

DATED

18th

July

2006

6970426

WE HEREBY CERTIFY THAT THIS IS A TRUE  
AND CORRECT COPY OF THE ORIGINAL  
DATED THIS DAY OF 20

GOODMAN DERRICK

LUKE MONTAGU, RUSSELL STOPFORD, JULIE MONTAGU, CHRISTELLE BOSSARD AND  
BERKLEY COLE (1)

and

METROPOLITAN FILM SCHOOL LIMITED (2)

Draft 5 - 18/7/2006

SHARE PURCHASE AGREEMENT

WE HEREBY CERTIFY THAT THIS IS A TRUE  
AND CORRECT COPY OF THE ORIGINAL  
DATED THIS DAY OF 20

GOODMAN DERRICK



A58  
COMPANIES HOUSE

583  
25/07/2006

GOODMANDERRICK

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Ref: TS/26682.3

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THIS AGREEMENT is dated

2006

## **PARTIES**

- (1) The several persons whose names and addresses are set out in Schedule 1 (Sellers).
- (2) **METROPOLITAN FILM SCHOOL LIMITED** incorporated and registered in England and Wales with company number 4790426 whose registered office is at 60 Sloane Avenue, London SW3 3DD (Buyer).

## **RECITALS**

- (A) The Company has an issued share capital of £100 divided into 10,000 ordinary shares of £0.01p each.
- (B) Further particulars of the Company at the date of this agreement are set out in Schedule 2 (Particulars of the Company).
- (C) The Sellers are the legal and beneficial owners of, or are otherwise able to procure the transfer of, the legal and beneficial title to the number of Sale Shares set out opposite their respective names in Schedule 1 (Particulars of Sellers and Consideration Shares) comprising in aggregate the whole of the issued share capital of the Company.
- (D) The Sellers have agreed to sell and the Buyer has agreed to buy the Sale Shares subject to the terms and conditions of this agreement.

## **IT IS HEREBY AGREED**

### **1. INTERPRETATION**

- 1.1 The definitions and rules of interpretation in this clause apply in this agreement.

<b>"Accounts"</b>	the unaudited financial statements of the Company as at and to the Accounts Date, comprising the individual accounts of the Company including the balance sheet, profit and loss account together with the notes thereon, and the Directors' reports (copies of which are attached to the Disclosure Letter);
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<b>"Accounts Date"</b>	31 December 2005
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<b>"Business"</b>	the business of the Company namely the provision of film and/or television related training services and
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	production and/or post-production services;
<b>"Business Day"</b>	a day (other than a Saturday, Sunday or public holiday) when banks in the City of London are open for business;
<b>"CAA 2001"</b>	the Capital Allowances Act 2001;
<b>"Claim and Substantiated Claim"</b>	have the meanings set out respectively in clause 6 (Limitations on claims);
<b>"Company"</b>	Remote Productions Limited, a company incorporated and registered in England and Wales with company number 5326873 whose registered office is at Unity Chambers, 34 High Street, East Street, Dorchester, Dorset DT1 1HA further details of which are set out in of Schedule 2 (Particulars of Company);
<b>"Companies Acts"</b>	the Companies Act 1985 and the Companies Act 1989;
<b>"Completion"</b>	completion of the sale and purchase of the Sale Shares in accordance with this agreement;
<b>"Completion Date"</b>	has the meaning in clause 5;
<b>"Conditions"</b>	the conditions set out in clause 2.1;
<b>"Connected"</b>	in relation to a person, has the meaning contained in section 839 of the ICTA 1988;
<b>"Consideration Shares"</b>	the ordinary shares of £0.01p each of the Buyer to be allotted and issued credited as fully paid to the Sellers in satisfaction of the Purchase Price;
<b>"Deed of Adherence"</b>	the deed in the agreed form by which each of the Sellers agrees to adhere to the provisions of the Shareholders' Agreement;
<b>"Director"</b>	each person who is a director or shadow director of the

	Company, the names of whom are set out in Schedule 2 ( <i>Particulars of the company</i> );
<b>"Disclosed"</b>	fairly, fully, clearly and accurately disclosed (with sufficient details to identify the nature and scope of the matter disclosed) in or under the Disclosure Letter;
<b>"Disclosure Letter"</b>	the letter from the Sellers to the Buyer with the same date as this agreement and described as the disclosure letter, including the bundle of documents attached to it ( <i>Disclosure Bundle</i> );
<b>"Encumbrance"</b>	any interest or equity of any person (including any right to acquire, option or right of pre-emption) or any mortgage, charge, pledge, lien, assignment, hypothecation, security, interest, title, retention or any other security agreement or arrangement;
<b>"Event"</b>	has the meaning given in Schedule 6 ( <i>Tax covenant</i> );
<b>"Group"</b>	in relation to a company (wherever incorporated) that company, any company of which it is a Subsidiary (its holding company) and any other Subsidiaries of any such holding company; and each company in a group is a member of the group;  Unless the context otherwise requires, the application of the definition of Group to any company at any time will apply to the company as it is at that time;
<b>"ICTA 1988"</b>	the <i>Income and Corporation Taxes Act 1988</i> ;
<b>"HTA 1984"</b>	the <i>Inheritance Tax Act 1984</i> ;
<b>"Management Accounts"</b>	the unaudited balance sheet and the unaudited profit and loss account of the Company for the period of 5 months ended 31 May 2006 (a copy of which is attached to the Disclosure Letter);

<b>"Property"</b>	has the meaning given in paragraph 9.1 of Part 1 of Schedule 5 (Warranties);
<b>"Purchase Price"</b>	the purchase price for the Sale Shares to be paid or satisfied by the Buyer in accordance with clause 4 (Purchase Price);
<b>"Sale Shares"</b>	the 10,000 ordinary shares of £0.01p each in the Company, all of which have been issued and are fully paid;
<b>"Shareholders' Agreement"</b>	the shareholders' agreement dated 27 August 2003 between the Buyer, Arts Alliance Media Limited, City Screen Limited and Luke Montagu;
<b>"Subsidiary"</b>	<p>in relation to a company wherever incorporated (a holding company) means a "subsidiary" as defined in section 736 of the Companies Act 1985 and any other company which is a subsidiary (as so defined) of a company which is itself a subsidiary of such holding company;</p> <p>Unless the context otherwise requires, the application of the definition of Subsidiary to any company at any time will apply to the company as it is at that time;</p>
<b>"Tax or Taxation"</b>	has the meaning given in Schedule 6 (Tax covenant);
<b>"Tax Covenant"</b>	the tax covenant as set out in Schedule 6 (Tax covenant);
<b>"Tax Claim"</b>	has the meaning given in Schedule 6 (Tax covenant);
<b>"Tax Warranties"</b>	the Warranties in Part 2 of Schedule 5 (Warranties);
<b>"Taxation Authority"</b>	has the meaning given in Schedule 6 (Tax covenant);
<b>"Taxation Statute"</b>	has the meaning given in Schedule 6 (Tax covenant);

<b>"TCGA 1992"</b>	the Taxation of Chargeable Gains Act 1992;
<b>"TMA 1970"</b>	the Taxes Management Act 1970;
<b>"Transaction"</b>	the transaction contemplated by this agreement or any part of that transaction;
<b>"VATA 1994"</b>	the Value Added Tax Act 1994;
<b>"Warranties"</b>	the representations and warranties in clause 6 (Warranties) and Schedule 4 (Warranties);

- 1.2 Clause and schedule headings do not affect the interpretation of this agreement.
- 1.3 A **person** includes a corporate or unincorporated body.
- 1.4 Words in the singular include the plural and in the plural include the singular.
- 1.5 A reference to one gender includes a reference to the other gender.
- 1.6 *A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.*
- 1.7 **Writing** or **written** includes faxes but not e-mail.
- 1.8 Documents in **agreed form** are documents in the form agreed by the parties or on their behalf and initialled by them or on their behalf for identification.
- 1.9 *References to clauses and schedules are to the clauses and schedules of this agreement; references to paragraphs are to paragraphs of the relevant schedule.*
- 1.10 Unless otherwise expressly provided, the obligations and liabilities of the Sellers under this agreement are joint and several.
- 1.11 References to **Subsidiary** or **Subsidiaries** are references to a Subsidiary or Subsidiaries of the Company.
- 1.12 *Reference to this agreement include this agreement as amended or varied in accordance with its terms.*

## 2. **CONDITIONS**

- 2.1 Completion of this agreement is subject to
  - 2.1.1 clearance being obtained from HM Revenue & Customs under section 139 TCGA PA2 in respect of the Transaction; and

- 2.1.2 the Condition in paragraph 1 of Schedule 3 being satisfied up to and including the Completion Date or waived.
- 2.2 If any of the Conditions are not satisfied or waived by the date and time referred to in clause 2.1 and clause 2.4, this agreement shall cease to have effect immediately after that date and time except for:
  - 2.2.1 the provisions set out in clause 2.3; and
  - 2.2.2 any rights or liabilities that have accrued under this agreement.
- 2.3 The following provisions shall continue to have effect, notwithstanding failure to waive or satisfy the Conditions:
  - 2.3.1 clause 1;
  - 2.3.2 clause 2.2 and this clause 2.3;
  - 2.3.3 clause 10;
  - 2.3.4 clause 13;
  - 2.3.5 clause 14;
  - 2.3.6 clause 15;
  - 2.3.7 clause 16; and
  - 2.3.8 clause 23.
- 2.4 The Sellers and the Buyer shall use all reasonable endeavours (so far as lies within their respective powers) to procure that the Condition in clause 2.1.1 is satisfied as soon as practicable and in any event no later than 6.00 pm
  - 2.4.1 on 31 July 2006; or
  - 2.4.2 at such later time and date as may be agreed in writing by the Sellers and the Buyer.
- 2.5 The Buyer and the Sellers shall co-operate fully in all actions necessary to procure the satisfaction of the Conditions.
- 2.6 The Buyer may, to such extent as it thinks fit and is legally entitled to do so, waive any of the Conditions by written notice to the Sellers.

### **3. SALE AND PURCHASE AND WAIVER OF PRE-EMPTION RIGHTS**

- 3.1 On the terms of this agreement and subject to the Conditions, the Sellers shall sell and the Buyer shall buy, with effect from Completion, the Sale Shares with full title guarantee, free from all Encumbrances and together with all rights that attach (or may in the future attach) to them including, in particular, the right to receive all dividends and distributions declared, made or paid on or after the date of this agreement.
- 3.2 Each of the Sellers severally waives any right of pre-emption or other restriction on transfer



in respect of the Sale Shares or any of them conferred on him under the articles of association of the Company or otherwise and shall procure the irrevocable waiver of any such right or restriction conferred on any other person who is not a party to this agreement.

- 3.3 The Buyer is not obliged to complete the purchase of any of the Sale Shares unless the purchase of all the Sale Shares is completed simultaneously.

