

5175576

EXECUTION COPY

DATED 19 September 2007

BJØRNAR JENSEN and LASSE BERNER (1)

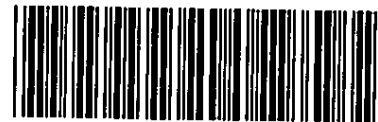
and

WIN PLC (2)

AGREEMENT
for the sale and purchase of
the entire issued share capital of
QUATTROCOMM AG

CLYDE&CO LLP
Ref:MZC/0706735

TUESDAY



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CONTENTS

1	Definitions and interpretation	.1
2.	Sale and purchase	.8
3.	Consideration	.9
4.	Completion	10
5.	Warranties	12
6	Title Warranties	13
7.	Buyer warranty	14
8.	Tax Covenant	14
9.	Limitation on liability	14
10.	Confidential Information and Group Intellectual Property	17
11	Restrictive covenants	17
12	Consequences of termination or cessation of this Agreement	19
13	Interest	19
14.	Further assurance	19
15.	Variation	19
16.	Waiver and remedies	19
17.	announcements	20
18.	Assignment	20
19.	General	21
20.	Notices	21
21.	Counterparts	22
22	Buyer's Option over initial consideration shares	22
23.	Arbitration	24
24.	Governing law	24
	Schedule 1 - The Sellers	26
	Schedule 2	27
	<i>The Company</i>	27
	<i>The Subsidiaries</i>	28
	Schedule 3 - The Warranties	30
	<i>Part A – General</i>	30
	<i>Part B – Commercial</i>	35
	<i>Part C – Taxation</i>	39
	<i>Part D – Employment</i>	40
	<i>Part E – Intellectual Property</i>	41
	<i>Part F – Property</i>	45
	<i>Part H – Social Security and Pensions</i>	46

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Schedule 4 - Title Warranties.....	47
Schedule 5 - Tax Covenant	48
Schedule 6 - Additional consideration.....	61
Schedule 7 - Completion Accounts.....	67

100
28

THIS AGREEMENT is made on 19 September 2007

BETWEEN

- (1) **THE PERSONS** whose names and addresses are set out in **column (1)** of **Schedule 1** (the **Sellers** and each a **Seller**), and
- (2) **WIN PLC** (registered in England and Wales No 5175576) whose registered office is at 1 Cliveden Office Village, Lancaster Road, Cressex Business Park, High Wycombe, Buckinghamshire HP12 3YZ (the **Buyer**)

IT IS AGREED as follows

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, unless the context otherwise requires, the following expressions shall have the meanings set opposite them

€ means the euro, being the lawful currency of the member states of the European Union that adopt the single currency,

Accounts means the audited report and accounts of the Company for the financial year ended on the Accounts Date,

Accounts Date means 31 December 2006,

Additional Consideration means the First Additional Consideration Shares and/or the Second Additional Consideration Shares,

AIM means the AIM market of the London Stock Exchange plc,

Associate means in relation to a party any person controlling (directly or indirectly), controlled by or under common control with that party For the purposes of this definition, "control" shall mean direct or indirect beneficial ownership of a majority of the share capital, stock or other participating interests carrying the right to vote or to distribution of profits of that person or entity, as the case may be or the right to exercise a dominant influence (directly or indirectly) over the management of that person or entity,

Business means, for the purposes of **Clause 11 (Restrictive Covenants)**, any interactive services or products provided by the Buyer's Group as at Completion or during the 12 months immediately preceding Completion or, to the extent that such services or products relate to telecommunications or interactive services, those services or products provided by the Buyer's Group or any Group Company during the Earn Out Period following Completion,

Business Day means a day other than a Saturday or Sunday when banks are open for business (including dealings in foreign exchange and foreign currency deposits) in London and Zurich,

Buyer's Group means the Buyer and any subsidiary or holding company of the Buyer and any subsidiary of any such holding company (other than any Group Company),

Buyer's SMS Business means in relation to the Earn Out Period those parts of the Buyer's SMS business in which the Sellers have not during the Earn Out Period

- (a) had an active involvement, and/or
- (b) provided a substantial part of the content used by the Buyer's SMS business,

Buyer's Solicitors means Clyde & Co LLP of Beaufort House, Chertsey Street, Guildford GU1 4HA, United Kingdom (Ref MZC/0706735),

Bjørnar Jensen Share means 59% of the aggregate value of the following

- (a) the number of First Additional Consideration Shares and Second Additional Consideration Shares allotted under this Agreement and valued in accordance with **Clause 9.1(c)(ii)**,
- (b) the number of Initial Consideration Shares allotted under this Agreement and valued in accordance with **Clause 9.1(c)(ii)**, and
- (c) the Initial Consideration,

CHF means Swiss francs, being the lawful currency of Switzerland,

Claim means a claim by the Buyer involving or relating to a breach of a Warranty, under the Tax Covenant or under the indemnity in **Clause 6.6**,

Company means Quattrocomm AG, brief details of which are set out in **Part 1** of **Schedule 2**,

Company Profit Before Tax means in relation to the period 1 January 2008 to 31 December 2008 (inclusive), the aggregate profit (less any losses and excluding any interest owed to the Company pursuant to any loan arrangements entered into by the Company with any other Group Company or with any member of the Buyer's Group on or following Completion) of the Company's Business as shown in the accounts of the Company for that period before deducting Taxation on profit,

Completion means completion of the sale and purchase of the Shares contemplated by this Agreement,

Completion Accounts means the accounts to be prepared as at Completion in accordance with the provisions of **Schedule 7**,

Company Business means any services or products provided by the Company as at Completion or during the 12 months immediately preceding Completion or, to the extent that the Sellers have an active involvement in such services or products, those services or products provided by the Company during the Earn Out Period following Completion,

Confidential Information means information (however stored) relating to or connected with the business, products, services, clients, customers, suppliers or financial or other affairs of any Group Company, including information concerning or relating to the Intellectual Property, any technical process, or the marketing of goods or services and any other matters concerning the clients, customers or suppliers of, or other persons having dealings with, any Group Company,

Consideration Shares means ordinary shares of £0.10 each in the capital of the Buyer ranking equally in all respects with the existing ordinary shares in the capital of the Buyer,

Control means in relation to the Buyer, the power of a person to secure that the affairs of the Buyer are conducted in accordance with the wishes of that person (or persons) by means of the holding of shares in the Buyer (and a **Change of Control** occurs if a person who controls the Buyer ceases to do so or another person acquires control of it),

Disclosure Letter means the letter from the Sellers to the Buyer in relation to the Warranties, having the same date as this Agreement,

Early Earn Out Date has the meaning given in **Paragraph 5 of Schedule 6**,

Earn Out Period means the period commencing 1 January 2008 and ending on 31 December 2008 or such earlier period and termination date as may be determined under **Paragraph 5.1 of Schedule 6**,

Encumbrance means a mortgage, debenture, charge (legal or equitable, fixed or floating), pledge, lien, option, restriction, right of first refusal, right of pre-emption, third party right or interest, other encumbrance or security interest of any kind (including, where this definition is used in **Part F of Schedule 3**, any rentcharge, agreement for sale or lease or estate contract), or another type of preferential arrangement (including a title transfer and retention arrangement) having similar effect,

Environmental Law means any applicable law relating to the protection of the environment (including human health and safety) and the conservation of natural resources and including pollution control, waste management and recovery, hazardous substances, nuisances, contaminated land and the environmental effects of products,

First Additional Consideration Shares means such number of Consideration Shares as calculated in accordance with **Paragraph 1.1 of Schedule 6**,

Group means the Company and the Subsidiaries,

Group Company means the Company or any of the Subsidiaries,

Group Intellectual Property means all Intellectual Property owned by the Group,

Initial Consideration means the amount of €2,000,000,

Initial Consideration Shares means 494,397 Consideration Shares,

Intellectual Property means the following rights for their full term (including any extensions or renewals thereof) and wherever in the world enforceable (i) rights in, and in relation to, any patents, petty patents, registered designs, design rights, trade marks, rights in domain names, trade and business names (including all goodwill associated with any trade marks or trade or business names), copyrights, moral rights, rights in databases, topography rights and utility models (including the benefit of all registrations of, applications to register and the right to apply for registration of any of the foregoing items and all rights in the nature of any of the foregoing), (ii) trade secrets, confidential information and other proprietary rights in data and information, including rights to know how and other technical information, (iii) rights in the nature of unfair competition rights and to sue for passing off, and (iv) all other intellectual or industrial property rights of any nature whatsoever,

IP Agreements means all agreements, contracts, arrangements, assignments, licences or sub-licences (whether written, oral or in any other form) relating to Intellectual Property entered into by the Company,

IT Agreements means all agreements, arrangements or licences (whether written, oral or in any other form) relating to the IT Systems,

IT Systems means all computer, telecommunications and network equipment and peripherals used by the Group or any Group Company, and the Software,

Lasse Berner Share means 41% of the aggregate value of the following

- (d) the number of First Additional Consideration Shares and Second Additional Consideration Shares allotted under this Agreement and valued in accordance with **Clause 9.1(c)(ii)**,
- (e) the number of Initial Consideration Shares allotted under this Agreement and valued in accordance with **Clause 9 1(c)(ii)**, and
- (f) the Initial Consideration,

Lock-in Agreement means the agreement between the parties in agreed form relating to the restrictions on sale of the Consideration Shares,

Non-Tax Claim means a Claim that is not a Tax Claim,

Option means the option granted in favour of the Buyer by **Clause 22.1**,

Option Shares means the number of Initial Consideration Shares as calculated in accordance with **Clause 22.2**,

Outstanding Shareholder Loan Amount means CHF 583,325 02, being the aggregate amount outstanding under the Shareholder Loans,

Pre-Earn Out Pre-Tax Profits means the Pre-Tax Profits calculated in relation to the period commencing from the date of this Agreement and ending on the Early Earn Out Date (inclusive) provided such Early Earn Out Date occurs on or before 31 December 2007,

Pre-Tax Profits means in relation to the Earn Out Period, the aggregate profits (less any losses) of the Company and its Subsidiaries as shown in the accounts of the Company and its Subsidiaries for that period

- (a) before
 - (i) deducting Taxation on profit,
- (b) after deducting
 - (i) profits or adding back losses of a capital nature arising on the disposal of, or on the revaluation of, assets or investments of the Company or its Subsidiaries,
 - (ii) all direct costs, including any depreciation, arising from any specific developments that have been approved by the Sellers and have been carried out since Completion to support the Business,
 - (iii) any sales commission arising from the sale or supply of products and provision of services by the Company and its Subsidiaries which may be attributed to employees of the Buyer (other than the individual Sellers), provided that the extent of any such sales commission has been agreed in writing by the Sellers,
 - (iv) all actual costs of finding and recruiting a replacement for either of Bjørnar Jensen and/or Lasse Berner together with the amount (if any) by which the actual costs of engaging such a replacement would exceed the actual costs were Bjørnar Jensen and/or Lasse Berner (as applicable) continued to be engaged and in circumstances where **Clauses 3.7.1 to 3.7.3** do not apply,
- (c) adding profits of the Buyer arising from the provision of managed portal and content services to other clients of the Buyer's Group where the Sellers have been substantially involved in the provision of such services, and
- (d) excluding
 - (i) unless otherwise agreed in writing by the Sellers, any costs that may be re-charged to the Buyer's Group including without limitation any allocation of the Group's overhead costs,
 - (ii) any profits arising from any offer or tender made by any member of the Buyer's Group to sell or supply products or provide services which were outstanding at Completion and which were accepted by the customer following Completion (other than Cosmote Mobile Telecommunications S A),
 - (iii) the payment of €100,000 by Agilior GmbH and/or Berner Consult to the Buyer under the terms of their respective consultancy agreements with the Buyer for terminating such agreement on or prior to 31 December 2008,
 - (iv) any profits arising from the Buyer's SMS Business,

