of money and the incurring of any other indebtedness in the nature of borrowing or the repayment of any monies borrowed otherwise than in accordance with the terms of any documentation originally entered into regarding the same or any variation, amendment or addition thereto;
- (d) the creation of any encumbrance (other than liens arising by operation of law or in the normal and ordinary course of trading) or the giving of any guarantee or indemnity;
- (e) the entering into of any partnership, limited liability partnership, profit sharing arrangement, joint venture, agency, distribution, production or other similar arrangement or agreement;
- (f) any change of name or trading style;
- (g) (save as provided for in paragraph 10 of this schedule) the alteration of or change in the nature of the business of the Company to any material extent;
- (h) the alteration of the memorandum or articles of association;
- (i) the incurring of any material expenditure or liability of a capital nature (including, for this purpose, the acquisition of any asset under lease or hire purchase) in excess of £25,000 save in respect of office machinery and equipment reasonably required in the ordinary course of its business;
- (j) the paying of any remuneration or expenses to any person other than as proper remuneration for work done or services provided or as proper reimbursement for expenses incurred in connection with its business;
- (k) the making of any political or charitable donation or of any gift in excess of £200 each and a total of £2,500 in an Earn Out Period;
- (l) the commencement of any legal or arbitration proceedings (other than routine collection of trade debts);
- (m) the factoring or assigning of any of its book debts;
- (n) the appointment of a committee of the directors of the Company or the delegation of any of the powers of the directors to a committee; or
- (o) the taking of or agreeing to take a leasehold interest in or licence over land.
- (p) employing any person on an annual remuneration package of £50,000 or more or increasing any remuneration package to a level in excess of £50,000.

8. The Warrantors agree that they shall not undertake or permit either Company to carry out any of the following matters without the prior approval of the Purchaser:
- (a) any change in the Company's auditors or bank from those nominated by The Mission;
 - (b) the granting of any general power of attorney or similar authority;
 - (c) the variation of the emoluments of any of the Warrantors or any directors of the Company or of any person connected with a Warrantor or a director (within the meaning of section 839 ICTA) or paying any bonus to a Warrantor or a director of the Company;
 - (d) the entering into or variation of any contract or arrangement (whether legally binding or not) with any of the Warrantors or directors of the Company or with any person connected with a Warrantor or director (within the meaning of section 839 ICTA);
- 9 The Purchaser agrees that it shall not undertake or permit either Company to carry out any of the following matters without the prior approval of the majority of the Warrantors who remain employees of either Company (save as may be properly required by a lender pursuant to any debt financing or facilities entered into or proposed to be entered into by the Purchaser from time to time):
- (a) the purchase or redemption of any share capital of the Company;
 - (b) any resolution to wind up the Company;
 - (c) the filing of a petition for winding up by the Company or the making of any arrangement with creditors generally or any application for an administration order or for the appointment of a receiver or administrator by the Company;
 - (d) the repayment of capital or assets to members by the Company;
 - (e) the making of any investment, or the liquidation of any investment made by the Company, in any other person or business;
 - (f) any material change in the nature or scope of the business including the introduction or discontinuance of any field of activity and the relocation or expansion of the business of the Company, or the establishment of any business outside the United Kingdom (other than any initiative which the Vendors and the Purchaser agree should be undertaken by the Company);
 - (g) any change in the basis of accounting or accounting principles or policies employed by the Company other than as required by law or accounting policies generally accepted in the United Kingdom from time to time;
 - (h) save for the making of intra-group loans and the payment of dividends, the entry by the Company into any agreement involving the making of payments, or the assumption of obligations or liabilities, by the Company in excess of £25,000 in aggregate other than in the ordinary and normal course of business;

- (i) the entry by the Company into any arrangement with new suppliers of goods or services which incur or are likely to incur increased costs for the Company;
- (j) the entry into any transaction between the Company and the Purchaser or Purchaser's Group Company to the extent that it is not at arm's length;
- (k) dismiss any of the Warrantors from employment with the Company save where such dismissal is for cause in accordance with the terms of the relevant Warrantor's contract of employment.

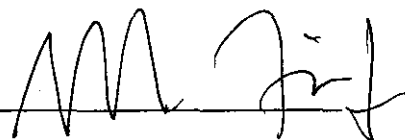
10. The Purchaser acknowledges that the Companies can set up and run a public relations, design or similar business as a subsidiary or part of either or both Companies and that the Warrantors may do so without obtaining the consent of the Purchaser.

Executed and delivered as a Deed)
by Dylan Bogg)
in the presence of:)




Signature of witness: Angela Baughton
Name: Angela Baughton
Address: 252 Upper 3rd St
Milton Keynes
Occupation: Solicitor

Executed and delivered as a Deed)
by Mark Firth)
in the presence of:)



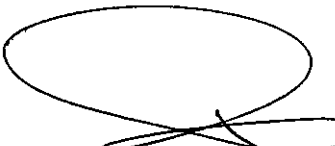
Signature of witness: Angela Baughton
Name: Angela Baughton
Address: As above
Occupation: _____

Executed and delivered as a Deed)
by Chris Morris)
in the presence of:)



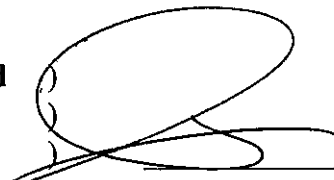
Signature of witness: Angela Baughton
Name: Angela Baughton
Address: As above
Occupation: _____

Executed and delivered as a Deed)
by Phil Wright)
in the presence of:)



Signature of witness: Angela Bugutan
Name: Angela Bugutan
Address: As above
Occupation: _____

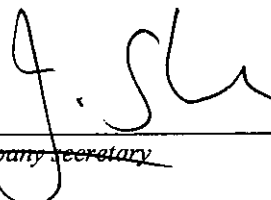
Executed and delivered as a Deed
by Brian McGowan
in the presence of:


_____ Phil Wright for Brian McGowan

Signature of witness: Angela Bugutan
Name: Angela Bugutan
Address: As above
Occupation: _____

Brandon Ransley
As above
Solicitor

Executed and delivered as a Deed)
by The Mission Marketing)
Group Limited)
acting by:)


_____ Director
_____ Director / Company Secretary