#### **4. PURCHASE PRICE**

- 4.1 The Purchase Price for the Sale Shares is £350,000 to be satisfied by the allotment and issue by the Buyer on Completion to the Sellers of the number of Consideration Shares, credited as fully paid, set out opposite their respective names in Schedule 1.
- 4.2 For the purpose of clause 4.1 the Consideration Shares shall rank *pari passu* with the existing ordinary shares of £0.01p each in the capital of the Buyer, including the right to receive all dividends declared or made or paid after Completion (save that they shall not rank for any dividend or other distribution of the Buyer declared made or paid by reference to a record date before Completion).
- 4.3 The Purchase Price shall be deemed to be reduced by the amount of any payment made to the Buyer:
- (a) for a breach of any Warranty; or
  - (b) under the Tax Covenant.
- 4.4 Each of the Sellers shall on Completion sign the Deed of Adherence.

#### **5. COMPLETION**

- 5.1 Completion shall take place on the Completion Date:
- 5.1.1 at the offices of the Buyer; or
  - 5.1.2 at any other place or time as agreed in writing by the Sellers and the Buyer.
- 5.2 Completion Date means:
- 5.2.1 the second Business Day after the Condition in clause 2.1.1 is satisfied or waived; or any other date agreed in writing by the Sellers and the Buyer; or
  - 5.2.2 if Completion is deferred in accordance with clause 5.5 means the date to which it is deferred.
- 5.3 The Sellers undertake to the Buyer that the Business shall be conducted in the manner provided in part 1 of Schedule 4 from the date of this agreement until Completion and give the Buyer the undertakings set out in that Schedule.
- 5.4 At Completion the Sellers shall:
- 5.4.1 deliver or cause to be delivered the documents and evidence set out in Part 2 of

Schedule 4;

- 5.4.2 procure that a board meeting of the Company is held at which the matters identified in Part 3 of Schedule 4 are carried out; and
- 5.4.3 deliver any other documents referred to in this agreement as being required to be delivered by them.
- 5.5 At Completion the Buyer shall:
  - 5.5.1 procure that a meeting of the board of directors of the Buyer is convened at which the Consideration Shares are allotted;
  - 5.5.2 allot and issue to the Sellers the Consideration Shares in accordance with clause 4;
  - 5.5.3 deliver a certified copy of the resolutions passed by shareholders of the Buyer authorising the Transaction for the purposes of section 320 of the Companies Act 1985, increasing the authorised share capital of the Buyer and giving general authority to the directors of Buyer to allot the Consideration Shares pursuant to section 80 of the Companies Act 1985 and disapplying pre-emption rights pursuant to the Company's articles of association.
- 5.6 If the Sellers do not comply with clause 5.4 in any material respect, the Buyer may, without prejudice to any other rights it has:
  - 5.6.1 proceed to Completion; or
  - 5.6.2 defer Completion to a date no more than 28 days after the date on which Completion would otherwise have taken place; or
  - 5.6.3 rescind this agreement.
- 5.7 The Buyer hereby agrees that it shall use all reasonable endeavours to procure that Luke Montagu is released from the personal guarantee provided by him in respect of certain Company equipment ("the Guarantee") as soon as possible following Completion. Pending such release or if Luke Montagu is required to give a new guarantee in respect of the Company's obligations the Met shall indemnify Luke Montagu against all losses and liabilities (including, without limitation, any direct or indirect consequential losses or loss of profit, damages, claims, demands, proceedings, costs, expenses, penalties, reasonable legal and other professional fees and costs) which may be suffered or incurred by him and which arise directly or indirectly in connection with the Guarantee or any replacement guarantee ("the Indemnity"). If Luke Montagu has not been released from the Guarantee within 1 month of Completion or has been required to give a replacement guarantee the Buyer shall grant Luke Montagu a debenture in a form reasonably acceptable to him as security for any claim Luke Montagu may have under the Indemnity.

**6. WARRANTIES**

- 6.1 The Buyer is entering into this agreement on the basis of, and in reliance on, the Warranties.

- 6.2 The Sellers warrant and represent to the Buyer that each Warranty is true, accurate and not misleading on the date of this agreement except as Disclosed.
- 6.3 The Warranties are deemed to be repeated on each day up to and including the Completion Date and any reference made to the date of this agreement (whether express or implied) in relation to any Warranty shall be construed, in relation to any such repetition, as a reference to each such day.
- 6.4 The Sellers shall ensure that the Company and each of the Subsidiaries do not do or omit to do anything which would, at any time before or at Completion, be materially inconsistent with any of the Warranties, breach any Warranty or make any Warranty untrue or misleading.
- 6.5 Without prejudice to the right of the Buyer to claim on any other basis or take advantage of any other remedies available to it, if any Warranty is breached or proves to be untrue or misleading, the Sellers shall pay to the Buyer on demand:
- 6.5.1 the amount necessary to put the Company into the position they would have been in if the Warranty had not been breached or had not been untrue or misleading; and
  - 6.5.2 all costs and expenses (including, without limitation, damages, reasonable legal and other professional fees and costs, penalties, expenses and consequential losses whether directly or indirectly arising) incurred by the Buyer or the Company as a result of such breach or of the Warranty being untrue or misleading (including a reasonable amount in respect of management time).
- A payment made in accordance with the provisions of clause 6.5 shall include any amount necessary to ensure that, after any Taxation of the payment, the Buyer is left with the same amount it would have had if the payment was not subject to Taxation.
- 6.6 If at any time before or at Completion the Sellers or any of them become aware that a Warranty has been breached, is untrue or is misleading, or has a reasonable expectation that any of those things might occur, they shall immediately:
- 6.6.1 notify the Buyer in sufficient detail to enable the Buyer to make an accurate assessment of the situation; and
  - 6.6.2 if requested by the Buyer, use their best endeavours to prevent or remedy the notified occurrence.
- 6.7 If at any time before or at Completion it becomes apparent that a Warranty has been breached, is untrue or misleading, or that the Sellers have breached any other term of this agreement that is material to the sale of the Sale Shares in either case, the Buyer may (without prejudice to any other rights it may have in relation to the breach):
- 6.7.1 rescind this agreement by notice to the Sellers; or
  - 6.7.2 proceed to Completion.
- 6.8 Warranties qualified by the expression **so far as the Sellers are aware** or any similar expression are deemed to be given to the best of the knowledge, information and belief of the Sellers after they have made all reasonable and careful enquiries.

- 6.9 Each of the Warranties is separate and, unless otherwise specifically provided, is not limited by reference to any other Warranty or any other provision in this agreement.
- 6.10 With the exception of the matters Disclosed, no information of which the Buyer and/or its agents and/or advisers has knowledge (actual, constructive or imputed) or which could have been discovered (whether by investigation made by the Buyer or made on its behalf) shall prejudice or prevent any Claim or reduce any amount recoverable thereunder.
- 6.11 The Sellers agree that any information supplied by the Company or by or on behalf of any of the employees, directors, agents or officers of the Company (**Officers**) to the Sellers or their advisers in connection with the Warranties, the information Disclosed in the Disclosure Letter or otherwise shall not constitute a warranty, representation or guarantee as to the accuracy of such information in favour of the Sellers, and the Sellers hereby undertake to the Buyer and to the Company and each Officer that they waive any and all claims which they might otherwise have against any of them in respect of such claims.

## 7. LIMITATIONS ON CLAIMS

- 7.1 The definitions and rules of interpretation in this clause apply in this agreement.

**"Claim"** a claim for breach of any of the Warranties;

**"Substantiated Claim"** a Claim in respect of which liability is admitted by the party against whom such Claim is brought, or which has been adjudicated on by a Court of competent jurisdiction and no right of appeal lies in respect of such adjudication, or the parties are debarred by passage of time or otherwise from making an appeal.

A Claim is **connected** with another Claim or Substantiated Claim if they all arise out of the occurrence of the same event or relate to the same subject matter.

- 7.2 This clause limits the liability of the Sellers in relation to any Claim and any claim under the Tax Covenant.
- 7.3 The liability of the Sellers for all Substantiated Claims and all claims under the Tax Covenant when taken together shall not exceed £20,000.
- 7.4 The Sellers shall not be liable for a Claim or a claim under the Tax Covenant unless:
- 7.4.1 the amount of a Substantiated Claim, or of a series of connected Substantiated Claims of which that Substantiated Claim is one, exceeds £5,000;
  - 7.4.2 the amount due in respect of a claim under the Tax Covenant exceeds £5,000; and
  - 7.4.3 in each case the whole amount (and not just the amount by which the limits above exceeded) is recoverable by the Buyer.

- 7.5 The Sellers are not liable for a Claim to the extent that the Claim:
- 7.5.1 relates to matters Disclosed; or
  - 7.5.2 relates to any matter specifically and fully provided for in the Accounts.
- 7.6 The Sellers are not liable for a Claim or a claim under the Tax Covenant unless the Buyer has given the Sellers notice in writing of the Claim or the claim under the Tax Covenant, summarising the nature of the Claim or claim under the Tax Covenant as far as is known to the Buyer and the amount claimed:
- 7.6.1 in the case of a claim made under the Tax Warranties or the Tax Covenant, within the period of seven years beginning with the Completion Date; and
  - 7.6.2 in any other case on or before 30 September 2007.
- 7.7 Nothing in clause 7 applies to a Claim or a claim under the Tax Covenant that arises or is delayed as a result of dishonesty, fraud, wilful misconduct or wilful concealment by the Sellers, their agents or advisers.
- 7.8 The Sellers shall not plead the Limitation Act 1980 in respect of any claims made under the Tax Warranties or Tax Covenant up to seven years after the Completion Date.

## **8. TAX COVENANT**

The provisions of Schedule 6 (Tax covenant) apply in this agreement.

## **9. RESTRICTIONS ON SELLERS**

- 9.1 Each of the Sellers severally covenants with the Buyer that:
- 9.1.1 as regards Luke Montagu, Julie Montagu and Christelle Bossard, none of them shall at any time during the period of two years following and beginning with the Completion Date carry on or be employed, engaged or interested in any business which is in competition with any part of the Business as the Business was carried on at the Completion Date provided that Luke Montagu, Julie Montagu and Christelle Bossard shall at all times be permitted to provide services to or work for the Company and/or the Buyer; or
  - 9.1.2 as regards Russell Stopford, he shall not, at any time during the period of six months (and the final date of such period shall be the "SIX Month DATE") following and beginning with the Completion Date, which period shall be extended to a maximum period of 2 years (and the final date of such period shall be the "24 Month DATE") following and beginning with the Completion Date if and only if the Company and/or the Buyer has offered to Russell Stopford continuous employment (of at least 30 hours per week) at a competitive remuneration for his services (including salary, bonus and/or commission) in a position of employment with the Company and/or the Buyer in a role which suits Russell Stopford's experience and

capabilities, carry on or be employed, engaged or interested in any business which is in competition with any part of the Business as the Business was carried on at the Completion Date provided always that Russell Stopford shall, at all times, be permitted to continue working for the Company and/or the Buyer and Magic Lantern Limited in a similar capacity to his current roles as at the date of this Agreement. For the avoidance of doubt if during any period beginning after the SIX Month Date and finishing before the 24 Month DATE neither the Company and/or the Buyer has offered Russell Stopford employment as described in this sub-clause 9.1.2 then the non-compete provisions of this sub-clause 9.1.2 shall not apply to Russell Stopford; or

- 9.1.3 they shall not at any time during the period of two years beginning with the Completion Date, deal with any person who is at the Completion Date, or who has been at any time during the period of 12 months immediately preceding that date, a client or customer of the Company save in the case of Luke Montagu, Julie Montagu, Christelle Bossard and Russell Stopford in the course of their current roles with the Company and/or the Buyer and Magic Lantern Limited as at the date of this Agreement; or
- 9.1.4 they shall not at any time during the period of two years beginning with the Completion Date, canvass, solicit or otherwise seek the custom of any person who is at the Completion Date, or who has been at any time during the period of 12 months immediately preceding that date, a client or customer of the Company; or
- 9.1.5 they shall not at any time during the period of two years beginning with the Completion Date:
  - (a) offer employment to, enter into a contract for the services of, or attempt to entice away from the Company and/or the Buyer, any individual who is at the time of the offer or attempt, and was at the Completion Date, employed or directly or indirectly engaged in an executive or managerial position or in the position of editor with the Company; or
  - (b) procure or facilitate the making of any such offer or attempt by any other person; or
- 9.1.6 they shall not at any time after Completion, use in the course of any business:
  - (a) the words "Remote"; or
  - (b) any trade or service mark, business or domain name, design or logo which, at Completion, was or had been used by the Company; or
  - (c) anything which is, in the reasonable opinion of the Buyer, capable of confusion with such words, mark, name, design or logo; or
- 9.1.7 they shall not at any time during a period of two years beginning with the Completion Date, solicit or entice away from the Company and/or the Buyer any supplier to the Company who had supplied goods and/or services to the Company

(including without limitation, freelance editors) at any time during the 12 months immediately preceding the Completion Date, if that solicitation or enticement causes or would cause such supplier to cease supplying, or materially reduce its supply of, goods and/or services to the Company and/or the Buyer at any time where goods and services have been booked or ordered by the Company and/or the Buyer.