- (v) any payment made under a Claim by the Sellers to the extent that such payment may impact upon the calculation of the Pre-Tax Profits,
- (vi) any profits arising from the provision of managed portal and content services or other services to other clients of the Buyer's Group that
 - (A) the Sellers' have had no active involvement with, and
 - (B) are attributable to the acquisition of further businesses by the Buyer's Group during the Earn Out Period, and
- (vii) unless otherwise agreed in writing by the Sellers, the effect of any transactions after Completion that are outside the Business, or that are not made at arm's length and on market terms,

Prohibited Area for the purposes of **Clause 11 (Restrictive Covenants)** means (a) any country within the European Economic Area, and (b) any other country in which any Group Company has supplied goods or services or given advice within the two years immediately preceding Completion,

Relevant Share Price means the average middle market quotations for ordinary shares in the Buyer as derived from the Daily Official List of the London Stock Exchange plc for the five Business Days immediately preceding the date on which the Consideration Shares are to be allotted as certified by the Buyer's broker,

Second Additional Consideration Shares means such number of Consideration Shares as calculated in accordance with **Paragraph 1.2 of Schedule 6**,

Sellers' Accountants means Zingg Hotz und Partner of Postfach 5363, 6300 Zug, Switzerland,

Sellers' Lawyers means Vischer & Co of Aeschenvorstadt 4, 4010 Basel, Switzerland,

Shareholder Loans means the on-demand loans between the Company as lender and the Sellers as borrowers,

Shares means the whole of the issued share capital of the Company, being 200 bearer shares with a nominal value of CHF 1,000 each,

Software means all software used by the Group or any Group Company,

Subsidiaries means the companies brief details of which are set out in **Part II of Schedule 2** (and **Subsidiary** means any one of them),

Taxation or Tax means

- (i) all forms of taxation, whether direct or indirect, including without limitation, income, gross receipts, value added, severance, property, use, duty, license, employment, withholding or similar taxes (including without limitation, social security contributions and any other payroll taxes) together with any related interest, surcharge, fine or penalty imposed, collected, assessed or administered by any governmental, taxing or other authority responsible for the imposition, assessment, administration or collection of any Tax, and

- (ii) any obligation to pay an amount described in part (i) above by reason of having assumed the liability of any other person under contract, having filed a consolidated, combined or similar joint Tax Return, having been a transferee or otherwise,

Tax Authority means any taxing or other authority, body or official competent to impose any liability in respect of Taxation or responsible for the administration and/or collection of Taxation or enforcement of any law in relation to Taxation anywhere in the world irrespective of whether on a local, municipal, governmental, state or federal level,

Tax Claim means a Claim involving or relating to a breach of a Tax Warranty or under the Tax Covenant,

Tax Covenant means the covenant in **Paragraph 2 of Schedule 5**,

Tax Liability means a liability of the Company to make or suffer an actual or increased payment of or in respect of Tax, including a liability of another person (other than the Company or the Buyer's Group), for which the Company is liable as a result of such other person failing to discharge such tax liability,

Tax Return means any return, declaration, report or information return relating to Taxes, including any schedule or attachments thereto, and including any amendment thereof,

Tax Warranties means the Warranties set out in **Part C of Schedule 3** (and **Tax Warranty** means any one of them),

Title Warranties means the statements contained or referred to in **Clause 6 (Title Warranties)** and set out in **Schedule 4** (and **Title Warranty** means any one of them),

UKLA means the United Kingdom Financial Services Authority acting in its capacity as the competent authority for the purposes of Part VI of the United Kingdom Financial Services and Markets Act 2000,

VAT means value added tax, and

Warranties means the statements contained or referred to in **Clause 5 (Warranties)** and set out in **Schedule 3** (and **Warranty** means any one of them)

1 2 Interpretation

In this Agreement (except where the context otherwise requires)

- (a) words and phrases which are not defined but whose definitions are contained or referred to in Schedule 1 to the Interpretation Act 1978 have the same meanings as in that Schedule,
- (b) words in the singular include the plural and vice versa and words importing any gender include every gender,
- (c) references to persons include individuals, firms, partnerships, companies, corporations, unincorporated associations, governments, authorities,

agencies and trusts (in each case, whether or not having separate legal personality),

- (d) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms,
 - (e) references to **liabilities** are to all liabilities of any nature whatsoever, including actual or contingent liabilities and unquantified or disputed liabilities (and liability shall be construed accordingly),
 - (f) references to any English law legal term (including without limitation any reference to a United Kingdom statute or statutory provision) shall in respect of any jurisdiction other than England, be construed as references to the term or concept which most nearly corresponds to it in that jurisdiction,
 - (g) a reference to a statute or statutory provision includes a reference to any subordinate legislation made under it from time to time and a reference to a statute, statutory provision or subordinate legislation includes a reference to
 - (i) any statute, statutory provision or subordinate legislation which it re-enacts or replaces (with or without modification), and
 - (ii) such statute, statutory provision or subordinate legislation as from time to time amended, re-enacted or replaced (whether before or after the date of this Agreement) save to the extent that any such amendment, re-enactment or replacement which takes effect after the date of this Agreement would impose any new or extended obligation or liability on, or otherwise adversely affect the rights of, any party
 - (h) any reference to a document being **in the agreed form** means a document in the form agreed by the parties to it and signed or initialled for the purposes of identification by them or on their behalf, with such alterations (if any) as may subsequently be agreed by or on behalf of such parties,
 - (i) references to Clauses and Schedules are to clauses of and schedules to this Agreement, and references to Paragraphs are references to paragraphs of the Schedule in which the reference appears,
 - (j) the table of contents and Clause headings are included for ease of reference only and shall not affect the interpretation of this Agreement, and
- 1 3 Any statement in this Agreement qualified by the expression **so far as the Sellers are aware or to the best of the Sellers' knowledge, information and belief** or any similar expression shall be deemed to include an additional statement that it has been made after due and careful enquiry of each of the Sellers, employees and directors of each Group Company, the Company's legal advisers, the Sellers' Lawyers and the Sellers' Accountants
- 1 4 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement, and any reference to this Agreement includes the Schedules

2 SALE AND PURCHASE

- 2 1 The Sellers shall sell the Shares to the Buyer with full title guarantee
- 2 2 The Sellers shall sell the Shares fully paid and free from all Encumbrances and together with all benefits and rights attaching to the Shares, including all dividends and other distributions declared, paid or made on or after the date of this Agreement
- 2 3 The Buyer shall purchase the Shares on the basis set out in **Clause 2.2** but it shall not be obliged to complete the purchase of the Shares unless the purchase of all the Shares is completed simultaneously
- 2 4 Each of the Sellers irrevocably waives all pre-emption rights and any other rights of first refusal he may have in relation to any of the Shares under the articles of association of the Company or otherwise

3 **CONSIDERATION**

- 3 1 The consideration for the Shares (the **Consideration**) shall be the aggregate of
 - 3 1 1 the payment to the Sellers of the Initial Consideration,
 - 3 1 2 the payment on behalf of the Sellers to the Company of the Outstanding Shareholder Loan Amount,
 - 3 1 3 the allotment to the Sellers of the Initial Consideration Shares, and
 - 3 1 4 the allotment to the Sellers of the First Additional Consideration Shares and Second Additional Consideration Shares (if any) in accordance with the procedure and terms set out in **Schedule 6**
- 3 2 The Consideration shall be apportioned between the Sellers in the manner set out in **Schedule 1**
- 3 3 The Sellers shall procure that the Sellers' Accountants prepare a draft of the Completion Accounts on the bases set out in **Schedule 7** and shall deliver a copy of the draft Completion Accounts so prepared to the Buyer at Completion. If the Net Asset Value (as defined in **Schedule 7**) is CHF 583,325 or less then the Consideration shall be reduced by €1 for each €1 less than CHF 583,325 (the **Net Asset Deficit**). No additional payment shall be made if the Net Asset Value is more than CHF 583,325
- 3 4 The Initial Consideration shall be paid in cash at Completion pursuant to **Clause 4.5(a)** as follows
 - 3 4 1 €2,000,000 shall be paid in cash at Completion pursuant to **Clause 4.5(a)**, and
 - 3 4 2 on a date no more than 5 Business Days after the Completion Accounts have been agreed, deemed agreed or determined in accordance with **Schedule 7**, the Net Asset Deficit (if any) shall be refunded to the Buyer by the Sellers in cash (by electronic funds transfer to a bank account nominated by the Buyer)
- 3 5 The Outstanding Shareholder Loan Amount shall be paid in cash at Completion pursuant to **Clause 4.5(c)**
- 3 6 The Consideration Shares shall be credited as fully paid

- 3 7 Each Seller acknowledges that it is a reasonable requirement of the Buyer, in order to protect the value of the business of the Company, that he should be expected to continue to provide consultancy services to the Buyer pursuant to consultancy agreements between the Buyer and Agilior GmbH for Bjørnar Jensen and the Buyer and Berner Consult for Lasse Berner from the date of Completion until at least the end of the Earn Out Period. Accordingly, each Seller acknowledges that he shall not be entitled to receive his due share of Additional Consideration if at the end of the Earn Out Period the consultancy agreement pursuant to which he provides consultancy services to the Buyer has been terminated in which event his due share of such Additional Consideration shall accrue to the other Seller, provided that this **Clause 3 7** shall not apply where
- 3 7 1 the Buyer has been subject to a Change of Control,
- 3 7 2 the Seller has ceased to provide consultancy services at any time from the date of this Agreement until the end of the Earn Out Period as a result of
- (a) his death, illness (including mental illness), permanent disability or permanent incapacity through ill health, or
 - (b) the consultancy agreement pursuant to which the Seller provides consultancy services (or other arrangement pursuant to which his services are provided to the Buyer, any member of the Buyer's Group and/or any Group Company) being terminated by the Buyer, that member of the Buyer's Group or that Group Company other than in circumstances where the Buyer, that member of the Buyer's Group or that Group Company is entitled to terminate such contract or arrangement summarily, or
- 3 7 3 the Seller has continued to provide consultancy services to the Buyer, any member of the Buyer's Group or any Group Company up to the end of the Earn Out Period pursuant to alternative arrangements that have been agreed with the Buyer
- 3 8 Each of the Sellers agrees that any Consideration Shares allotted to them shall be held for a period of at least one year from and including the date of allotment pursuant to the terms of the Lock-Out Agreement
- 3 9 No Additional Consideration shall be payable to any Seller if such Seller is in breach of **Clause 3.4 2** and shall only become payable once such Seller has remedied such breach

4. **COMPLETION**

- 4 1 Completion shall take place at the offices of Lenz & Staehelin, Bleicherweg 58 CH-8027 Zurich immediately after execution of this Agreement
- 4 2 On Completion the Sellers will deliver or procure delivery of the following to the Buyer's Solicitors
- (a) the bearer share certificates representing the Shares,
 - (b) the written resignation, executed as a deed, of each of the directors of each Subsidiary, in each case acknowledging that he has no outstanding claims

against the Company or any other Group Company whether for loss of office or otherwise,