- 9.2 The covenants in clause 9 are intended for the benefit of the Buyer and the Company and apply to actions carried out by the Sellers in any capacity and whether directly or indirectly, on the Sellers' own behalf, on behalf of any other person or jointly with any other person.
- 9.3 Nothing in clause 9 prevents the Sellers or any of them from holding for investment purposes only:
  - 9.3.1 any units of any authorised unit trust; or
  - 9.3.2 not more than 5% of any class of shares or securities of any company traded on the London Stock Exchange.
- 9.4 Each of the covenants in clause 9 is a separate undertaking by each Seller in relation to himself and his interests and shall be enforceable by the Buyer separately and independently of its right to enforce any one or more of the other covenants contained in clause 9. Each of the covenants in clause 9 is considered fair and reasonable by the parties, but if any restriction is found to be unenforceable, but would be valid if any part of it were deleted or the period or area of application reduced, the restriction shall apply with such modifications as may be necessary to make it valid and enforceable.
- 9.5 The consideration for the undertakings contained in clause 9 is included in the Purchase Price.

## **10. CONFIDENTIALITY AND ANNOUNCEMENTS**

- 10.1 Each of the Sellers severally undertakes to the Buyer to keep confidential the terms of this agreement and all information which they have acquired about the Company and the Buyer and to use the information only for the purposes contemplated by this agreement.
- 10.2 The Buyer undertakes to each of the Sellers to keep confidential the terms of this agreement and all information that it has acquired about that Seller and to use the information only for the purposes contemplated by this agreement.
- 10.3 The Buyer does not have to keep confidential or restrict its use of information about the Company after Completion.
- 10.4 A party does not have to keep confidential or to restrict its use of:
  - 10.4.1 information that is or becomes public knowledge other than as a direct or indirect result of a breach of this agreement; or
  - 10.4.2 information that it receives from a source not connected with the party to whom the duty of confidence is owed that it acquires free from any obligation of confidence to

any other person.

10.5 Any party may disclose any information that it is otherwise required to keep confidential under clause 10:

10.5.1 to such professional advisers, consultants and employees or officers of its Group as are reasonably necessary to advise on this agreement, or to facilitate the Transaction, if the disclosing party procures that the people to whom the information is disclosed keep it confidential as if they were that party; or

10.5.2 with the written consent of all the other parties; or

10.5.3 with the written consent of one party, if such information relates only to that party; or

10.5.4 to confirm that the sale has taken place, and the date of the sale (but without otherwise revealing any other items of sale or making any other announcement);

10.5.5 to the extent that the disclosure is required:

(a) by law; or

(b) by a regulatory body, Taxation Authority or securities exchange; or

(c) to make any filing with, or obtain any authorisation from, a regulatory body, Taxation Authority or securities exchange; or

(d) under any arrangements in place under which negotiations relating to terms and conditions of employment are conducted; or

(e) to protect the disclosing party's interest in any legal proceedings,

but shall use reasonable endeavours to consult the other parties and to take into account any reasonable requests they may have in relation to the disclosure before making it.

10.6 Each party shall supply any other party with any information about itself, its Group or this agreement as such other party may reasonably require for the purposes of satisfying the requirements of a law, regulatory body or securities exchange to which such other party is subject.

## 11. FURTHER ASSURANCE

The Sellers shall (at their expense) promptly execute and deliver all such documents, and do all such things, as the Buyer may from time to time reasonably require for the purpose of giving full effect to the provisions of this agreement.

## 12. ASSIGNMENT

12.1 Except as provided otherwise in this agreement, no party may assign, or grant any Encumbrance or security interest over, any of its rights under this agreement or any



document referred to in it.

- 12.2 Each party that has rights under this agreement is acting on its own behalf.
- 12.3 The Buyer may assign its rights under this agreement (or any document referred to in this agreement) but not its obligations to a member of its Group or to any person to whom it transfers the Sale Shares.
- 12.4 If there is an assignment:
  - 12.4.1 the Sellers may discharge their obligations under this agreement to the assignor until they receive notice of the assignment; and
  - 12.4.2 the assignee may enforce this agreement as if it were a party to it, but the Buyer shall remain liable for any obligations under this agreement.

### **13. WHOLE AGREEMENT**

- 13.1 This agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any arrangements, understanding or previous agreement between them relating to the subject matter they cover.
- 13.2 Nothing in clause 13 operates to limit or exclude any liability for fraud.

### **14. VARIATION AND WAIVER**

- 14.1 Any variation of this agreement shall be in writing and signed by or on behalf of the parties.
- 14.2 Any waiver of any right under this agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given and shall not prevent the party who has given the waiver from subsequently relying on the provision it has waived.
- 14.3 A party that waives a right in relation to one party, or takes or fails to take any action against that party, does not affect its rights in relation to any other party.
- 14.4 No failure to exercise or delay in exercising any right or remedy provided under this agreement or by law constitutes a waiver of such right or remedy or shall prevent any future exercise in whole or in part thereof.
- 14.5 No single or partial exercise of any right or remedy under this agreement shall preclude or restrict the further exercise of any such right or remedy.
- 14.6 Unless specifically provided otherwise, rights arising under this agreement are cumulative and do not exclude rights provided by law.

### **15. COSTS**

Unless otherwise provided, all costs in connection with the negotiation, preparation,

execution and performance of this agreement, and any documents referred to in it, shall be borne by the party that incurred the costs.

## **16. NOTICE**

### **16.1 A notice given under this agreement:**

16.1.1 shall be sent for the attention of the person, and to the address or fax number, specified in clause 16 (or such other address, fax number or person as each party may notify to the others in accordance with the provisions of clause 16); and

16.1.2 shall be:

- (a) delivered personally; or
- (b) sent by fax; or
- (c) sent by pre-paid first-class post or recorded delivery; or
- (d) (if the notice is to be served by post outside the country from which it is sent) sent by airmail.

16.2 Any notice to be given to or by all of the Sellers under this agreement is deemed to have been properly given if it is given to or by the Sellers' representative named in clause 16.3. Any notice required to be given to or by some only of the Sellers shall be given to or by the Sellers concerned (and in the case of a notice to the Sellers) at their address or fax number as set out in Schedule 1.

### **16.3 The addresses for service of notice are:**

#### **16.3.1 Sellers' Representative:**

- (a) name: Luke Montagu
- (b) address: 126 Bollingbroke Grove, London SW11 1DA
- (c) fax number: 0207 924 3128

#### **16.3.2 Buyer**

- (a) address: Ealing Studios, Ealing Green, London W5 5EP
- (b) for the attention of: Luke Montagu
- (c) fax number: 0208 280 9111

### **16.4 A notice is deemed to have been received:**

- 16.4.1 if delivered personally, at the time of delivery; or
- 16.4.2 in the case of fax, at the time of transmission; or
- 16.4.3 in the case of pre-paid first class post or recorded delivery two Business Days from the date of posting; or

- 16.4.4 in the case of airmail, seven Business Days from the date of posting; or
- 16.4.5 if deemed receipt under the previous paragraphs of clause 16.4 is not within business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of receipt), when business next starts in the place of receipt.
- 16.5 To prove service, it is sufficient to prove that the notice was transmitted by fax to the fax number of the party or, in the case of post, that the envelope containing the notice was properly addressed and posted.

## **17. INTEREST ON LATE PAYMENT**

- 17.1 Where a sum is required to be paid under this agreement (other than under the Tax Covenant) but is not paid before or on the date the parties agreed, the party due to pay the sum shall also pay an amount equal to interest on that sum for the period beginning with that date and ending with the date the sum is paid (and the period shall continue after as well as before judgment).
- 17.2 The rate of interest shall be 2% per annum above the base lending rate for the time being of Barclays Bank Plc. Interest shall accrue on a daily basis and be compounded quarterly.
- 17.3 Clause 17 is without prejudice to any claim for interest under the law.

## **18. SEVERANCE**

- 18.1 If any provision of this agreement (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
- 18.2 *If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.*

## **19. AGREEMENT SURVIVES COMPLETION**

This agreement (other than obligations that have already been fully performed) remains in full force after Completion.

## **20. THIRD PARTY RIGHTS**

- 20.1 Subject to clause 20.2, this agreement and the documents referred to in it are made for the benefit of the parties and their successors and permitted assigns and are not intended to benefit, or be enforceable by, anyone else.
- 20.2 The following provisions are intended to benefit future buyers of the Sale Shares from the

Buyer and, where they are identified in the relevant clauses, the Company and shall be enforceable by them to the fullest extent permitted by law:

- 20.2.1 clause 6 (Warranties) and Schedule 5 (Warranties), subject to clause 7 (Limitations on claims);
  - 20.2.2 clause 8 (Tax covenant) and Schedule 6 (Tax covenant);
  - 20.2.3 clause 9 (Restrictions on sellers);
  - 20.2.4 clause 10 (Confidentiality and announcements); and
  - 20.2.5 clause 17 (Interest on late payment).
- 20.3 Each of the parties represents to the others that their respective rights to terminate, rescind or agree any amendment, variation, waiver or settlement under this agreement are not subject to the consent of any person that is not a party to this agreement.

## **21. SUCCESSORS**

The rights and obligations of the Sellers and the Buyer under this agreement shall continue for the benefit of, and shall be binding on, their respective successors and assigns.

## **22. COUNTERPARTS**

This agreement may be executed in any number of counterparts, each of which is an original and which together have the same effect as if each party had signed the same document.

## **23. GOVERNING LAW AND JURISDICTION**

- 23.1 This agreement and any disputes or claims arising out of or in connection with its subject matter are governed by and construed in accordance with the law of England.
- 23.2 The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement.