- (c) consultancy agreements in the agreed form between
 - (i) the Buyer and Agilior GmbH for Bjørnar Jensen, and
 - (ii) the Buyer and Berner Consult for Lasse Berner,duly executed by Agilior GmbH and Berner Consult respectively,
- (d) evidence in a form acceptable to the Buyer that the consultancy agreements between the Company and Agilior GmbH and the Company and Berner Consult respectively were renewed for the period commencing 1 January 2007 to the date of this Agreement and that there are no claims outstanding under these agreements,
- (e) a draft of the Completion Accounts pursuant to **Clause 3.3**,
- (f) the Lock-in Agreement duly executed by each of the Sellers,
- (g) the certificate of incorporation or extract from the commercial register, as applicable, of each Group Company and each register, minute book and other book required to be kept by each Group Company under the Swiss Code of Obligations or other applicable law, duly made up to Completion,
- (h) all financial and accounting books and records in the possession or control of the Sellers in connection with each Group Company, all complete and up to date, and
- (i) copies of statements for all bank accounts of each Group Company made up to a date not more than two Business Days prior to Completion

4 3 Subject to **Clause 4.5(c)**, each of the Sellers will, and will procure that his Associates will, repay all monies owing by him or them to each Group Company and will execute a deed of release, in the agreed form, releasing each Group Company from any and all liabilities which may be owing to him or them by any Group Company

4 4 The Buyer will not be obliged to complete the purchase of any of the Shares unless

- (a) the Sellers comply with all their obligations under **Clause 4.2**, and
- (b) the purchase of all the Shares is completed simultaneously

4 5 Upon completion of the matters referred to in **Clause 4 2**, the Buyer shall

- (a) pay the Initial Consideration by means of electronic funds transfer to the account of the Sellers' Lawyers with UBS AG Basel, IBAN CH51 0029 2292 1057 6311 1, SWIFT UBSWCHZH40M and account number 292-10576311 1,
- (b) allot and issue the Initial Consideration Shares stated in **Clause 3.1** to the Sellers,

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- (c) procure the repayment by the Sellers of the Outstanding Shareholder Loan Amount, by means of electronic funds transfer to the account of the Company with UBS, IBAN CH83 0027 3273 2837 187H Z and BIC UBSWCHZH80A,
- (d) deliver to the persons referred to in **Clause 4.2(c)** counterparts of the consultancy agreements in the agreed form duly executed on behalf of the Company,
- (e) deliver to the Sellers the counterpart of the Lock-in Agreement,
- (f) deliver a certified copy of the minutes of the Buyer in the agreed form, and
- (g) procure that the Initial Consideration Shares are admitted to trading on AIM within seven Business Days of Completion

4.6 The Sellers confirm that the Sellers' Lawyers are authorised to receive on behalf of the Sellers all amounts expressed to be payable (and all documents expressed to be deliverable) to the Sellers pursuant to any provision of this Agreement and that payment of such amounts (and delivery of such documents) to the Sellers' Lawyers will be a good and sufficient discharge to the Buyer and the Buyer shall not be further concerned as to the application of the moneys so paid (or as to the distribution of the documents so delivered)

4.7 If for any reason the provisions of **Clause 4.2** are not fully complied with at the time and date fixed for Completion the Buyer may by notice to the Sellers (but without prejudice to any other rights or remedies available to the Buyer)

- (a) defer Completion to a date not more than 20 Business Days after the date fixed for Completion (so that the provisions of this Clause shall apply to Completion as so deferred), or
- (b) proceed to Completion so far as practicable, or
- (c) terminate this Agreement

5. WARRANTIES

5.1 The Sellers jointly and severally warrant to the Buyer that the Warranties are true and accurate in all respects, complete and not misleading at the date of this Agreement

5.2 Each of the Warranties are given subject to the matters fairly disclosed (with sufficient detail to identify the nature and scope of the matter disclosed) in the Disclosure Letter

5.3 No knowledge on the part of the Buyer or its employees and agents shall limit the Sellers' obligations with respect to, or liabilities for breach of, representations, warranties, disclosures or other obligations hereunder. In particular, but subject to the effect of **Clause 7**, the Sellers may not invoke the knowledge (actual, constructive or imputed) of the Buyer or any of its agents or advisers of anything which might make a Warranty false or inaccurate as a defence to a claim for a breach of Warranty save in respect of matters which have been fairly disclosed (with sufficient detail to identify the nature and scope of the matter disclosed) in the Disclosure Letter

- 5 4 Each Warranty in respect of 'the Company' shall be deemed to be a Warranty given in respect of the Company and each other Group Company and, unless the context otherwise requires, the expression **the Company** in this **Clause 5 (Warranties)** and in **Schedule 3** shall be construed accordingly
- 5 5 Each of the Warranties is a separate and independent Warranty and, except where expressly stated, no Warranty or other Clause in this Agreement restricts or limits the extent or application of any other Warranty or any other Clause
- 5 6 The Sellers agree to waive any rights or claims they may have against any Group Company, or any director, other officer or employee of any Group Company in respect of any information or opinions supplied or omitted to be supplied to the Sellers for the purpose of assisting the Sellers to make a representation, give a Warranty or prepare the Disclosure Letter
- 5 7 The Warranties shall remain in full force and effect notwithstanding Completion
- 5 8 Without restricting the rights of the Buyer or the Buyer's ability to claim damages on any basis available to it and subject to **Clause 9 (Limitation on Liability)**, if after Completion it should transpire that any matter, thing or circumstance which is the subject of any of the Warranties is not as warranted or represented, the Sellers undertake to the Buyer that the Sellers will on demand pay to the Buyer
- (a) an amount equal to the amount of
- (i) any shortfall or diminution in the value of any assets, and
- (ii) any liability or any increase in a liability
- of any Group Company that would not have existed or been occasioned if the relevant matter, thing or circumstance had been as warranted or represented in the Warranties,
- (b) an amount equal to the amount of all costs, charges and expenses paid, suffered or incurred by the Buyer, and/or any Group Company directly or indirectly as a result of or in relation to the relevant matter, thing or circumstance not being as warranted or represented in the Warranties (including those paid, suffered or incurred in investigating, considering, seeking advice on or enforcing its rights under this Agreement), and
- (c) all such other amounts (if any) as shall be required to put the Buyer, and/or any Group Company into the same position in financial terms as would have existed if the relevant matter, thing or circumstance had been as warranted or represented in the Warranties

6 TITLE WARRANTIES

- 6 1 Each of the Sellers warrants, represents and undertakes to the Buyer that each of the Title Warranties is in respect of himself and the holding of the Shares set opposite his name in **column (2) of Schedule 1** true and accurate in all respects, and not misleading at the date of this Agreement
- 6 2 Each of the Sellers acknowledges that the Buyer is entering into this Agreement in reliance on each of the Title Warranties which have also been given as

representations and with the intention of inducing the Buyer to enter into this Agreement

- 6 3 The Sellers may not invoke the knowledge (actual, constructive or imputed) of the Buyer or any of its agents or advisers of anything which might make a Title Warranty false or inaccurate as a defence to a claim for breach of a Title Warranty
- 6 4 Each of the Title Warranties is separate and independent and, except where expressly stated, no Title Warranty or other Clause in this Agreement restricts or limits the extent or application of any other Title Warranty or any other Clause
- 6 5 The Title Warranties shall remain in full force and effect notwithstanding Completion
- 6 6 Without prejudice to any other rights or remedies available to the Buyer, each of the Sellers undertakes with the Buyer that he will indemnify and at all times keep the Buyer fully and effectively indemnified against all losses, claims, costs, charges, expenses, liabilities, actions, demands, proceedings and judgments whatsoever which the Buyer may wheresoever pay, suffer or incur or which may be brought or be threatened against or incurred by the Buyer in any jurisdiction whatsoever (and, in the case of a claim, whether or not such claim is successful, compromised or settled) by any person whatsoever (including, without limitation, all costs, charges and expenses as the Buyer may pay, suffer or incur in investigating, responding to, seeking advice on, disputing, defending or considering any such actual or potential actions, claims or demands or in enforcing the Buyer's rights under this Agreement) and which arise directly or indirectly out of or in connection with or result from or are attributable to a breach by that Seller of any of the Title Warranties given by him pursuant to this Agreement

7. BUYER WARRANTY

The Buyer warrants and undertakes to the Sellers that there are no circumstances within the actual knowledge of the Buyer or its directors as at the date of this Agreement which will or might entitle the Buyer to make a Non-Tax Claim other than in connection with the Company or any of its directors or officers being liable to pay social security contributions in relation to fees paid to Agilior GmbH and Berner Consult in respect of consultancy services provided to the Company or any Subsidiary

8 TAX COVENANT

The provisions of **Schedule 5** shall have effect on and be operative from Completion

9. LIMITATION ON LIABILITY

9 1

- (a) the Sellers shall not be liable in respect of any Non-Tax Claim unless the amount of the Non-Tax Claim has a value of more than €2,000 save that claims relating to a series of connected matters shall be aggregated for this purpose,
- (b) the Sellers shall not be liable in respect of any Non-Tax Claim unless the aggregate amount of all Non-Tax Claims exceeds €20,000 (in which case the

Sellers shall be liable for the whole amount of such Non-Tax Claims and not just the excess),

- (c) the aggregate liability of each Seller in respect of all Non-Tax Claims shall not exceed in relation to Lasse Berner the Lasse Berner Share and in relation to Bjørnar Jensen the Bjørnar Jensen Share of the aggregate of the following amounts

- (i) €2,000,000, and

- (ii) the amount of the Additional Consideration that has been issued to the Sellers at the date the Non-Tax Claim is settled and calculated by reference to the Relevant Share Price or to the extent that such Consideration Shares have been sold the actual price that such Consideration Shares were sold at (including without limitation any non cash consideration received), and

- (d) in relation to Tax Claims, the Sellers shall be jointly and severally liable save that

- (i) Lasse Berner's liability for amounts in excess of the Lasse Berner Share shall be several and not joint and several, and

- (ii) Bjørnar Jensen's liability for amounts in excess of the Bjørnar Jensen Share shall be several and not joint and several

9 2 The Sellers shall not be liable in respect of a Claim unless

9 2 1 such Claim is made in good faith,

9 2 2 if the Claim is capable of remedy, the Sellers have failed to remedy such Claim within 30 days of receipt of notice so to do, and

9 2 3 notice of the Claim has been given by or on behalf of the Buyer to the Sellers or the Sellers' Lawyers

- (a) in the case of a Tax Claim, on or before 30 September 2014 but this Clause shall not apply where a Tax Authority can make an assessment in respect of the Tax to which the Tax Claim relates after that date because of fraudulent or negligent conduct, and

- (b) in the case of a Non-Tax Claim (other than a Claim in relation to the Title Warranties), on or before 31 March 2009

9 3 The Sellers shall not be liable for a Claim unless proceedings in respect of it shall have been commenced by being issued and served on the Sellers within 6 months after the date of notification pursuant to **Clause 9 2** above or within 2 months of the expiry of the Earn Out Period (whichever is later)

9 4 If, before the Sellers pay an amount in discharge of any Claim, the Buyer or the Company recovers from a third party any amount in respect of any matter giving rise to the Claim, the amount of the Claim against the Sellers shall be reduced by the amount recovered (less any reasonable costs and expenses incurred in effecting any such recovery not recoverable from any third party)

- 9 5 The Buyer shall not be entitled to rescind this Agreement or to recover damages in tort or for misrepresentation other than for any breach of the Title Warranties by either Seller
- 9 6 Neither the Buyer nor the Company shall be entitled to recover more than once between them in respect of any matter giving rise to a Claim Nothing in this Agreement shall operate to reduce the Buyer's common law duty to mitigate any loss giving rise to any Claim and the Buyer shall be under a duty so to mitigate
- 9 7 Any amount paid by the Sellers pursuant to the Warranties shall be regarded as a reduction of the Consideration
- 9 8 The Sellers shall have no liability in respect of any Claim which is based upon a liability which is contingent only unless and until such contingent liability becomes an actual liability and is due and payable
- 9 9 The Sellers shall have no liability in respect of any Claim to the extent that
- (a) the Completion Accounts make provision or reserve for the matter giving rise to the Claim, or
 - (b) a provision or reserve in the Completion Accounts in respect of Taxation or any other liability which is the subject matter of the relevant Claim proves to have been excessive or unutilised
- 9 10 The Sellers shall have no liability in respect of any Claim to the extent arising from
- (a) the passing of, or any change in having retrospective effect, after the date of this Agreement, any law, regulation or rule of any government, governmental department, agency or regulatory body (including any stock exchange) or any increase in the rates of Taxation or any imposition of Taxation not in effect at the date of this Agreement or any withdrawal after the date of this Agreement of any practice or extra-statutory concession previously published by any Tax Authority,
 - (b) a change after Completion in the methods which have been used by the Company in valuing stock in trade and work in progress or any other change in accounting policy or practice or any change to the length of any accounting period or to the accounting reference date of the Company except where required to comply with law or with generally accepted accounting principles applicable to the Company at Completion, or
 - (c) the failure or omission by the Company or the Buyer or any member of the Buyer's Group to make any claim, election, surrender or disclaimer or give any notice or consent or do any other thing under the provisions of any enactment or regulation relating to Taxation after Completion, and the making, giving or doing of which was taken into account in computing the Taxation in the Completion Accounts
- 9 11 The Sellers shall have no liability in respect of any Non Tax Claim to the extent that there is a right of recovery under a policy of insurance in favour of the Company or the Buyer or any member of the Buyer's Group

- 9 12 The limitations and exclusions contained in this **Clause 9** shall not apply to the extent that any Claim is (or the delay in the discovery of which is) the consequence of fraud, dishonesty or wilful concealment by the Sellers (or any of them)

10 CONFIDENTIAL INFORMATION AND GROUP INTELLECTUAL PROPERTY

- 10 1 Each of the Sellers hereby undertakes with the Buyer that

- (a) he shall not at any time after the date of this Agreement use or disclose to any person any Confidential Information and shall use all reasonable endeavours to prevent the use or disclosure of Confidential Information, and
- (b) if he has obtained trade secrets or other confidential information belonging to a third party under an agreement entered into by a Group Company containing restrictions on disclosure he will not at any time infringe such restrictions

- 10 2 This Clause shall not prevent the disclosure of Confidential Information by a Seller

- (a) to a director, other officer or employee of the Buyer or of a Group Company acting in the proper course of his duties and whose function requires him to have the Confidential Information,
- (b) where it is required to be disclosed by any applicable law or regulation or by any court or governmental or administrative authority competent to require the same or by virtue of the AIM rules or the rules of any other securities exchange and provided that the Sellers required to disclose such Confidential Information shall, so far as reasonably practicable (and so far as not prohibited by the relevant rule or body) first consult with and take into account the reasonable requirements of the Buyer as to the timing, content, manner and extent of the required disclosure,
- (c) to an adviser for the purpose of advising the Sellers but only on terms that **Clause 10.1** applies (as modified by **Clause 10.2**) to the use or disclosure by the adviser, or
- (d) where that Confidential Information has become publicly known, except as a result of a breach of **Clause 10.1**

- 10 3 Each of the Sellers undertakes with the Buyer that he shall not at any time after the date of this Agreement, alone or jointly with, through or on behalf of, any other person (whether as a director, manager, consultant, adviser, employee, agent, partner, promoter, shareholder or otherwise) directly or indirectly, use any of the Group Intellectual Property or anything which is likely to be confused with any of the Group Intellectual Property or purport to license, interfere with or challenge the validity or ownership of the Group Intellectual Property

11. RESTRICTIVE COVENANTS

- 11 1 Each Seller agrees severally and not jointly that he shall not do or say anything which is intentionally harmful to the reputation of any Group Company or the Buyer or a member of the Buyer's Group or which is likely to lead to a person ceasing to deal with any Group Company on substantially equivalent terms to those previously

offered or at all unless such act or saying is prescribed by law Neither Seller shall be liable for any breach of this **Clause 11.1** by the other Seller

11.2 Each of the Sellers acknowledges that the consideration for the Shares includes a payment for goodwill and in order to protect the goodwill of each Group Company each of the Sellers hereby undertakes severally and not jointly with the Buyer that he shall not, whether alone or jointly with or through or on behalf of any other person (whether as a director, manager, consultant, adviser, employee, agent, partner, promoter, shareholder or otherwise), directly or indirectly

- (a) for a period of three years from Completion, operate, carry on or be engaged, employed, concerned or interested in or assist any business in the Prohibited Area which is in competition with, or is likely to be in competition with, the Business,
- (b) in connection with the carrying on of any business in competition with the Business as carried on at Completion, for a period of three years from Completion seek to obtain orders from, solicit the custom of, do business or interfere with, or endeavour to entice away from any Group Company any person who is, or at any time during the 12 months immediately preceding Completion was, a client or customer of any Group Company and with whom the Seller, or any officer or employee of any Group Company under the supervision of the Seller or in respect of whom the Seller had overall responsibility, had substantial dealings in the 12 months immediately preceding Completion, or
- (c) in connection with the carrying on of any business in competition with the Business, for a period of three years from Completion seek to obtain orders from, solicit the custom of, do business or interfere with, or endeavour to entice away from any Group Company any person who at any time during the 12 months immediately preceding Completion was negotiating (by discussing potential terms and conditions) to do business with any Group Company and with whom the Seller, or any officer or employee of any Group Company under the supervision of the Seller or in respect of whom the Seller had overall responsibility, had substantial dealings in the 12 months immediately preceding Completion, or
- (d) for a period of three years from Completion, induce or attempt to induce any supplier of a Group Company to cease to supply or to restrict or vary the terms of supply to a Group Company,
- (e) for a period of three years from Completion, solicit or seek to employ or entice away, or endeavour to solicit or entice away, from any Group Company any person employed by any Group Company at Completion as a director, other officer, manager (whether or not such a person would commit a breach of his contract of employment by reason of his leaving the employment of the Company),
- (f) for a period of three years from Completion, employ or otherwise engage in any business in the Prohibited Area which is in competition with or is likely to be in competition with the Business as carried on at Completion, any person who at Completion or during the 12 months immediately preceding Completion was employed or otherwise engaged by a Group Company and who by reason of such employment or engagement is or is likely to be in

possession of Confidential Information and would be in a position to exploit the trade or customer connections of a Group Company

11.3 The provisions of **Clauses 11.2(a) to 11.2(f)** are separate and severable undertakings and each shall be enforceable by the Buyer independently of the others. Neither Seller shall be liable for any breach of **Clauses 11.2(a) to 11.2(f)** by the other Seller.

11.4 The parties confirm that they consider the restrictions contained in this **Clause 11 (Restrictive Covenants)** to be reasonable in all respects and necessary for the protection of the interest of the Buyer in the Company, but if any of the restrictions is held to be invalid or ineffective, but would be valid and effective if some part of it were deleted, or some modification were made to its terms, then the restriction shall apply with such deletion or modification as may be necessary to make it valid and effective.

12. CONSEQUENCES OF TERMINATION OR CESSATION OF THIS AGREEMENT

Upon termination of this Agreement pursuant to **Clause 4.7**, the provisions of this Clause and **Clauses 1 (Definitions and Interpretation), 13 (Interest), 16 (Waiver and remedies), 17 (Announcements), 19 (General), 20 (Notices), 23 (Arbitration) and 24 (Governing law and jurisdiction)** shall survive such cessation or termination (as the case may be) and continue in full force and effect, but all other rights and obligations of the parties shall immediately cease (without prejudice to the parties' accrued rights and liabilities under this Agreement at the time it ceases to have effect or is terminated (as the case may be)).

13. INTEREST

If any party defaults in the payment when due of any sum payable under this Agreement (whether determined by agreement or pursuant to an order of a court or otherwise) interest shall be payable by that party on such sum from the date when such payment is due until the date of actual payment (as well after as before judgment) at a rate per annum of 2 per cent above the base rate from time to time of the European Central Bank. Such interest shall accrue from day to day and be compounded at intervals of six months.

14. FURTHER ASSURANCE

Each of the parties shall at his or its own cost and expense use all reasonable endeavours to do, or procure to be done, all such further acts and things and execute, or procure the execution of, all such other documents as such other party may from time to time require for the purpose of giving such other party the full benefit of the provisions of this Agreement.

15. VARIATION

No variation of this Agreement shall be effective unless it is in writing and executed (where required, as a deed) by or on behalf of each of the parties.

16. WAIVER AND REMEDIES

16.1 The rights and remedies of the parties under this Agreement are cumulative and are not exclusive of any rights or remedies provided by law or otherwise.

16.2 The failure by any party to exercise or delay by any party in exercising a right or remedy provided by this Agreement or by law does not constitute a waiver by such party of the right or remedy or a waiver of other rights or remedies, and no single or partial exercise of any right or remedy by any party will preclude or restrict the further exercise or enforcement by such party of any such right or remedy

16.3 A waiver by any party of any right or remedy under this Agreement is only effective if it is in writing, and any such waiver shall (unless the terms of the waiver expressly provide otherwise) apply only to the party to whom the waiver is addressed and the circumstances in respect of which it is given. Without prejudice to the generality of the foregoing, a waiver by the Buyer of a breach of any provision of this Agreement shall not, if not in respect of all of the Sellers, affect the liability of the remaining Sellers (unless the terms of the waiver expressly provide otherwise)

16.4 A waiver by any party of a breach of any provision of this Agreement does not constitute a waiver of any other breach and shall not affect the other provisions of this Agreement. Any waiver by any party of a breach of any provision of this Agreement shall not (unless the terms of the waiver expressly provide otherwise) be construed as a waiver of any continuing or subsequent breach of such provision or a modification of such provision

17. ANNOUNCEMENTS

17.1 Subject to **Clause 17.2**, no announcement, disclosure, communication or publicity of any kind shall be made or issued by any party to this Agreement relating to the subject matter or terms of this Agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed)

17.2 The provisions of **Clause 17.1** shall not apply to any announcement, disclosure, communication or publicity to the extent that it is required to be made or issued

(a) by any applicable law or regulation, or

(b) by any court or governmental or administrative authority competent to require the same, or

(c) by virtue of the regulations of the UKLA, AIM or any other securities exchange,

provided that the party required to make or issue it has so far as reasonably practicable (and so far as not prohibited by the relevant rule or body) consulted with and taken into account the reasonable requirements of the other parties as to the timing, content, manner and extent of making or issuing any such announcement, disclosure, communication or publicity

18. ASSIGNMENT

18.1 Save as provided in **Clause 18.2**, a party may not without the prior written consent of the other parties assign, transfer, charge or deal in any other manner with this Agreement or any of its rights under this Agreement, nor sub-contract any or all of its obligations under this Agreement nor purport to do any of the same

18.2 The Buyer shall be entitled to assign all or any of its rights under this Agreement (including the benefit of the Warranties and the Title Warranties) to any member of

the Buyer's Group or the Group provided that such rights shall automatically be assigned back to the Buyer (or another member of the Buyer's Group or the Group) if such assignee shall cease to be a member of the Buyer's Group or the Group