This agreement has been entered into on the date stated at the beginning of it.

**SCHEDULE 1**  
**PARTICULARS OF SELLERS AND APPORTIONMENT OF CONSIDERATION SHARES**

<b>Seller's name, address and fax number</b>	<b>Number of Sale Shares</b>	<b>Number of Consideration Shares</b>
Luke Montagu 126 Bolingbroke Grove London SW11 1DA	2,375	11,875
Russell Stopford 2 Brooke Cottages 103 Bolingbroke Grove London SW11 1DA	2,375	11,875
Julie Montagu 126 Bolingbroke Grove London SW11 1DA	2,375	11,875
Christelle Bossard 2 Brooke Cottages 103 Bolingbroke Grove London SW11 1DA	2,375	11,875
Berkeley Cole 36 Argyle Street Rothesay Isle of Bute PA20 0AX	500	2,500

**SCHEDULE 2**  
**PARTICULARS OF THE COMPANY**

Na me:	Remote Productions Limited
Registration number:	5326873
Registered office:	Unity Chambers 34 High Street Dorchester Dorset DT1 1HA
Authorised share capital	
Amount:	£1,000
Divided into:	100,000 ordinary shares of £0.01p each
Issued share capital	
Amount:	£100
Divided into:	10,000 ordinary shares of £0.01p each
Registered shareholders (and number of Sale Shares held):	See Schedule 1
Beneficial owners of Sale Shares (if different) and number of Sale Shares beneficially owned:	None
Directors and shadow directors:	Russell Stopford Christelle Bossard Julie Montagu Luke Montagu
Secretary:	Julie Montagu
Auditor	None
Registered Charges	None

**SCHEDULE 3**  
**CONDITIONS**

1. No person:
  - 1.1 having commenced, or threatened to commence, any proceedings or investigation for the purpose of prohibiting or otherwise challenging or interfering with the Transaction; or
  - 1.2 having taken or threatened to take any action as a result of, or in anticipation of, the Transaction that would be materially inconsistent with any of the Warranties; or
  - 1.3 having enacted or proposed any legislation (including any subordinate legislation) which would prohibit, materially restrict or materially delay the implementation of the Transaction or the operations of the Company.

## SCHEDULE 4 COMPLETION

### PART 1 CONDUCT BETWEEN EXCHANGE AND COMPLETION

1. The Sellers shall procure that the Business shall be conducted in the manner provided in this Part of this Schedule 4 from the date of this agreement to Completion.
2. The Company shall carry on business in the normal course.
3. The Company shall not:
  - 3.1 dispose of any material assets used or required for the operation of its business; or
  - 3.2 allot or agree to allot any shares or other securities or repurchase, redeem or agree to repurchase or redeem any of the Shares; or
  - 3.3 pass any resolution; or
  - 3.4 enter into, modify or agree to terminate any Material Contract (as defined in paragraph 4 of Part 1 of Schedule 5; or
  - 3.5 incur any material capital expenditure on any individual item in; or
  - 3.6 borrow any sum in excess of the amounts borrowed in the ordinary course of business and available to it at the date of this agreement; or
  - 3.7 enter into any lease, lease-hire or hire-purchase agreement or agreement for payment on deferred terms; or
  - 3.8 pay any dividend or make any other distribution of its assets; or
  - 3.9 make, or agree to make, material alterations to the terms of employment (including benefits) of any of its directors, officers or employees; or
  - 3.10 dismiss any of its employees or employ or engage (or offer to employ or engage) any person; or
  - 3.11 create any Encumbrance over any of its assets or its undertaking; or
  - 3.12 institute, settle or agree to settle any legal proceedings relating to its business, except debt collection in the normal course of business; or
  - 3.13 incur any liability to the Sellers, other than trading liabilities incurred in the normal course of business.
4. The Company may do anything falling within paragraph 3 of Part 1 of this Schedule 4 if the Buyer has given prior written consent.
5. The Sellers shall give to the Buyer as soon as possible full details of any material change in the business, financial position or assets of the Company.



**PART 2**  
**WHAT THE SELLERS SHALL DELIVER TO THE BUYER AT COMPLETION**

1. At Completion, the Sellers shall deliver or cause to be delivered to the Buyer the following documents and evidence:
  - 1.1 transfers of the Sale Shares executed by the registered holders in favour of the Buyer;
  - 1.2 the share certificates for the Sale Shares in the names of the registered holders or an indemnity in the agreed form for any lost certificates;
  - 1.3 the waivers, consents and other documents required to enable the Buyer to be registered as the holder of the Sale Shares;
  - 1.4 the original of any power of attorney under which any document to be delivered to the Buyer under this paragraph 1 has been executed;
  - 1.5 in relation to the Company, the statutory registers and minute books (written up to the time of Completion), the common seal (if any), certificate of incorporation and any certificates of incorporation on change of name;
  - 1.6 a certified copy of the minutes of the board meetings held pursuant to Part 2 of Schedule 3
  - 1.7 the Deed of Adherence in the agreed form duly signed by each of the Sellers.

**PART 3**  
**MATTERS FOR THE BOARD MEETINGS AT COMPLETION**

1. The Sellers shall cause a board meeting of the Company to be held at Completion at which a resolution to register the transfer of the Sale Shares shall be passed at such board meeting of the Company, subject to the transfers being stamped at the cost of the Buyer.

## **SCHEDULE 5 WARRANTIES**

### **PART 1 GENERAL WARRANTIES**

#### **1. POWER TO SELL THE COMPANY**

- 1.1 The Sellers have all requisite power and authority to enter into and perform this agreement in accordance with its terms and the other documents referred to in it.
- 1.2 This agreement and the other documents referred to in it constitute (or shall constitute when executed) valid, legal and binding obligations on the Sellers in the terms of the agreement and such other documents.
- 1.3 Compliance with the terms of this agreement and the documents referred to in it shall not breach or constitute a default under any of the following:
  - 1.3.1 *any agreement or instrument to which any of the Sellers is a party or by which any of them are bound; or*
  - 1.3.2 *any order, judgment, decree or other restriction applicable to any of the Sellers.*

#### **2. SHARES IN THE COMPANY**

- 2.1 The Sale Shares constitute the whole of the allotted and issued share capital of the Company and are fully paid.
- 2.2 *The Sellers are the sole legal and beneficial owners of the Sale Shares.*
- 2.3 The Company has no Subsidiaries.
- 2.4 The Sale Shares are free from all Encumbrances and no commitment has been given to create an Encumbrance affecting the Sale Shares.
- 2.5 No right has been granted to any person to require the Company to issue any share capital and no Encumbrance has been created and no commitment has been given to create an Encumbrance in favour of any person affecting any unissued shares or debentures or other unissued securities of the Company.

#### **3. INFORMATION**

- 3.1 All information contained in the Disclosure Letter is complete, accurate and not misleading.
- 3.2 The particulars relating to the Company in this agreement are accurate and not misleading.

#### **4. CONTRACTS**

4.1 The definition in this paragraph applies in this agreement.

**"Material Contract"** an agreement or arrangement to which the Company is a party or is bound by and which is of material importance to the business, profits or assets of the Company.

4.2 Except for the agreements and arrangements Disclosed, the Company is not a party to or subject to any agreement or arrangement which:

4.2.1 is a Material Contract; or

4.2.2 is of a long term, unusual or exceptional nature or restricts the freedom of the Company; or

4.2.3 is not in the ordinary and usual course of business of the Company; or

4.2.4 involves agency or distributorship; or

4.2.5 involves partnership, joint venture, consortium, joint development, shareholders or similar arrangements; or

4.2.6 involves or is likely to involve an aggregate consideration payable by or to the Company in excess of £30,000; or

4.2.7 is not on arm's length terms.

4.3 Each Material Contract is in full force and effect and binding on the parties to it. The Company has not defaulted under or breached a Material Contract and:

4.3.1 no other party to a Material Contract has defaulted under or breached such a contract; and

4.3.2 no such default or breach by the Company, or any other party is likely or has been threatened.

4.4 No notice of termination of a Material Contract has been received or served by the Company and there are no grounds for determination, rescission, avoidance, repudiation or a material change in the terms of any such contract.

#### **5. TRANSACTIONS WITH THE SELLER**

5.1 There is no outstanding indebtedness or other liability (actual or contingent) and no outstanding contract, commitment or arrangement between the Company and the Sellers or any person Connected with any of the Sellers.

5.2 None of the Sellers, nor any person Connected with any of the Sellers, is entitled to a claim of any nature against the Company or has assigned to any person the benefit of a claim against the Company to which any of the Sellers or a person Connected with any of the Sellers would

otherwise be entitled.

## **6. FINANCE AND GUARANTEES**

- 6.1 No guarantee, mortgage, charge, pledge, lien, assignment or other security agreement or arrangement has been given by or entered into by the Company or any third party in respect of borrowings or other obligations of the Company or any other person.
- 6.2 The Company has no outstanding loan capital, nor has it lent any money that has not been repaid, and there are no debts owing to the Company other than debts that have arisen in the normal course of business.
- 6.3 The Company has not:
  - 6.3.1 factored any of its debts or discounted any of its debts or engaged in financing of a type which would not need to be shown or reflected in the Accounts; or
  - 6.3.2 waived any right of set-off it may have against any third party.
- 6.4 Full particulars of all money borrowed by the Company (including full particulars of the terms on which such money has been borrowed) have been Disclosed.

## **7. INSOLVENCY**

- 7.1 The Company:
  - 7.1.1 Is not insolvent or unable to pay its debts within the meaning of the Insolvency Act 1986 or any other insolvency legislation applicable to it; and
  - 7.1.2 has not stopped paying its debts as they fall due.
- 7.2 No step has been taken to initiate any process by or under which:
  - 7.2.1 the ability of the creditors of the Company to take any action to enforce their debts is suspended, restricted or prevented; or
  - 7.2.2 some or all of the creditors of the Company accept, by agreement or in pursuance of a court order, an amount less than the respective sums owing to them in satisfaction of those sums with a view to preventing the dissolution of the Company; or
  - 7.2.3 a person is appointed to manage the affairs, business and assets of the Company, on behalf of the Company's; or
  - 7.2.4 the holder of a charge over the Company's assets is appointed to control the business and assets of the Company.
- 7.3 In relation to the Company:
  - 7.3.1 no administrator has been appointed;
  - 7.3.2 no documents have been filed with the court for the appointment of an administrator; and

- 7.3.3 no notice of intention to appoint an administrator has been given by the relevant company, its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986).
- 7.4 No process has been initiated which could lead to the Company being dissolved and its assets *being distributed among the relevant company's creditors, shareholders or other contributors.*
- 7.5 No distress, execution or other process has been levied on an asset of the Company.

## **8. EMPLOYMENT**

- 8.1 The definitions in this paragraph apply in this agreement.

**"Employment Legislation"**                      legislation applying in England and Wales affecting contractual or other relations between employers and their employees or workers;

**"Employee"**                                      *any person employed by the Company under a contract of employment (written or otherwise);*

- 8.2 The Disclosure Letter includes details of all Employees of the Company, the particulars of each Employee and the principal terms of each contract including:
- 8.2.1 the company which employs or engages them;
- 8.2.2 their remuneration (including any benefits and privileges provided or which the Company is bound to provide to them or their dependants, whether now or in the future);
- 8.2.3 the commencement date of each contract and, if an Employee, the date on which continuous service began;
- 8.2.4 the length of notice necessary to terminate each contract, or if a fixed term, the expiry date of the fixed term and details of any previous renewals;
- 8.2.5 the type of contract (whether full or part-time or other);and
- 8.2.6 date of birth;
- 8.3 The Company has not incurred any actual or contingent liability in connection with any termination of employment of its Employees (including redundancy payments) or for failure to comply with any order for the reinstatement or re-engagement of any Employee.
- 8.4 There are no sums owing to or from any Employee or Director other than reimbursement of expenses, wages for the current salary period and holiday pay for the current holiday year.
- 8.5 The Company has not offered, promised or agreed to any future variation in the contract of any Employee.

## 9. PROPERTY

9.1 The definitions in this paragraph apply in this agreement.

**"Property"** the leasehold land and buildings, short particulars of which are set out in Schedule 6 and includes any part or parts of them and **Property** means any one of them or any part or parts of any one of them.

- 9.2 The particulars of the Properties set out in Schedule 6 are true, complete and accurate.
- 9.3 The Company does not own, use or occupy or have any interest in any land or buildings other than the Property.
- 9.4 The plans attached to the lease referred to in Schedule 7 ("the Lease") accurately delineate the extent of the Property.
- 9.5 The present user of the Property under the terms of the Lease is the permitted use.
- 9.6 The Company has a good and marketable title to the Property, is in exclusive and undisputed occupation of the whole of the Property and has not granted any underleases tenancies or licences in relation to the Property or any part of it.
- 9.7 The Company has not breached any of the covenants on its part or any restrictions or stipulations affecting the Property contained or referred to in the Lease.
- 9.8 The Stamp Duty Land Tax due on the grant of the Lease has been paid
- 9.9 No notices have been received in relation to the Property from the Local Authority, the Landlord or any other party in relation to the Property in the Lease other than the Statutory Notice relating to the exclusion of Sections 24 to 28 of the Landlord & Tenant Act 1954 served before the grant of the Lease by the Landlord.
- 9.10 No claims have been made against the Company in respect of repairs, dilapidations or any similar liability and no other monetary claim or liability is outstanding in relation to the Property and all rents and other payments due under the Lease have been paid to date.
- 9.11 No claim has been made by the Landlord in respect of the Rent Deposit the full amount of which is still held by the Landlord.

## 10. ACCOUNTS

- 10.1 The Accounts have been prepared in accordance with the Companies Acts and with accounting standards, policies, principles and practices generally accepted in the UK and in accordance with the law and give a true and fair view of the commitments, financial position and affairs of the Company as at the Accounts Date and of the profit and loss of the Company for the financial year ended on that date.
- 10.2 The Accounts:

- 10.2.1 make proper and adequate provision or reserve for all bad and doubtful debts, obsolete or slow-moving stocks, for depreciation on fixed assets and for liabilities (including contingent liabilities) and Taxation (including deferred Taxation);
- 10.2.2 do not overstate the value of current or fixed assets; and
- 10.2.3 do not understate any liabilities (whether actual or contingent).
- 10.3 The Accounts are not affected by any unusual or non-recurring items or any other factor that would make the financial position and results shown by the Accounts unusual or misleading in any material respect.
- 10.4 The Management Accounts have been prepared on a basis consistent with that employed in preparing the Accounts and fairly represent the assets and liabilities and the profits and losses of the Company as at and to the date for which they have been prepared.

## **11. ACCOUNTING, FINANCIAL AND OTHER RECORDS**

- 11.1 All accounting, financial and other records of the Company (including the statutory books of the Company):
  - 11.1.1 *have been properly prepared, filed and maintained;*
  - 11.1.2 *constitute an accurate record of all matters required by law to appear in them;*
  - 11.1.3 *do not contain any material inaccuracies or discrepancies;*
  - 11.1.4 *are in the possession of the Company; and*
  - 11.1.5 *comply with all applicable laws.*
- 11.2 No notice has been received or allegation made that any of those records are incorrect or should be rectified.

## **12. CHANGES SINCE ACCOUNTS DATE**

Since the Accounts Date:

- 12.1.1 the Company has conducted its business in the normal course and as a going concern;
- 12.1.2 there has been no material adverse change in the turnover or financial position of the Company nor the loss of any supplier or customer;
- 12.1.3 the Company has not issued or agreed to issue any share or loan capital;
- 12.1.4 no dividend or other distribution of profits or assets has been, or agreed to be, declared, made or paid by the Company;
- 12.1.5 the Company has not borrowed or raised any money or taken any form of financial security and no capital expenditure has been incurred on any individual item by the Company and the Company has not acquired, invested or disposed of (or agreed to acquire, invest or dispose of) any individual item by the Company in excess of £10,000;

and

- 12.1.6 no shareholder resolutions of the Company have been passed other than as routine business at an annual general meeting;

### **13. EFFECT OF SALE OF SALE SHARES**

Neither the acquisition of the Sale Shares by the Buyer nor compliance with the terms of this agreement will:

- 13.1.1 cause the Company to lose the benefit of any right or privilege it presently enjoys; or
- 13.1.2 *relieve any person of any obligation to the Company (whether contractual or otherwise), or enable any person to determine any such obligation or any right or benefit enjoyed by the Company or to exercise any right in respect of the Company; or*
- 13.1.3 so far as the Sellers are aware, result in any officer or senior Employee leaving the Company or receiving any payment or benefit.

## **PART 2 TAX WARRANTIES**

### **1. GENERAL**

- 1.1 All notices, returns (including any land transaction returns), reports, accounts, computations, statements, assessments and registrations and any other necessary information submitted by the Company to any Taxation Authority for the purposes of Taxation have been made on a proper basis, were punctually submitted, were accurate and complete when supplied and remain accurate and complete in all material respects and none of the above is, or is likely to be, the subject of any material dispute with any Taxation Authority.
- 1.2 All Taxation (whether of the United Kingdom or elsewhere) for which the Company is or has been liable or is liable to account for has been duly paid (insofar as such Taxation ought to have been paid).
- 1.3 *The Company has not made any payments representing instalments of corporation tax pursuant to the Corporation Tax (Instalment Payments) Regulations 1998 in respect of any current or preceding accounting periods and is not under any obligation to do so.*
- 1.4 The Company has not paid since incorporation or will become liable to pay, any penalty, fine, surcharge or interest charged by virtue of the provisions of the TMA 1970 or any other Taxation Statute.
- 1.5 The Company has not within the past 12 months been subject to any visit, audit, investigation, discovery or access order by any Taxation Authority and the Sellers are not aware of any circumstances existing which make it likely that a visit, audit, investigation, discovery or access order will be made in the next 12 months.



- 1.6 The amount of Taxation chargeable on the Company during any accounting period ending on or within the six years before Completion has not, to any material extent, depended on any concession, agreements or other formal or informal arrangement with any Taxation Authority.
- 1.7 All transactions in respect of which any clearance or consent was required from any Tax Authority have been entered into by the Company after such consent or clearance has been properly obtained, any application for such clearance or consent has been made on the basis of full and accurate disclosure of all relevant material facts and considerations, and all such transactions have been carried into effect only in accordance with the terms of the relevant clearance or consent.
- 1.8 *The Company has duly submitted all claims, disclaimers and elections the making of which has been assumed for the purposes of the Accounts and none of such claims, disclaimers or elections are likely to be disputed or withdrawn.*
- 1.9 The Disclosure Letter contains full particulars of all matters relating to Taxation in respect of which the Company is or at Completion will be entitled to:
  - 1.9.1 make any claim (including a supplementary claim), disclaimer or election for relief under any Taxation Statute or provision; and/or
  - 1.9.2 appeal against any assessment or determination relating to Taxation; and/or
  - 1.9.3 apply for a postponement of Taxation.
- 1.10 *The Company is not nor will it become liable to make to any person (including any Taxation Authority) any payment in respect of any liability to Taxation of any other person where that other person fails to discharge liability to Taxation to which he is or may be primarily liable.*
- 1.11 The Company has sufficient records to determine the tax consequence which would arise on any disposal or realisation of any asset owned at the Accounts Date or acquired since that date but prior to Completion.

## **2. CHARGEABLE GAINS**

The book value shown or adopted for the purposes of the Accounts as the value of each of the assets of the Company on the disposal of which a chargeable gain or allowable loss could arise does not exceed the amount which on a disposal of such asset at the date of this agreement would be deductible under section 38 of TCGA 1992.

## **3. CAPITAL ALLOWANCES**

- 3.1 No balancing charge under the CAA 2001 (or any other legislation relating to capital allowances) would be made on the Company on the disposal of any pool of assets (that is, all those assets whose expenditure would be taken into account in computing whether a balancing charge would arise on a disposal of any of those assets) or of any asset not in such a pool, on the assumption that the disposals are made for a consideration equal to the book value shown in or adopted for the purpose of the Accounts for the assets in the pool or (as the case may be) for the asset.

- 3.2 No event has occurred since the Accounts Date (otherwise than in the ordinary course of business) whereby any balancing charge may fall to be made against, or any disposal value may fall to be brought into account by, the Company under the CAA 2001 (or any other legislation relating to capital allowances).

#### **4. DISTRIBUTIONS**

- 4.1 No distribution or deemed distribution within the meaning of sections 209, 210 or 211 of ICTA 1988 has been made (or will be deemed to have been made) by the Company after 5 April 1965 except dividends shown in their audited accounts and neither the Company is bound to make any such distribution.
- 4.2 No rents, interest, annual payments or other sums of an income nature paid or payable by the Company or which the Company is under an existing obligation to pay in the future are or may be wholly or partially disallowable as deductions, management expenses or charges in computing profits for the purposes of corporation tax.
- 4.3 The Company has not within the period of seven years preceding Completion been engaged in, nor been a party to, any of the transactions set out in sections 213 to 218 (inclusive) of ICTA 1988, nor has it made or received a chargeable payment as defined in section 218(1) of ICTA 1988.

#### **5. LOAN RELATIONSHIPS**

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

#### **6. CLOSE COMPANIES**

- 6.1 The Company has not in any accounting period beginning after 31 March 1989 been a close investment-holding company as defined in section 13A of ICTA 1988.
- 6.2 No distribution within section 418 of ICTA 1988 has been made by the Company during the last six years ending at the Accounts Date, nor have such distributions been made between the Accounts Date and Completion.
- 6.3 Any loans or advances made or agreed to be made by the Company within sections 419 and 420 or 422 of ICTA 1988 have been disclosed in the Disclosure Letter and the Company has not released or written off or agreed to release or write off the whole or any part of any such loans or advances.

## **7. GROUP RELIEF**

Except as provided in the Accounts, the Company is not nor will it be obliged to make or be entitled to receive any payment for group relief as defined in section 402(6) of ICTA 1988 in respect of any period ending on or before the Accounts Date, or any payment for the surrender of the benefit of an amount of advance corporation tax or any repayment of such a payment.