19. GENERAL

- 19 1 This Agreement shall be binding on and shall enure for the benefit of the successors and permitted assigns of the parties
- 19 2 All provisions of this Agreement shall continue in full force and effect notwithstanding Completion, except those provisions already performed at Completion
- 19 3 A person who is not a party to this Agreement (a **third party**) has no right to enforce any term of this Agreement
- 19 4 Unless expressly provided otherwise, all representations, warranties, indemnities, undertakings, covenants, agreements and obligations made, given or entered into by more than one person in this Agreement are made, given or entered into jointly and severally. The Sellers shall exercise their rights under this Agreement jointly. The Buyer shall have the right to demand performance of each Seller's respective obligations
- 19 5 If any provision of this Agreement is held to be illegal, void, invalid or unenforceable (in whole or in part) by any court or administrative body of competent jurisdiction, that provision shall to that extent be deemed not to form part of this Agreement but the enforceability of the remainder of this Agreement shall not be affected
- 19 6 Each party agrees that no person who is not a party to this Agreement shall be entitled to receive from any Group Company any finder's fee, brokerage or other commission in connection with the sale of the Shares to the Buyer

20. NOTICES

- 20 1 Any notice or other communication to be given under this Agreement shall be in writing in the English language and shall be sent by registered letter or by fax

(a) in the case of the Sellers to

Zurichstrasse 46
8700 Kusnacht
Switzerland

Marked for the attention of Bjørnar Jensen
Fax number +41 432 779841

(b) in the case of the Buyer to

Cliveden Office Village
Lancaster Road
Cressex Business Park
High Wycombe
Buckinghamshire HP12 3YZ

Marked for the attention of Finance Director



Fax number +44 (0) 1494 750800

21 COUNTERPARTS

This Agreement may be executed in any number of counterparts each of which when executed shall be an original but all the counterparts shall together constitute one and the same instrument

22. BUYER'S OPTION OVER INITIAL CONSIDERATION SHARES

22.1 Grant of the Option

The Sellers grant to the Buyer an Option to

- (a) require the Sellers to sell the Option Shares through the Company's nominated broker for a price that is not lower than the prices otherwise available in the market at that time in respect of the number of Option Shares to be sold and to account to the Buyer for the proceeds received from such sale,
- (b) require the Sellers to transfer the Option Shares to such person as may be nominated by the Buyer for £1, or
- (c) to carry such other actions in relation to the Option Shares as the Buyer may reasonably request,

on the terms set out in this **Clause 22**.

22.2 Calculation of number of Option Shares

The Option may only be exercised in respect of the number of Initial Consideration Shares (**Option Shares**) as calculated in accordance with the following formula

$$\text{Number of Option Shares} = \frac{(\text{€}500,000 - \text{QCP}) \times 7}{3.03}$$

Where "QCP" = Company Profit Before Tax

PROVIDED THAT

- (i) if QCP is equal to or more than €500,000, QCP shall be deemed to be €500,000 and accordingly the number of Option Shares shall be zero, and
- (ii) if QCP is less than €357,142.86 it shall be deemed to be €357,142.86

22.3 Exercise of Option

Subject to **Clauses 22.4 and 22.5**, the Option shall be exercised by the Buyer giving notice to the Sellers in writing in accordance with Clause 20 (the **Exercise Notice**), which notice shall include

- (a) the date on which the Exercise Notice is given,
- (b) a statement to the effect that the Buyer is exercising the Option,
- (c) the number of Option Shares as calculated in accordance with **Clause 22.2**,
- (d) a statement as to which of the options as set out in **Clauses 22.1(a), 22.1(b)** and **22.1(c)** above shall apply

22.4 Restrictions on exercise of Option

22.4.1 The Option may be exercised

- (a) only in respect of all of the Option Shares,
- (b) on or after 1 January 2009, and
- (c) on a date, which is no less than five and no more than 15 Business Days after the date upon which the Sellers have agreed or are deemed to have agreed to the Exercise Notice in accordance with **Clause 22.5** below

22.4.2 The Option may not be exercised if by the date upon which the Exercise Notice is agreed or deemed to be agreed pursuant to **Clause 22.5**

- (a) the Sellers have served an Early Earn Out Notice pursuant to **Paragraph 5 of Schedule 6**,
- (b) the Buyer is in breach of any of the provisions of **Paragraph 7 of Schedule 6** provided that if such breach is capable of remedy, the Buyer has failed to remedy such breach within 30 days of the date of the Exercise Notice, or
- (c) the Buyer (or any member of the Buyer's Group, any Group Company or other assignee, as the case may be) has terminated either of the consultancy agreements with Agilior GmbH and with Berner Consult respectively as referred to in **Clause 4.2(c)** on or before 31 December 2008 other than in circumstances where the Buyer is entitled to terminate such agreement summarily, or
- (d) either of the consultancy agreements with Agilior GmbH and with Berner Consult respectively as referred to in **Clause 4.2(c)** have been terminated as a result of the death, illness (including mental illness), permanent disability or permanent incapacity through ill health of either of the Sellers

22.5 Dispute resolution

22.5.1 Unless the Sellers shall within 5 Business Days after receipt of the Exercise Notice serve a notice in writing on the Buyer that it objects to the Exercise Notice (identifying the reason for any objection) (such notification being an **Option Objection Notice**), the Sellers shall be deemed to have agreed to the **Exercise Notice** for all purposes of this Agreement

22.5.2 If within the period referred to in **Clause 22.5.1** the Sellers shall give to the Buyer an **Option Objection Notice** then the Buyer and the Sellers shall use their reasonable

endeavours to reach agreement upon any necessary adjustments to the Exercise Notice

22 5 3 In the event that the Sellers and the Buyer are unable to reach agreement within 10 Business Days following service of the Option Objection Notice, either the Sellers or the Buyer shall be entitled to refer the matter(s) in dispute to an independent chartered accountant agreed upon between them or (failing agreement) to be selected (at the instance of either party) by the President of the Swiss Institute of Certified Accountants and Tax Consultants (*Treuhand-Kammer Schweizerische Kammer der Wirtschaftsprüfer, Steuerexperten und Treuhandexperten*) Such independent chartered accountant shall act as expert and not as arbitrator and his determination of the matter(s) in dispute shall be final and binding (save in the case of manifest error) The costs of the independent chartered accountant (together with any fee paid or payable to the Swiss Institute of Certified Accountants and Tax Consultants in respect of the selection of the independent chartered accountant) shall be borne equally between the Sellers on the one hand and the Buyer on the other hand

22 6 Power of attorney

22 6 1 Each of the Sellers by its execution of this Agreement appoints the Buyer (acting by any authorised representative) to be its lawful attorney in relation to the Option Shares from and after the date on which the Exercise Notice is given granting to the Buyer full power on the Sellers' behalf to exercise in the absolute discretion of the Buyer all rights attaching to the Option Shares so as to allow the Buyer to exercise the Option

22 6 2 For the purposes of **Clause 22.6.1**, each of the directors and secretary of the Buyer, and any other person authorised by the board of directors, shall be an "authorised representative" of the Buyer

23. ARBITRATION

23 1 Subject to **Clause 23.5** any dispute, controversy or claim arising under, out of or relating to this Agreement (and subsequent amendments thereof), its valid conclusion, binding effect, interpretation, performance, breach or termination, including tort claims, or any other future dispute, controversy or claim between the parties shall be exclusively referred to and finally determined by arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce in force at the time when the arbitration is initiated

23 2 The number of arbitrators shall be three

23 3 The seat, or legal place, of arbitration shall be Zurich

23 4 The language to be used in the arbitral proceedings shall be English

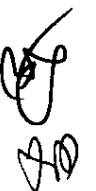
23 5 The parties agree that any dispute in connection with or arising out of a dispute regarding the Option, Earn Out Accounts and/or Completion Accounts shall be resolved in accordance with the procedures established in **Clause 22.5** and **Schedules 6 and 7** respectively

24. GOVERNING LAW

24 1 This Agreement shall be governed by and construed in accordance with English law

24 2 The UN Convention on Contracts for the International Sales of Goods shall not apply

IN WITNESS of which this Agreement has been duly executed as a **DEED** and **DELIVERED** on the date set out at the head of this Agreement

Handwritten signature and initials in the bottom right corner of the page.

Schedule 1 - The Sellers

	(1) Name and address of Sellers	(2) Number of Shares to be sold	(3) Amount of Initial Consideration	(4) Amount of Outstanding Shareholder Loan Amount	(4) Number of Initial Consideration Shares	(5) Percentage proportion of any Consideration Shares
(1)	Bjørnar Jensen, Zurichstrasse 46, 8700 Kusnacht, Switzerland	118	€1,180,000	CHF428,195 93	291,694	59%
(2)	Lasse Berner, Solbergbekken 15, 1337 Sandvika, Norway	82	€820,000	CHF155,129 09	202,703	41%

Schedule 2

Part I

The Company

- 1 Registered number CH-170 3 027 548-3
- 2 Date of incorporation September 1, 2004
- 3 Place of incorporation Zug
- 4 Authorised share capital none
- 5 Issued share capital CHF 200,000 (consisting of 200 bearer shares with a nominal value of CHF 1,000 each)
- 6 Domicile c/o Zingg, Kleeb & Partner AG, Poststrasse 14, 6301 Zug
- 7 Principal business address see domicile
- 8 Directors Bjørnar Jensen (sole director)
- 9 Secretary none
- 10 Accounting reference date December 31
- 11 Auditors von Allmen AG Treuhandgesellschaft Hunenberg, Chamerstrasse 44, CH-6331 Hunenberg
- 12 Tax residence Zug
- 13 Tax district and reference number Zug, n/a
- 14 VAT registration number CHF605,065
- 15 Charges n/a



Part II
The Subsidiaries

A. Quattrocomm GmbH

- 1 Registered number HRB 107436 B (Amtsgericht Charlottenburg, Berlin)
- 2 Date of incorporation August 1, 2007
- 3 Place of incorporation Berlin
- 4 Authorised share capital none
- 5 Issued share capital EUR 25,000 (consisting of 2 quotas of EUR 24,900 and EUR 100 respectively)
- 6 Registered office Schonhauser Allee 10, 10119 Berlin
- 7 Principal business address Schonhauser Allee 10, 10119 Berlin
- 8 Directors Bjørnar Jensen (sole director)
- 9 Secretary none
- 10 Accounting reference date December 31
- 11 Auditors None
- 12 Tax residence Berlin
- 13 Tax district and reference number Berlin, 37/285/21150
- 14 VAT registration number N/a
- 15 Charges N/a

B Intelligent Mobile Development Europe Telecommunications Kft

- 1 Registered number 01-09-873308
- 2 Date of incorporation 7 August 2006
- 3 Place of incorporation Budapest
- 4 Authorised share capital n/a
- 5 Issued share capital HUF3,000,000
- 6 Registered office H-1061 Budapest, Király utca 16
- 7 Principal business address H-1061 Budapest, Király utca 16
- 8 directors Gabor Grossschmid



- 9 Secretary n/a
- 10 Accounting reference date 31 December
- 11 Auditors n/a
- 12 Tax residence Budapest
- 13 Tax district and reference number 11947457-2-43
- 14 VAT registration number HU11947457
- 15 Charges n/a

AK
JB

Schedule 3 - The Warranties

(referred to in **Clause 5 (Warranties)**)

Part A – General

1 Accuracy of information

The contracts given by, or on behalf of, the Sellers to Lenz & Staehelin of 58 CH-8027 Zurich, as documented in Appendix 2 of the Disclosure Letter are true, accurate, and not misleading

2 The Company

2 1 The Company is duly incorporated and validly existing under the laws of Switzerland

2 2 The particulars relating to the Company set out in **Schedule 2** are true, accurate and complete