## **8. GROUPS OF COMPANIES**

- 8.1 The Company has not entered or agreed to enter into an election pursuant to section 171A or section 179A of TCGA 1992 or paragraph 66 of Schedule 29 to the Finance Act 2002.
- 8.2 The execution or completion of this agreement or any other event since the Accounts Date will not result in any chargeable asset being deemed to have been disposed of and re-acquired by the Company for Taxation purposes pursuant to section 179 of TCGA 1992, paragraphs 58 or 60 of Schedule 29 to the Finance Act 2002 or as a result of any other Event (as defined in the Tax Covenant) since the Accounts Date.
- 8.3 The Company has never been party to any arrangements pursuant to section 36 of the Finance Act 1998 (group payment arrangements).
- 8.4 *The Company has not been, and is not, required by Schedule 28AA of ICTA 1988 to compute its profits or losses as if an arm's length provision had been made instead of any actual provision.*

## **9. INTANGIBLE ASSETS**

For the purposes of this paragraph 9, references to intangible fixed assets mean intangible fixed assets and goodwill within the meaning of Schedule 29 to the Finance Act 2002 to which the provisions of that Schedule apply and references to an intangible fixed asset shall be construed accordingly.

- 9.1 The Disclosure Letter sets out the amount of expenditure on each of the intangible fixed assets of the Company and provides the basis on which any debit relating to that expenditure has been taken into account in the Accounts or, in relation to expenditure incurred since the Accounts Date, will be available to the Company. No circumstances have arisen since the Accounts Date by reason of which that basis might change.
- 9.2 No claims or elections have been made by the Company under Part 7 of, or paragraph 86 of Schedule 29 to, the Finance Act 2002 in respect of any intangible fixed asset of the Company.
- 9.3 Since the Accounts Date:
  - 9.3.1 the Company has not owned an asset which has ceased to be a chargeable intangible asset in the circumstances described in paragraph 108 of Schedule 29 to the Finance Act 2002;
  - 9.3.2 the Company has not realised or acquired an intangible fixed asset for the purposes of

Schedule 29 to the Finance Act 2002; and

- 9.3.3 no circumstances have arisen which have required, or will require, a credit to be brought into account by the Company on a revaluation of an intangible fixed asset.

## **10. COMPANY RESIDENCE AND OVERSEAS INTERESTS**

- 10.1 The Company has within the past seven years been resident in the United Kingdom for corporation tax purposes and has not at any time in the past seven years been treated for the purposes of any double taxation arrangements having effect by virtue of section 249 of the Finance Act 1994, section 788 of ICTA 1988 or for any other tax purpose as resident in any other jurisdiction.
- 10.2 The Company has not without the prior written consent of HM Treasury caused, permitted or entered into any of the transactions specified in section 765 of ICTA 1988 (migration of companies).
- 10.3 The Company does not hold shares in a company which is not resident in the United Kingdom and which would be a close company if it were resident in the United Kingdom in circumstances such that a chargeable gain accruing to the company not resident in the United Kingdom could be apportioned to the Company pursuant to section 13 of TCGA 1992.
- 10.4 The Company is not holding nor has it held in the past seven years any interest in a controlled foreign company within section 747 of ICTA 1988, and neither of them has any material interest in an offshore fund as defined in section 759 of ICTA 1988.
- 10.5 The Company has no permanent establishment outside the UK.

## **11. ANTI-AVOIDANCE**

- 11.1 All transactions or arrangements made by the Company have been made on fully arm's length terms and there are no circumstances in which section 770A of, or Schedule 28AA to, ICTA 1988 or any other rule or provision could apply causing any Taxation Authority to make an adjustment to the terms on which such transaction or arrangement is treated as being made for Taxation purposes.
- 11.2 The Company has not at any time been a party to or otherwise involved in a transaction or series of transactions in relation to which advisers considered that there was a risk that the Company could be liable to taxation as a result of the principles in *W.T Ramsey Limited v IRC* (54 TC 101) or *Furniss v Dawson* (55 TC 324), as developed in subsequent cases.

## **12. INHERITANCE TAX**

- 12.1 The Company has not made any transfer of value within sections 94 and 202 of the IHTA 1984, nor has it received any value such that liability might arise under section 199 of the IHTA 1984, nor has it been a party to associated operations in relation to a transfer of value as defined by

section 268 of the IHTA 1984.

- 12.2 There is no unsatisfied liability to inheritance tax attached to or attributable to the Sale Shares or any asset of the Company is not subject to any Inland Revenue charge as mentioned in section 237 and 238 of the IHTA 1984.
- 12.3 No asset owned by the Company, nor the Sale Shares, are liable to be subject to any sale, mortgage or charge by virtue of section 212(1) of the IHTA 1984.

### 13. VAT

- 13.1 The Company is a taxable person and is duly registered for the purposes of VAT with quarterly prescribed accounting periods, such registration not being pursuant to paragraph 2 of Schedule 1 to the VATA 1994 or subject to any conditions imposed by or agreed with HM Revenue & Customs and the Company is not (nor are there any circumstances by virtue of which it may become) under a duty to make monthly payments on account under the Value Added Tax (Payments on Account) Order 1993.
- 13.2 The Company has complied with all statutory provisions, rules, regulations, orders and directions in respect of VAT.
- 13.3 All supplies made by the Company are taxable supplies and the Company has not been nor will it be denied full credit for all input tax by reason of the operation of sections 25 and 26 of the VATA 1994 and regulations made thereunder or for any other reasons and no VAT paid or payable by the Company is not input tax as defined in section 24 of the VATA 1994 and regulations made thereunder.
- 13.4 The Company is not nor has it been for VAT purposes a member of any group of companies and no act or transaction has been effected in consequence whereof the Company is or may be held liable for any VAT arising from supplies made by another company and no direction has been given nor will be given by HM Revenue & Customs under Schedule 9A to the VATA 1994 as a result of which the Company would be treated for the purposes of VAT as a member of a group.
- 13.5 For the purposes of paragraph 3(7) of Schedule 10 to the VATA 1994, the Company or any relevant associates of it (within the meaning of paragraph 3(7) of Schedule 10 to the VATA 1994) has exercised the election to waive exemption from VAT (pursuant to paragraph 2 of Schedule 10 to the VATA 1994) only in respect of those Properties listed (as having been the subject of such an election) in the Disclosure Letter and:
  - 13.5.1 all things necessary for the election to have effect have been done and in particular any notification and information required by paragraph 3(6) of Schedule 10 to the VATA 1994 has been given and any permission required by paragraph 3(9) of Schedule 10 to the VATA 1994 has been properly obtained; and
  - 13.5.2 no election has or will be disappplied or rendered ineffective by virtue of the application of the provisions of paragraph 2(3AA) of Schedule 10 to the VATA 1994.
- 13.6 The Company does not own nor has it at any time within the period of ten years preceding the date hereof owned any assets which are capital items subject to the capital goods scheme under

Part XV of the VAT Regulations 1995.

- 13.7 The Company has not made any claim for bad debt relief under section 36 of the VATA 1994 and there are no existing circumstances by virtue of which any refund of VAT obtained or claimed may be required to be repaid or there could be a claw back of input VAT from any Company under section 36(4) of the VATA 1994.

#### **14. STAMP DUTY AND STAMP DUTY LAND TAX**

- 14.1 Any document that may be necessary or desirable in proving the title of the Company to any asset which is owned by the Company at Completion or any document which the Company may wish to enforce or produce in evidence is duly stamped for stamp duty purposes.
- 14.2 Neither entering into this agreement nor Completion will result in the withdrawal of any stamp duty or stamp duty land tax relief granted on or before Completion and which will affect the Company.
- 14.3 The Disclosure Letter sets out full and accurate details of any chargeable interest (as defined under section 48, Finance Act 2003) acquired or held by the Company before Completion in respect of which the Sellers are aware or ought reasonably to be aware that an additional land transaction return will be required to be filed with a Taxation Authority and/or a payment of stamp duty land tax made on or after Completion.

**SCHEDULE 6**  
**TAX COVENANT**

**1. INTERPRETATION**

1.1 The definitions and rules of interpretation in this paragraph apply in this Tax Covenant.

**"Buyer's Relief"**

means:

- (a) any Accounts Relief (as defined in paragraph (a) of the definition of Liability for Taxation) or Repayment Relief (as defined in paragraph (a) of the definition of Liability for Taxation);
- (a) any Post Completion Relief of the Company (as defined in paragraph (b) of the definition of Liability for Taxation); and
- (b) any Relief, whenever arising, of the Buyer or any member of the Buyer's Tax Group other than the Company.

**"Buyer's Tax Group"**

*the Buyer and any other company or companies which either are or become after Completion, or have within the seven years ending at Completion, been treated as members of the same group as, or otherwise connected or associated in any way with, the Buyer for any Tax purpose;*

**"Event"**

*includes (without limitation) the expiry of a period of time, the Company becoming or ceasing to be associated with any other person for any Tax purpose or ceasing to be or becoming resident in any country for any Tax purpose, the death or the winding up or dissolution of any person, and any transaction (including the execution and completion of all provisions of this agreement), event, act or omission whatsoever, and any reference to an Event occurring on or before a particular date shall include Events which, for Tax purposes, are deemed to have, or are treated or regarded as having, occurred on or before that date;*

## **"Liability for Taxation"**

any liability of the Company to make a payment of or in respect of Tax, whether or not the same is primarily payable by the Company and whether or not the Company has or may have any right of reimbursement against any other person or persons and also includes:

- (a) the Loss of any Relief (Accounts Relief) where such Relief has been taken into account in computing and so reducing or eliminating any provision for deferred Tax which appears in the Accounts (or which, but for such Relief, would have appeared in the Accounts) or where such Relief was treated as an asset of the Company in the Accounts or was taken into account in computing any deferred Tax asset which appears in the Accounts (Loss of an Accounts Relief), in which case the amount of the Liability for Taxation shall be the amount of Tax which would (on the basis of Tax rates current at the date of such Loss) have been saved but for such Loss, assuming for this purpose that the Company had sufficient profits or was otherwise in a position to use the Relief;
- (a) the Loss of any right to repayment of Tax (including any repayment supplement) (Repayment Relief) which was treated as an asset in the Accounts (Loss of a Repayment Relief), in which case the amount of the Liability for Taxation shall be the amount of the Loss of the right to repayment and any related repayment supplement;
- (b) the set off or use against income, profits or gains earned, accrued or received or against any Tax chargeable in respect of an Event occurring on or before Completion of any Relief (Post-Completion Relief) or right to repayment of Tax (including any repayment supplement) which is not available before Completion, but arises after Completion in circumstances where, but for such set off or use, the Company would have had a liability to make a payment of or in respect of Tax for which the Buyer would have been able to



make a claim against the Sellers under this Tax Covenant (Loss of a Post-Completion Relief), in which case the amount of the Liability for Taxation shall be the amount of Tax saved by the Company as a result of such set off or use; and

- (c) any liability of the Company to make a payment pursuant to an indemnity, guarantee or covenant entered into before Completion under which the Company has agreed to meet or pay a sum equivalent to or by reference to another person's Tax liability, in which case the Liability for Taxation shall be equal to the amount of the liability.