2 2 1 The Subsidiaries are duly incorporated and validly existing under the laws of Germany and Hungary respectively and the Company is the sole legal and beneficial owner of all the issued shares in the Subsidiaries, which are fully paid or credited as fully paid. The particulars relating to the Subsidiaries as set out in **Schedule 2** are true, accurate and complete

2 3 Save for the Subsidiaries

2 3 1 the Company does not have, and has never had, any subsidiary or subsidiary undertaking (other than as disclosed in the Disclosure Letter),

2 3 2 the Company does not have any shareholding or other interest (direct or indirect) in, nor has it agreed to acquire any such shareholding or other interest in, a body corporate or business, and

2 3 3 the Company does not control or manage any other body corporate or business

2 4 The Company does not use any name other than its corporate name for any purpose

2 5 The Company does not have any directors other than the persons listed in **Schedule 2** and is not, and has never been, a director or other officer of any other body corporate

2 6 The Company has at all times carried on its business in all respects in accordance with applicable law and its articles of association for the time being in force

2 7 All dividends or other distributions declared, made or paid by the Company have been declared, made or paid in accordance with its articles of incorporation and applicable law

2 8 No power of attorney has been granted by the Company which remains in force and no person, as agent or otherwise, is entitled or authorised to bind or commit the Company

3 Share capital

- 3 1 The Shares constitute the whole of the issued share capital of the Company and have been properly and validly issued and are fully paid in. The Company does not have any authorised or conditional share capital
- 3 2 There is no agreement or arrangement in force (other than this Agreement) which provides (conditionally or otherwise) for the issue or transfer of any share or loan capital of the Company (including any option or right of pre-emption or any conversion or subscription right)
- 3 3 There is no Encumbrance, nor any agreement or obligation to create or give an Encumbrance, relating to any of the Shares (or shares in the capital of a Subsidiary) and no person has claimed to be entitled to an Encumbrance in relation to any of the Shares (or shares in the capital of a Subsidiary)

4 The Accounts

- 4 1 The Accounts have been prepared in accordance with all applicable legislation, the Company's articles of incorporation and in accordance with accounting standards, principles and practices generally accepted in Switzerland, and the bases and accounting policies adopted for the purposes of preparing the Accounts are consistent with those adopted in preparing the audited accounts of the Company for the period since its incorporation in 2004
- 4 2 The Accounts
 - 4 2 1 give a true and fair view of the assets, liabilities and state of affairs of the Company at the Accounts Date and of its profit or loss for the financial year ended on the Accounts Date,
 - 4 2 2 fully disclose all the assets of the Company as at the Accounts Date,
 - 4 2 3 fully disclose and contain full provision for all actual liabilities and proper provision (or note in accordance with good accounting practice) for all contingent liabilities and adequate provision for all bad or doubtful debts,
 - 4 2 4 contain full provision for Taxation assessed or liable to be assessed on the Company or for which it is or may become liable up to the Accounts Date and any liability to pay Taxation which has been deferred for any reason, and
 - 4 2 5 contain full provision for all capital commitments outstanding as at the Accounts Date
- 4 3 All the accounts, books, ledgers, financial and other records of the Company are in its possession or under its control, have been fully and properly maintained in accordance with all applicable legal requirements, and disclose with reasonable accuracy the Company's trading transactions and its financial and contractual position

5 Changes since the Accounts Date

- 5 1 Since the Accounts Date

- 5 1 1 the business of the Company has been carried on in the ordinary course, without any interruption or alteration in its nature or scope and so as to maintain it as a going concern,
- 5 1 2 there has been no material adverse change in the turnover or profitability, or the financial or trading position or prospects of the Company,
- 5 1 3 there has been no material reduction in the net assets of the Company,
- 5 1 4 no part of the business of the Company has been materially and adversely affected by any abnormal factor not affecting similar businesses to a like extent and so far as the Sellers are aware there are no facts which are likely to give rise to any such effects,
- 5 1 5 the Company has paid its creditors in accordance with their respective credit terms,
- 5 1 6 no resolution has been passed by the shareholders of the Company except for the resolution of the shareholders' meetings of August 15, 2007 (revising a previous resolution of February 16, 2007) according to which no dividend shall be distributed on the basis of the balance sheet profit as per December 31, 2006 (in the amount of CHF 602'528) and that the entire balance sheet profit shall be carried forward to the new accounts,
- 5 1 7 no dividend has been distributed to the shareholders of the Company,
- 5 1 8 the Company has not made or agreed to make any capital expenditure exceeding in total €25,000,
- 5 1 9 the Company has not acquired or disposed of, or agreed to acquire or dispose of, any asset other than in the ordinary course of its business,
- 5 1 10 the Company has no indebtedness,
- 5 1 11 the Company has not created, allotted, issued, acquired, repaid or redeemed share or loan capital or made any agreement or obligation to do so,
- 5 1 12 the Company has not entered into any transaction or assumed or incurred any liabilities or made any payment not provided for in the Accounts, other than in the ordinary course of its business, and
- 5 1 13 the Company has not made or received any surrender relating to group relief or the benefit of advanced corporation tax

6 Debtors

- 6 1 No amount included in the Accounts, or subsequently recorded in the books of the Company, as owing by any debtor is outstanding for more than 12 weeks or has been released on terms that any debtor has paid less than the full book value of his debt or has been written off or has proved to any extent to be irrecoverable or is now regarded as irrecoverable (in whole or in part)
- 6 2 So far as the Sellers are aware the amounts due from debtors as at Completion will be recoverable in full in the ordinary course of business and in any event not later than 12 weeks after Completion, and none of those debts is subject to any counterclaim or set off

7 Returns and records

- 7 1 The statutory books of the Company have been properly kept and contain a complete, accurate and up to date record of all matters with which they should deal and there has been no notice of any proceedings to correct or rectify any of the statutory books
- 7 2 The articles of incorporation of the Company, as attached to the Disclosure Letter, are complete and accurate in all respects
- 7 3 All returns, particulars, resolutions and other documents required to be filed by the Company with the Federal Office of Communications, the Federal Communications Commission or any other authority have been properly and accurately prepared and duly filed
- 7 4 The Company has in its possession all documents relating to the title to its assets, an executed copy of all agreements to which it is a party and the original of all other documents which it owns or which ought to be in its possession

8 Assets

- 8 1 The Company is the sole owner with good and marketable title free from all Encumbrances and hire or hire purchase agreements, of all assets (including without limitations all accounts receivables) included in the Accounts or acquired since the Accounts Date which it owns or reputedly owns or which are now in its possession or under its control, or which it uses in its business and the Company has not agreed to create or grant any Encumbrance over its assets or any of them
- 8 2 The Company owns or has the right to use all assets necessary for the effective continuation of the business of the Company as carried on at Completion
- 8 3 The equipment owned by or used in connection with the Company's business are in satisfactory working order and have been regularly and properly maintained
- 8 4 Maintenance contracts are in full force and effect in respect of all those assets which it is normal or prudent to have maintained by independent or specialist contractors and those assets which the Company is obliged to maintain or repair under any leasing or similar agreement
- 8 5 The Company has not purchased any material assets on terms that title does not pass to the Company until full payment is made or all indebtedness discharged
- 8 6 No circumstances have arisen or are likely to arise in relation to any asset held by the Company under a lease (other than any of the Leases) or similar agreement whereby the rental payable has been or is likely to be increased

9 Guarantees and indemnities

There are no guarantees, indemnities, suretyships or similar commitments (whether secured or unsecured) given by the Company in respect of which obligations or liabilities are still outstanding

10 Loans by and debts due to the Company

The Company has not lent any money which has not been repaid to it, nor does the Company own the benefit of any debt (whether or not due for payment) other than debts which have arisen in the ordinary course of business

11 Grants

11 1 The Company has not lent any money which has not been repaid to it, nor does the Company own the benefit of any debt (whether or not due for payment) other than debts which have arisen in the ordinary course of business

11 2 Full details of all grants and subsidies made to the Company within the last six years have been disclosed. The Company is not liable to repay (in whole or in part) any investment or other grant or subsidy and no circumstances exist which would result in any grant or subsidy becoming repayable or being forfeited or withheld in whole or in part

12 Undisclosed liabilities

The Company has no liabilities other than liabilities disclosed or provided for in the Accounts or the Management Accounts or liabilities incurred in the ordinary course of business since the Accounts Date

13 Effect of sale

13 1 So far as the Sellers are aware the sale of the Shares to the Buyer will not result in

13 1 1 the loss of any benefit, right or privilege which the Company currently enjoys, or

13 1 2 any supplier to the Company ceasing to supply or substantially reducing its supplies to the Company in such a manner so as to

(a) reduce the Company's revenue by an aggregate of €5,000 per calendar month, and/or

(b) increase the Company's costs by an aggregate of €5,000 per calendar month

13 2 Compliance with the terms of this Agreement and the documents to be executed by the Sellers at Completion does not and will not

13 2 1 conflict with, breach, or constitute a default under any provision of any agreement or instrument to which the Company is a party,

13 2 2 conflict with or breach any provision of the memorandum or articles of association of the Company,

13 2 3 relieve any person from any obligation to the Company, or enable any person to terminate any right or benefit enjoyed by the Company, or

13 2 4 cause any Encumbrance over any asset of the Company to crystallise or become enforceable or any present or future indebtedness of the Company to become due and payable prior to its stated maturity

Part B – Commercial

1 Contracts

1 1 The Company is not a party to any agreement, contract, transaction, arrangement or liability which

1 1 1 is outside the ordinary course of business,

1 1 2 is for a fixed term of more than six months (other than as disclosed in the Disclosure Letter),

1 1 3 is unlikely to have been fully performed, in accordance with its terms, more than six months after the date on which it was entered into or undertaken,

1 1 4 is not on an arm's length basis on normal commercial terms,

1 1 5 is incapable of termination by the Company in accordance with its terms on three months' notice or less,

1 1 6 is likely to result in a financial loss to the Company on completion or performance (other than as disclosed in the Disclosure Letter),

1 1 7 cannot readily be fulfilled or performed by the Company on time without undue or unusual expenditure of money and effort,

1 1 8 other than in the ordinary course of business, involves an aggregate outstanding expenditure by it of more than €5,000, or

1 1 9 is a contract for hire or rent, hire purchase or purchase by way of credit sale or periodical payment

1 2 The Company is not a party to any agency, distributorship, marketing, purchasing, manufacturing or licensing agreement or any agreement or arrangement which in any way restricts its freedom to carry on its business in any part of the world in such manner as it thinks fit

1 3 The Company is not, nor has it agreed to become, a member of any joint venture, consortium, partnership or other unincorporated association and it is not, nor has it agreed to become, a party to any agreement or arrangement for sharing commissions or other income

1 4 All rights of the Company under any agreement to which it is a party (including without limitation all content license agreements, managed network operations and reseller agreements) are validly existing and enforceable

1 5 None of these agreements contain guaranteed minimum payment obligations, most favoured customer obligations, penalty payment obligations, or non-compete obligations of the Company (other than as disclosed in the Disclosure Letter)

2 Default under agreements

2 1 The Company is not, and will not with the lapse of time become, in default under any agreement, arrangement or undertaking to which it is a party or in respect of any other obligations or restrictions binding upon it

2 2 The Company has no knowledge of the invalidity or grounds for rescission, avoidance or termination of any agreement or other transaction to which the Company is a party and has not received notice of any intention to terminate, repudiate or disclaim any agreement or other transaction

2 3 No party to any agreement with the Company is in material breach of the agreement and so far as the Sellers are aware there are no circumstances likely to give rise to a material breach

3 **Outstanding offers**

Save in the ordinary course of business, no offer (including an offer of employment) or tender is outstanding which is capable of giving rise to a contract by acceptance or some other unilateral act of a third party

4 **Defective products**

The Company has not sold or supplied products or provided services which do not comply in any material respect with all warranties or representations, express or implied, made in relation to them, or with all applicable laws, regulations, standards and requirements

5 **Major suppliers and customers**

No major customer of the Company has ceased to be a customer since the Accounts Date, so far as the Sellers are aware, no such customer intends to cease to be a customer of the Company or substantially to reduce its existing levels of business with it

6 **Insider arrangements**

6 1 Save for the consultancy agreements between the Company and Agilior GmbH regarding services to be provided by Bjørnar Jensen and the Company and Berner Consult regarding services to be provided by Lasse Berner, the Company is not, and has not at any time been, a party to any contract or arrangement in which any of the Sellers or any director or former director of the Company, or any Associate of any of them, is or was, directly or indirectly, interested

6 2 There are no liabilities outstanding between

6 2 1 the Company and any of the Sellers, the directors or former directors of the Company, or any of their respective Associates, or

6 2 2 any of the Sellers, the directors or former directors of the Company, or any of their respective Associates, and the Company

6 3 None of the Sellers has any rights or interests, directly or indirectly, in any business (other than the business of the Group) which are, or are likely to be, competitive with the business of the Group

7 **Conduct of business and compliance**

7 1 The Company has at all times carried on its business and dealt with its assets in all respects in accordance with applicable laws, regulations and administrative requirements in any jurisdiction including without limitation any applicable laws

prohibiting or restricting the distribution of content of an erotic and/or pornographic nature (in general or with respect to minors or juveniles in particular) and has established and maintained at all times adequate procedures in order to prevent any violation of any applicable law, regulation and administrative requirement

7 2 Neither the Company nor any of its officers is in breach of or has failed to comply in full with any statutory or municipal rules, regulations or provisions applying to or affecting the business or activities of the Company

7 3 The Company has obtained all licences, permits and consents from any person, authority or body required for the proper conduct of its business and all those licences, permits and consents are valid and in full force and effect

7 4 The Company is not in breach of any of the terms or conditions of any such licences, permits or consents and there are no facts or circumstances which might lead to the suspension, cancellation, modification, refusal or revocation of any of them

7 5 There are no investigations or enquiries (nor any pending or threatened) by or on behalf of any governmental or other body in respect of the affairs of the Company and there are no facts or circumstances which might lead to such an investigation or enquiry

8 Competition and anti-trust

8 1 The Company is not a party to any agreement, practice or arrangement which

8 1 1 could give rise to an investigation by or a reference to the Competition Commission,

8 1 2 contravenes any provision of Articles 81 or 82 of the Treaty of Rome, or

8 1 3 is otherwise illegal, unenforceable or void under any other anti-trust, trade regulation or similar legislation, in any jurisdiction

8 2 The Company has not engaged in any conduct which amounts to abuse of a dominant position in a market which may affect trade within the European Union (in contravention of Article 82 of the Treaty of Rome)

9 Litigation

9 1 There is no mediation process, nor any litigation, arbitration, prosecution, administrative or other proceedings (whether criminal or civil) of a material nature in any jurisdiction in which the Company or any person for whose acts and defaults the Company may be vicariously liable is a party or involved (as claimant or defendant), or in respect of which the Company is liable to indemnify any party concerned, nor has there been any such process or proceedings since the date of incorporation of the Company

9 2 There is no mediation process, nor any litigation, arbitration, prosecution, administrative or other proceedings (whether criminal or civil) of a material nature in any jurisdiction pending, threatened or anticipated either by or against the Company or any person for whose acts or defaults the Company may be vicariously liable or in respect of which the Company is liable to indemnify any party concerned

9 3 So far as the Sellers are aware no facts or circumstances exist which might give rise to any mediation process or any litigation, arbitration, prosecution, administrative or

other proceedings (whether criminal or civil) of a material nature in any jurisdiction by or against the Company or any person for whose acts or defaults the Company may be vicariously liable or in respect of which the Company is liable to indemnify any party concerned

9 4 So far as the Sellers are aware there is no dispute with any regulatory body or official department in relation to the business or affairs of the Company, and there are no facts or circumstances existing which may give rise to a dispute

9 5 There is no outstanding judgment, order, decree, arbitral award or decision of a court tribunal, arbitrator, regulatory body or government agency in any jurisdiction against the Company or any person for whose acts or defaults the Company may be vicariously liable or in respect of which the Company is liable to indemnify any party concerned

9 6 The Company is not bound by any undertaking or assurance given to any court, regulatory authority or governmental agency or body

10 **Insolvency**

10 1 No order has been made, petition presented or resolution passed for the winding up of the Company or for the appointment of a liquidator or provisional liquidator to the Company

10 2 No administrator has been appointed over the Company, no notice of intention to appoint an administrator has been given and no application has been made for the appointment of an administrator over the Company

10 3 No distress, execution or other process has been levied in respect of any asset of the Company which remains undischarged

10 4 No administrative or other receiver has been appointed, nor any notice given, or application or order made for the appointment of any such person over the whole or any part of the assets or undertaking of the Company

11 **Advertising materials**

All advertising and marketing materials used by the Company in connection with its business comply with all legal requirements in all jurisdictions in which these materials are used or proposed to be used. Such materials are not inaccurate, misleading or defamatory and there are no grounds under which such materials could be challenged for any reason whatsoever, including defamation, trade libel or any analogous law

Part C – Taxation

- 1 The Sellers and the Company have duly, and within any appropriate time limits (including extensions of filing periods), made and filed all Tax Returns of or relating to the Group and the operations conducted by the Group, and all such Tax Returns are true, complete and correct. All Taxes due and payable by the Group or by the Sellers with respect to the Group and the operations conducted by the Group have been paid. The amount of the Sellers' and the Company's liability for unpaid Taxes with respect to the Group and the operations conducted by the Group for periods (or portions thereof) ending on or before Completion did not exceed the amount of the current liability accruals for Taxes shown in the Completion Accounts of the Company.
- 2 The Sellers and the Company have maintained all records required to be maintained for Tax purposes with respect to the Group and the operations conducted by the Group. The Company and the Sellers have withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, creditor, stockholder or other third party. There are no liens or joint liabilities for Taxes on the assets of the Group or the assets of the Company.
- 3 No Taxation Authority has agreed to operate any special arrangement (being an arrangement which is not based on a strict application of the relevant legislation, statements of practice or extra-statutory concessions published (by any Taxation Authority) in relation to the Company's affairs).
- 4 The Company and the Sellers are not involved in any current dispute with and have not suffered any investigation or audit by any Tax Authority with respect to the Group and the operations conducted by the Group, and neither the Company nor any Seller has received written or oral notice that any deficiency is being asserted by any Tax Authority or that any action or proceeding for assessment or collection of Taxes has been threatened with respect to Taxes relating to the Group and the operations conducted by the Group.
- 5 Within the past five years, the Company or any director or officer exclusively or primarily employed in the operations of the Group (in his capacity as such) has not paid or has not become liable to pay any penalty or fine in respect of Tax.
- 6 The Company is and has at all times been resident for tax purposes in the country of its incorporation.
- 7 The Company has not assumed the Tax Liability of any other person.
- 8 No charge to Taxation will arise on the Company by virtue only of the entering into and/or Completion of this Agreement.

Part D – Employment

1 General

1 1 The Disclosure Letter contains full details in relation to each employee, worker, officer, consultant and any other person engaged to undertake work personally for a Group Company and includes

1 1 1 name,

1 1 2 date of birth,

1 1 3 date of commencement of employment or engagement,

1 1 4 period of continuous employment,

1 1 5 nature of office within the Company,

1 1 6 job title,

1 1 7 normal hours of work,

1 1 8 whether they are fixed-term or part-time,

1 1 9 annual holiday entitlement,

1 1 10 accrued but untaken annual holiday entitlement,

1 1 11 annual remuneration and details of all other benefits whether contractual or non-contractual,

1 1 12 applicable notice period, and

1 1 13 any other relevant or material terms and conditions,

and all such information is complete and accurate in all respects

1 2 Other than as detailed in the Disclosure Letter there are no other undocumented arrangements in respect of any employee, worker, officer, consultant or any other person engaged to undertake work personally

1 3 There are no offers of employment or engagement that have been made by the Company where such offer has been accepted but the person concerned has not yet commenced employment or engagement

1 4 Other than as detailed in the Disclosure Letter, the Company has had no other employees, workers, officers, consultants or any other person engaged to undertake work personally since the Company's incorporation

Part E – Intellectual Property

1 Intellectual Property

- 1 1 The Company does not own (whether solely or jointly with any other party) any registration, or application for registration, of any Intellectual Property (save for domain names)
- 1 2 Details of all domain names (including without limitation registration dates and renewal dates) owned by the Company are disclosed in the Disclosure Letter and the Company is the sole legal and beneficial owner of such domain names
- 1 3 No Intellectual Property owned by the Company is subject to any Encumbrance and all Intellectual Property owned by the Company is valid, subsisting and enforceable and is not subject to any restriction
- 1 4 The Company has paid (by the relevant date for payment) all application, registration, renewal and other fees, and has taken all other steps, required for the application, prosecution, registration and maintenance of the domain names required to be disclosed pursuant to Warranty 1 2
- 1 5 The Intellectual Property owned by the Company together with the Intellectual Property validly licensed to the Company for use in the business of the Company comprises in the reasonable opinion of the Sellers all Intellectual Property necessary for the Company to carry on the business of the Company in the same manner as carried on as at, and/or prior to, the date of Completion
- 1 6 The Company has obtained from each person who/that has been engaged or commissioned to provide any services relating to, or for the benefit of, the Company
 - 1 6 1 a written assignment transferring to the Company ownership of all Intellectual Property created by that person in the course of providing those services, and
 - 1 6 2 (in every case) a waiver from that person of all moral rights in favour of the Company
- 1 7 A list of all IP Agreements is disclosed in the Disclosure Letter and, so far as the Sellers are aware, all of them are enforceable in accordance with their terms. Neither the Company nor any other contracting party is in or has been in breach or default of any IP Agreement or is the subject of any event which with notice or lapse of time or both will constitute such a breach. Neither the Company nor any contracting party to any IP Agreement has given notice to terminate that IP Agreement
- 1 8 Save for the IP Agreement disclosed pursuant to Warranty 1 7, the Company has not granted or entered into, and is not obliged to grant or enter into, any agreement, arrangement, licence, sub-licence, co-existence agreement, assignment, undertaking or understanding in respect of any Intellectual Property owned by, or licensed or sub-licensed to, the Company or has granted any third party any option or right of first refusal to enter into any of the foregoing
- 1 9 So far as the Sellers are aware, the activities of the Company do not infringe, and have not infringed, any Intellectual Property owned by any third party and no third party has made any claim alleging such infringement
- 1 10 So far as the Sellers are aware, neither the subsistence or validity of any Intellectual Property owned by, or licensed or sub-licensed to, the Company nor any of the

Company's right, title, or interest in any Intellectual Property owned by, or licensed to, the Company, is, or has been, the subject of any challenge, claim or proceedings, no such challenge, claim or proceedings have been threatened and there are no facts or matters which might give rise to any such challenge, claim or proceedings

- 1 11 So far as the Sellers are aware, none of the Intellectual Property owned by, or licensed or sub-licensed to, the Company is being infringed, or has been infringed, by any third party So far as the Company is aware, no third party is intending to carry out any activities or is preparing to undertake any activities, which may infringe any Intellectual Property owned by, or licensed or sub-licensed to, the Company