**"Loss"**

any reduction, modification, loss, counteraction, nullification, utilisation, disallowance or clawback for whatever reason;

**"Overprovision"**

the amount by which any provision in the Accounts relating to Tax (other than a provision for deferred Tax) is overstated (except to the extent that such overstatement results from the utilisation of a Buyer's Relief), applying the accounting policies, principles and practices adopted in relation to the preparation of the Accounts (and ignoring the effect of any change in law made after Completion);

**"Relief"**

includes any loss, relief, allowance, credit, exemption or set off in respect of Tax or any deduction in computing income, profits or gains for the purposes of Tax and any right to a repayment of Tax;

**"Saving"**

the reduction or elimination of any liability of the Company to make an actual payment of corporation tax in respect of which the Sellers would not have been liable under paragraph 2, by the use of any Relief arising wholly as a result of a Liability for Taxation in respect of which the Sellers have made a payment under paragraph 2 of this Tax Covenant;

- "Tax"** all forms of taxation and statutory, governmental, state, federal, provincial, local, government or municipal charges, duties, imposts, contributions, levies, withholdings or liabilities wherever chargeable and whether of the UK or any other jurisdiction, and any penalty, fine, surcharge, interest, charges or costs relating thereto, and Taxation shall have the same meaning;
- "Tax Claim"** any assessment (including self-assessment), notice, demand, letter or other document issued or action taken by or on behalf of any Taxation Authority from which it appears that the Buyer or the Company is or may be subject to a Liability for Taxation or other liability in respect of which the Sellers are or may be liable under this Tax Covenant;
- "Taxation Authority"** HM Revenue & Customs, the Inland Revenue, HM Customs & Excise, the Department of Social Security and any other governmental or other authority whatsoever competent to impose any Tax, whether in the United Kingdom or elsewhere;
- "Taxation Statute"** any directive, statute, enactment, law or regulation wheresoever enacted or issued, coming into force or entered into providing for or imposing any Tax and including orders, regulations, instruments, bye-laws or other subordinate legislation made under the relevant statute or statutory provision and any directive, statute, enactment, law, order, regulation or provision which amends, extends, consolidates or replaces the same or which has been amended, extended, consolidated or replaced by the same.
- 1.2 References to gross receipts, income, profits or gains earned, accrued or received shall include any gross receipts, income, profits or gains deemed pursuant to the relevant Taxation Statute to have been or treated or regarded as earned, accrued or received.
- 1.3 References to a repayment of Tax shall include any repayment supplement or interest in respect of it.
- 1.4 A reference to an Event occurring on or before Completion includes a series or combination of Events the first of which occurred on or before Completion and was not in the ordinary course of

business of the Company and any of which occurring after Completion were in the ordinary course of business of the Company.

1.5 Any reference to something occurring **in the ordinary course of business** shall, without prejudice to the generality thereof, be deemed not to include:

1.5.1 anything which involves, or leads directly or indirectly to, any liability of the Company to Tax that is the primary liability of, or properly attributable to, or due from another person (other than a member of the Buyer's Tax Group), or is the liability of the Company only because some other person, other than a member of the Buyer's Tax Group, has failed to pay it or is the liability of the Company because it has elected to be regarded as taxable or liable or to be regarded as having made a disposal; or

1.5.2 anything which relates to or involves the acquisition or disposal of an asset or the supply of services (including the lending of money, or the hiring or licensing of tangible or intangible property) in a transaction which is not entered into on arm's length terms; or

1.5.3 anything which relates to or involves the making of a distribution for Tax purposes, the creation, cancellation or re-organisation of share or loan capital, the creation, cancellation or repayment of any intra-Group debt or the Company becoming or ceasing to be or being treated as ceasing to be a member of a Group or as becoming or ceasing to be associated or connected with any other company for any Tax purposes; or

1.5.4 anything which relates to a transaction or arrangement which includes, or a series of transactions or arrangements which include, any step or steps having no commercial or business purpose apart from the reduction, avoidance or deferral of a Liability for Taxation; or

1.5.5 anything which gives rise to a Liability for Taxation on deemed (as opposed to actual) profits or to the extent that it gives rise to a Liability for Taxation on an amount of profits greater than the difference between the sale proceeds of an asset and the amount attributable to that asset in the Accounts or, in the case of an asset acquired since the Accounts Date, the cost of that asset; or

1.5.6 anything which involves, or leads directly or indirectly to, a change of residence of the Company for Tax purposes.

1.6 Unless the contrary intention appears, words and expressions defined in this agreement have the same meaning in this Tax Covenant and any provisions in this agreement concerning matters of construction or interpretation also apply in this Tax Covenant.

## 2. COVENANT

2.1 The Sellers covenant with the Buyer that, subject to the provisions of this Tax Covenant, the Sellers shall be jointly and severally liable to pay to the Buyer by way of repayment of the Purchase Price for the Sale Shares, to the extent possible but not so as to limit the amount

payable where not wholly possible, an amount equal to any:

- 2.1.1 Liability for Taxation resulting from or by reference to any Event occurring on or before Completion or in respect of any gross receipts, income, profits or gains earned, accrued or received by the Company on or before Completion;
- 2.1.2 Liability for Taxation which arises solely as a result of the relationship for Tax purposes of the Company with any person other than a member of the Buyer's Tax Group whensoever arising;
- 2.1.3 any Liability for Taxation falling within paragraph (a) to paragraph (c) of the definition of Liability for Taxation;
- 2.1.4 any Liability for Taxation which is a liability for inheritance tax which:
  - (a) arises as a result of a transfer of value occurring or being deemed to occur on or before Completion (whether or not in conjunction with the death of any person whensoever occurring); or
  - (b) has given rise at Completion to a charge on any of the Sale Shares or assets of the Company; or
  - (c) gives rise after Completion to a charge on any of the Sale Shares in or assets of the Company as a result of the death of any person within seven years of a transfer of value which occurred before Completion; and
- 2.1.5 costs and expenses referred to in paragraph 11.
- 2.2 For the purposes of this Tax Covenant, in determining whether a charge on the shares in or assets of the Company arises at any time or whether there is a liability for inheritance tax, the fact that any Tax may be paid in instalments shall be disregarded and such Tax shall be treated for the purposes of this Tax Covenant as becoming due or to have become due and a charge as arising or having arisen on the date of the transfer of value or other date or Event on or in respect of which it becomes payable or arises.
- 2.3 The provisions of section 213 of IHTA 1984 (refund by instalments) shall be deemed not to apply to any liability for inheritance tax falling within this paragraph 2.

### **3. PAYMENT DATE AND INTEREST**

- 3.1 Where the Sellers are liable to make any payment under paragraph 2 (including any payment pursuant to paragraph 2.1.5), the due date for the making of that payment (Due Date) shall be the earlier of the date falling seven days after the Buyer has served a notice on the Sellers demanding that payment and in a case:
  - 3.1.1 that involves an actual payment of Tax by the Company (including any payment pursuant to paragraph 2.1.5), the date on which the Tax in question would have had to have been paid to the relevant Taxation Authority in order to prevent a liability to interest or a fine, surcharge or penalty from arising in respect of the Liability for Taxation in question; or

- 3.1.2 that falls within paragraph (a) of the definition of Liability for Taxation, the last date on which the Tax is or would have been required to be paid to the relevant Taxation Authority in respect of the period in which the Loss of the Relief occurs (assuming for this purpose that the Company had sufficient profits or was otherwise in a position to use the Relief); or
  - 3.1.3 that falls within paragraph (a) of the definition of Liability for Taxation, the date on which the repayment was due from the relevant Taxation Authority; or
  - 3.1.4 that falls within paragraph (b) of the definition of Liability for Taxation, the date on which the Tax saved by the Company is or would have been required to be paid to the relevant Taxation Authority; or
  - 3.1.5 that falls within paragraph (c) of the definition of Liability for Taxation not later than the fifth day before the day on which the Company is due to make the payment or repayment.
- 3.2 Any dispute as to the amount specified in any notice served on the Sellers under paragraph 3.1.2 to paragraph 3.1.5 shall be determined by an independent firm of accountants either agreed by the parties or in the absence of agreement as may be nominated by the President for the time being of the Institute of Chartered Accountants in England and Wales, such firm to be acting as experts and not as arbitrators (the costs of that determination being shared equally by the Sellers and the Buyer).
- 3.3 If any sums required to be paid by the Sellers under this Tax Covenant are not paid on the Due Date then, except to the extent that the Sellers' liability under paragraph 2 compensates the Buyer for the late payment by virtue of it extending to interest and penalties, such sums shall bear interest (which shall accrue from day to day after as well as before any judgment for the same) at the rate of 2% per annum over the base rate from time to time of Barclays Bank plc from the day following the Due Date up to and including the day of actual payment of such sums, such interest to be compounded quarterly.

#### 4. EXCLUSIONS

- 4.1 The covenant contained in paragraph 2 shall not cover any Liability for Taxation to the extent that:
- 4.1.1 a provision or reserve in respect thereof is made in the Accounts; or
  - 4.1.2 it arises as a result of a transaction in the ordinary course of business of the Company between the Accounts Date and Completion and is not an interest or penalty, surcharge or fine in connection with Tax; or
  - 4.1.3 it arises or is increased as a result only of any change in the law of Tax announced and coming into force after Completion (whether relating to rates of Tax or otherwise) or the withdrawal of any extra-statutory concession previously made by a Taxation Authority (whether or not the change purports to be effective retrospectively in whole or in part); or

- 4.1.4 it would not have arisen but for a change after Completion in the accounting bases on which the Company values its assets (other than a change made in order to comply with UK GAAP); or
- 4.1.5 the Buyer is compensated for any such matter under any other provision of this agreement; or
- 4.1.6 it would not have arisen but for a voluntary act or transaction carried out by the Buyer or the Company after Completion, being an act which:
  - (a) is not in the ordinary course of business; or
  - (b) could reasonably have been avoided; or
  - (c) the Company was not legally committed to do under a commitment that existed on or before Completion; or
  - (d) the Buyer was aware would give rise to the Liability for Taxation in question.

## 5. OVERPROVISIONS

- 5.1 If, on or before the seventh anniversary of Completion, the auditors for the time being of the Company certify (at the request and expense of the Sellers) that any provision for Tax in the Accounts has proved to be an Overprovision, then:
  - 5.1.1 the amount of any Overprovision shall first be set off against any payment then due from the Sellers under this Tax Covenant;
  - 5.1.2 to the extent that there is an excess, a refund shall be made to the Sellers of any previous payment or payments made by the Sellers under this Tax Covenant (and not previously refunded under this Tax Covenant) up to the amount of such excess; and
  - 5.1.3 to the extent that such excess as referred to in paragraph 5.1.2 is not exhausted, the remainder of that excess shall be carried forward and set off against any future payment or payments which become due from the Sellers under this Tax Covenant.
- 5.2 After the Company's auditors have produced any certificate under this paragraph 5, the Sellers or the Buyer may, at any time before the seventh anniversary of Completion, request the auditors for the time being of the Company (as the case may be) to review (at the expense of the Sellers) that certificate in the light of all relevant circumstances, including any facts of which they were not or it was not aware, and which were not taken into account, at the time when such certificate was produced and to certify whether, in their opinion, the certificate remains correct or whether, in light of those circumstances, it should be amended.
- 5.3 If the auditors make an amendment to the earlier certificate and the amount of the Overprovision is revised, that revised amount shall be substituted for the previous amount and any adjusting payment that is required shall be made by or to the Sellers (as the case may be) as soon as reasonably practicable.

## **6. SAVINGS**

If (at the Sellers' request and expense) the auditors for the time being of the Company determine that the Company has obtained a Saving, the Buyer shall, as soon as reasonably practicable thereafter, repay to the Sellers the lesser of:

- 6.1.1 the amount of the Saving (as determined by the auditors) less any costs incurred by the Buyer or the Company; and
- 6.1.2 the amount paid by the Sellers under paragraph 2 in respect of the Liability for Taxation which gave rise to the Saving less any part of that amount previously repaid to the Sellers under any provision of this Tax Covenant or otherwise.

## **7. RECOVERY FROM THIRD PARTIES**

- 7.1 Where the Sellers have paid an amount in full discharge of a liability under paragraph 2 in respect of any Liability for Taxation and the Buyer or the Company is or becomes entitled to recover from some other person (not being the Buyer or the Company or any other company within the Buyer's Tax Group), any amount in respect of such Liability for Taxation, the Buyer shall or shall procure that the Company shall:

- 7.1.1 notify the Sellers of its entitlement as soon as reasonably practicable; and
- 7.1.2 if required by the Sellers and, subject to the Buyer or the Company being indemnified by the Sellers against any Tax that may be suffered on receipt of that amount and any costs and expenses incurred in recovering that amount, take or procure that the Company takes all reasonable steps to enforce that recovery against the person in question (keeping the Sellers fully informed of the progress of any action taken), provided that the Buyer shall not be required to take any action pursuant to this paragraph 7.1 which, in the Buyer's reasonable opinion, is likely to harm its or the Company's commercial relationship (potential or actual) with that or any other person.

- 7.2 If the Buyer or the Company recovers any amount referred to in paragraph 7.1, the Buyer shall account to the Sellers for the lesser of:

- 7.2.1 *any amount recovered (including any related interest or related repayment supplement) less any Tax suffered in respect of that amount and any costs and expenses incurred in recovering that amount (save to the extent that amount has already been made good by the Sellers under paragraph 7.1.2); and*
- 7.2.2 the amount paid by the Sellers under paragraph 2 in respect of the Liability for Taxation in question.

## **8. CONDUCT OF TAX CLAIMS**

- 8.1 If the Buyer or the Company becomes aware of a Tax Claim, the Buyer shall give or procure that

notice in writing is given to the Sellers as soon as is reasonably practicable, provided that if any of the Sellers receive any Tax Claim for whatever reason, they shall notify the Buyer in writing as soon as is reasonably practicable and the Buyer shall be deemed, on receipt of such notification, to have given the Sellers notice of such Tax Claim in accordance with the provisions of this paragraph 8, provided always that the giving of such notice shall not be a condition precedent to the Sellers' liability under this Tax Covenant.

- 8.2 Provided the Sellers indemnify the Buyer and the Company to the Buyer's reasonable satisfaction against all liabilities, costs, damages or expenses which may be incurred thereby including any additional Liability for Taxation, the Buyer shall take and shall procure that the Company shall take such action as the Sellers may reasonably request by notice in writing given to the Buyer or the Company to avoid, dispute, defend, resist, appeal or compromise any Tax Claim (such a Tax Claim where action is so requested being hereinafter referred to as a Dispute), provided that neither the Buyer nor the Company shall be obliged to appeal or procure an appeal against any assessment to Tax raised on any of them if, the Sellers having been given written notice of the receipt of such assessment, the Buyer or the Company have not within 14 days of the date of the notice received instructions in writing from the Sellers to do so.

8.3 If:

- 8.3.1 the Sellers do not request the Buyer or the Company to take any action under paragraph 8.2 or fail to indemnify the Buyer or the Company to the Buyer's reasonable satisfaction within a period of time (commencing with the date of the notice given to the Sellers) that is reasonable, having regard to the nature of the Tax Claim and the existence of any time limit in relation to avoiding, disputing, defending, resisting, appealing or compromising such Tax Claim, and which period shall not in any event exceed a period of 14 days; or
- 8.3.2 any of the Sellers (or the Company before Completion) has been involved in a case involving fraudulent conduct or wilful default in respect of the Liability for Taxation which is the subject matter of the Dispute; or
- 8.3.3 the Dispute involves an appeal against a determination by the General or Special Commissioners of the VAT and Duties Tribunal, unless the Sellers have obtained the opinion of Tax counsel of at least 5 years' standing that there is a reasonable prospect that the appeal will succeed,

the Buyer or the Company shall have the conduct of the Dispute absolutely (without prejudice to its rights under this Tax Covenant) and shall be free to pay or settle the Tax Claim on such terms as the Buyer or the Company may in its absolute discretion considers fit.

- 8.4 Subject to paragraph 8.3, by agreement in writing between the Buyer and the Sellers, the conduct of a Dispute may be delegated to the Sellers on such terms as may be agreed from time to time between the Buyer and the Sellers provided that, unless the Buyer and the Sellers specifically agree otherwise in writing, the following terms shall be deemed to be incorporated into any such agreement:



- 8.4.1 the Buyer shall promptly be kept fully informed of all matters pertaining to a Dispute and shall be entitled to see and keep copies of all correspondence and notes or other written records of telephone conversations or meetings and, in the event that there is no written record, shall be given an immediate report of all telephone conversations with any Taxation Authority to the extent that it relates to a Dispute;
  - 8.4.2 the appointment of solicitors or other professional advisers shall be subject to the written approval of the Buyer, such approval not to be unreasonably withheld or delayed;
  - 8.4.3 all material written communications pertaining to the Dispute which are to be transmitted to the relevant Taxation Authority shall first be submitted to the Buyer for approval and shall only be finally transmitted if such approval is given, such approval not to be unreasonably withheld or delayed; and
  - 8.4.4 the Sellers shall make no settlement or compromise of the Dispute or agree any matter in the conduct of the Dispute which is likely to affect the amount thereof or the future liability to Tax of the Buyer without the prior approval of the Buyer or the Company (as may be appropriate), such approval not to be unreasonably withheld or delayed.
- 8.5 The Buyer shall provide and shall procure that the Company provides to the Sellers and the Sellers' professional advisors 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 the matter and enabling the Sellers to take such action as is referred to in this paragraph 8.
- 8.6 Neither the Buyer nor the Company shall be subject to any claim by or liability to any of the Sellers for non-compliance with any of the foregoing provisions of this paragraph 8 if the Buyer or the Company has bona fide acted in accordance with the instructions of any one or more of the Sellers.

## **9. GROSSING UP**

- 9.1 All sums payable by the Sellers to the Buyer under this Tax Covenant shall be paid free and clear of all deductions or withholdings whatsoever unless the deduction or withholding is required by law. If any deductions or withholdings are required by law to be made from any of the sums payable under this Tax Covenant, the Sellers shall pay to the Buyer such sum as will, after the deduction or withholding has been made, leave the Buyer with the same amount as it would have been entitled to receive in the absence of any such requirement to make a deduction or withholding.
- 9.2 If the Buyer incurs a taxation liability which results from, or is calculated by reference to, any sum paid under this Tax Covenant, the amount so payable shall be increased by such amount as will ensure that, after payment of the taxation liability, the Buyer is left with a net sum equal to the sum it would have received had no such taxation liability arisen.
- 9.3 If the Buyer would, but for the availability of a Buyer's Relief, incur a taxation liability falling within paragraph 9.2, it shall be deemed for the purposes of that paragraph to have incurred and paid

that liability.

- 9.4 If the Buyer assigns the benefit of this Tax Covenant or this agreement, the Sellers shall not be liable pursuant to paragraph 9.1 or paragraph 9.2, save to the extent that the Sellers would have been so liable had no such assignment occurred.

#### **10. COSTS AND EXPENSES**

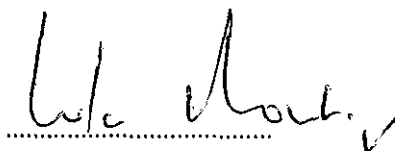
The covenant contained in paragraph 2 of this Tax Covenant shall extend to all costs and expenses incurred by the Buyer or the Company in connection with any matter included under paragraph 2 of this Tax Covenant and the enforcement of rights under this Tax Covenant.

**SCHEDULE 7**  
**PARTICULARS OF PROPERTY**

**LEASEHOLD PROPERTY**

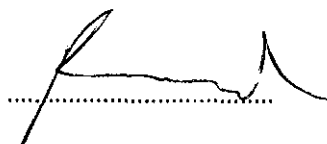
<b>Description of the Property</b>	Unit 2, 125/126 Bolingbroke Grove, London SW11
<b>Description of Lease (lease, underlease, licence, date and parties)</b>	Lease dated 2/6/05 between Jakafraik Properties Ltd (1) and Remote Productions Ltd (2)
<b>Owner</b>	the Company
<b>Registered/unregistered (and title number)</b>	Unregistered
<b>Contractual date of termination of lease</b>	30/11/08
<b>Occupier</b>	the Company
<b>Current Use</b>	Offices

Signed by **LUKE MONTAGU**



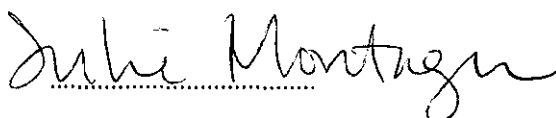
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Signed by **RUSSELL STOPFORD**



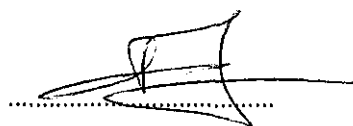
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Signed by **JULIE MONTAGU**



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Signed by **CHRISTELLE BOSSARD**



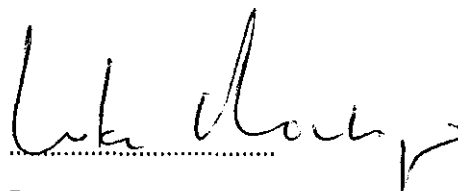
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Signed by **BERKELEY COLE**

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Signed by

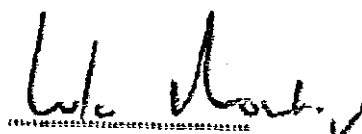
for and on behalf of **METROPOLITAN  
FILM SCHOOL LIMITED**



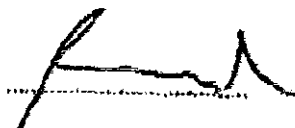
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Director

Signed by **LUKE MONTAGU**



Signed by **RUSSELL STOPFORD**



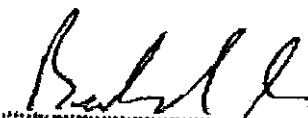
Signed by **JULIE MONTAGU**



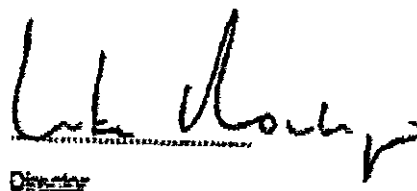
Signed by **CHRISTELLE BOSSARD**



Signed by **BERKELEY COLE**



Signed by  
for and on behalf of **METROPOLITAN  
FILM SCHOOL LIMITED**

  
Director