2 Confidential Information

- 2 1 No Group Company uses any processes or is engaged in any activities which involve the misuse or alleged misuse of any confidential information belonging to any third party
- 2 2 No Group Company is aware of any actual or alleged misuse by any person of any Confidential Information
- 2 3 No Group Company has disclosed to any person or party any Confidential Information except where such disclosure was properly made subject to an agreement under which the recipient is obliged to maintain the confidentiality of such Confidential Information and is restrained from further disclosing or using it other than for the purposes for which it was disclosed by the relevant Group Company
- 2 4 The Confidential Information is kept strictly confidential and held in a secure location and each Group Company operates and fully complies with procedures which it maintains to preserve confidentiality, which confidentiality has not been breached

3 Data protection

- 3 1 The Sellers warrant that each Group Company has at all times complied with all relevant requirements of the Swiss Federal Data Protection Act 1992 or any other applicable data protection laws and regulations In particular,
- 3 1 1 all notifications of each Group Company to be made to the Swiss Federal Data Commissioner (SFDC) or any other authority in respect of the business of that Group Company has been properly and timely made,
- 3 2 no Group Company has received any notice (including, without limitation, any information or enforcement notice), letter or complaint from the SFDC or other authority alleging breach by it of any other applicable data protection laws and regulations, and no Group Company has any reason to believe that any circumstances exist which might give rise to any such notice, letter or complaint being served, given or made, and
- 3 3 there are no unsatisfied requests made to any Group Company by data subjects in respect of personal data held or distributed by any Group Company, nor any outstanding applications for rectification or deletion of personal data

4 Information technology

4 1 Ownership and rights

- 4 1 1 Save as set out in the Disclosure Letter, the IT Systems are owned by the Group and are not wholly or partly dependent on any facilities or services not under the exclusive ownership and control of the Group (**Group IT Systems**)
- 4 1 2 The IT Agreements are valid and binding and none has been the subject of any breach or default by any party or of any event which with notice or lapse of time or both would constitute a breach
- 4 1 3 Save as set out in the Disclosure Letter, the Group has full and unrestricted access to and use of the IT Systems, and no third party agreements or consents are required to enable the Group to continue such access and use following completion of the transaction contemplated by this Agreement
- 4 1 4 Save as set out in the Disclosure Letter, the Group is the sole legal and beneficial owner, capable of transferring with full title guarantee, the copyright (wherever in the world enforceable) in each item of Software, including source code and object code, user and other manuals, tapes, indices, descriptive memoranda, original listings, development working papers, calculations and all other relevant documents, media and confidential information free of all Encumbrances and adverse claims
- 4 1 5 All source codes, tapes, indices, descriptive memoranda, original listings, development and working papers, calculations and any other documents or media necessary conclusively to prove authorship and ownership of copyright in the Software owned by the Group are in the possession, custody or control of the Group
- 4 1 6 Save as set out in the Disclosure Letter, no property rights of the Group in the Software have been sold, assigned, licensed or disposed of to any party
- 4 1 7 Save as set out in the Disclosure Letter, no Group Company is a party to any agreement, arrangement or understanding requiring it to place in escrow, or otherwise to permit any third party to use or have access to, the source code to any of the Software

4 2 **Disputes**

No Group Company has at any time had any material dispute with any person relating to the IT Systems or any element of the IT Systems, including without limitation to any proprietary or other rights in or to the Software

4 3 **Status and maintenance**

- 4 3 1 The IT Systems are used and function in accordance with all applicable laws (including those relating to data protection)
- 4 3 2 The IT Systems are in good working order and function in accordance with all applicable specifications No part of the IT Systems has materially failed to function at any time during the three years prior to the date hereof
- 4 3 3 Save in the normal course of business and so far as the Sellers are aware, it is not necessary or desirable to incur any further expenditure on the modification, development, expansion or replacement of the IT Systems, and the present capacity of the IT Systems is sufficient in order to satisfy the requirements of the Group with regard to data processing and communications during the period ending two years from the date hereof

4 3 4 Maintenance and support contracts are in force for each part of the IT Systems and so far as the Sellers are aware there is no reason to believe that these contracts will not be renewed by the other contracting party upon their expiry (if so required by the Group) upon substantially similar terms to those now applicable

4 4 **Integrity**

4 4 1 No part of the IT Systems is or has been infected by any virus or other extraneously induced malfunction

4 4 2 No Group Company is aware of any case where unauthorised access to the IT Systems has taken place, or where any of the software or data in the IT Systems has been modified without the relevant Group Company's express authority

4 4 3 Proper precautions have been taken to preserve the availability, confidentiality and integrity of the IT Systems and such systems have been reviewed on a regular basis by independent experts in the field

4 5 **Disaster recovery**

All necessary steps have been taken to ensure that the business of the Group can continue in the event of a failure of the IT Systems (whether due to natural disaster, power failure or otherwise)



Part F – Property

- 1 Neither the Company nor any Subsidiary
 - (a) owns, controls, uses or occupies any land or buildings or has any estate, right or interest or liabilities,
 - (b) has any liabilities in respect of any land or buildings which it has previously owned, controlled, used or occupied or in respect of which it has previously had any estate, right, interest or liabilities,
 - (c) has given any guarantee, indemnity or undertaking in respect of any land or buildings,
 - (d) is a party to any uncompleted agreement to acquire or dispose of any land, buildings or property, and/or
 - (e) is subject to any liabilities or claims under Environmental Law (including, but not limited to, any actual or threatened liabilities or claims under applicable law, and any actual or threatened notice by any enforcement authority or agency) and, so far as the Sellers are aware, there are no facts or circumstances which might give rise to any such liabilities or claims
- 2 So far as the Sellers are aware, each Group Company has complied with all Environmental Laws applicable to such Group Company's business operations and activities

Part H – Social Security and Pensions

- 1 Each Group Company has timely made all filings, with regard to social security and public retirement schemes as required by any applicable law, including but not limited to the Swiss public retirement scheme "AHV", and all such filings are complete and accurate. Each Group Company has timely made, all payments required by any applicable law with regard to social security and public retirement schemes, and there are no further liabilities for any such payments.

The Sellers warrant that

- (i) the pension liabilities of Intelligent Mobile Development Europe Telecommunications Kft (the **Hungarian Subsidiary**) as set out in the financial statements of the Hungarian Subsidiary have been calculated in accordance with the relevant laws and regulations and in compliance with the applicable generally accepted and consistently applied accounting principles,
- (ii) all accrued pension claims of the employees and former employees of the Hungarian Subsidiary are covered by the pension plan,
- (iii) sufficient reserves have been established for such claims, or such claims are covered by the funds of the pension fund,
- (iv) up to Completion, all contributions which have to be paid to such funds have been paid in full, and
- (v) the Hungarian Subsidiary has not granted any further pension benefits to its employees beyond those required to comply with relevant laws and regulations

Schedule 4 - Title Warranties

(referred to in **Clause 6 (Title Warranties)**)

A reference in any of the Title Warranties in this Schedule to **Shares** means the holding of the Shares in **Column (2)** of **Schedule 1** set opposite the name of the Seller giving that Title Warranty. Each Seller warrants that

- 1 He is the legal and beneficial owner of the Shares (as defined above)
- 2 There is no Encumbrance, and there is no agreement, arrangement or obligation to create or give an Encumbrance, in relation to any of the Shares
- 3 No person has ever given notice to the Company or to the Sellers of any claim to be entitled to an Encumbrance or any benefit under any Encumbrance in relation to any of the Shares
- 4 He has full power and authority and has taken all action necessary to enter into, deliver and perform this Agreement and the documents to be delivered by the Seller at Completion and to sell and transfer all the Shares to the Buyer on the terms of this Agreement without the consent of any third party
- 5 He is not insolvent or bankrupt or unable to pay its debts as they fall due
- 6 He is not subject to any form of insolvency or bankruptcy procedure, either in Switzerland, Norway, Germany, Hungary or elsewhere

Schedule 5 - Tax Covenant

referred to in **Clause 8 (Tax Covenant)**

1 Interpretation 1.1 Definitions

In this Schedule

Accounting Practices means the accounting bases and policies used by the any Group Company and the date to which the any Group Company makes up its accounts,

Accounts Relief means

- (i) a Relief that has been treated as an asset in the Accounts, or
- (ii) a Relief that has been taken into account in computing a provision for deferred Tax that appears in the Accounts or has resulted in no provision for deferred Tax being made in the Accounts,

Auditors means the auditors for the time being of the Group Company or, if the auditors are unable or unwilling to take any action contemplated in this Schedule, a firm of chartered accountants of good repute designated by the Buyer,

Current Accounting Period has the meaning given by **Paragraph 9.2** of this Schedule,

Completed Accounting Periods has the meaning given by **Paragraph 9.1** of this Schedule,

Deemed Tax Liability has the meaning given by **Paragraph 4** of this Schedule,

Demand includes any assessment, notice, letter, determination, demand or other document issued by or on behalf of any Tax Authority and any return, computation, account or other document required for any Tax purpose from which it appears that a Tax Liability has been or may be, imposed on any Group Company,

Dividend includes anything that is deemed to be a dividend or distribution for any Tax purpose and any Event giving rise to a liability under section 419 of ICTA,

Event means any transaction, action, omission or occurrence of whatever nature, including the accrual of income or gains and the execution of this Agreement and Completion,

FA means Finance Act,

GAAP means generally accepted accounting practice with respect to the accounts of UK companies that are intended to give a true and fair view,

Group Relief means

- (a) group relief under section 402 ICTA,
- (b) advance corporation tax under section 240 ICTA, or
- (c) tax refund under section 102 FA 1989,

ICTA means the Income and Corporation Taxes Act 1988,

Interim Relief means a Relief to the extent that it arises in the ordinary course of business of any Group Company in the period beginning immediately after the Accounts Date and ending on Completion,

Post-completion Relief means a Relief to the extent that it arises after Completion,

Relevant Relief has the meaning given by **Paragraph 7.1** of this Schedule,

Relief means any relief, allowance, exemption, right to repayment or credit in respect of any Tax or deduction in computing income, profits or gains,

Tax Liability means

- (a) liabilities of the relevant Group Company to make actual payments of Tax (or amounts in respect of Tax), and
- (b) the loss of any Accounts Relief, and
- (c) the setting off against income, profits or gains earned, accrued or received on or before Completion of any Accounts Relief or Interim Relief or Post-completion Relief in circumstances where, but for such setting off, any Group Company would have had a liability to make an actual payment of Tax in respect of which the Buyer would have been able to make a claim against the Sellers under this Schedule, and

TCGA means the Taxation of Chargeable Gains Act 1992

1 2 **Stamp Duty**

For the purposes of this Schedule, any stamp duty that would have to be paid by any Group Company after Completion in order that an instrument executed before Completion be given in evidence by the relevant Group Company or be available for any purpose to the relevant Group Company is deemed to be a Tax Liability of the relevant Group Company arising as a consequence of an Event that occurred on or before Completion

1 3 **Miscellaneous**

In this Schedule, references to

- (a) **income, profits or gains** includes income, profits, gains and any other standard or measure for any Tax purpose and also includes any income, profits or gains that are deemed to be earned, accrued or received for any Tax purpose,
- (b) **loss**, in respect of any Relief, includes the reduction, cancellation, non-availability, non-existence or setting off against Tax or against income, profits or gains of that Relief, and **lost** shall be construed accordingly,
- (c) any payment or distribution as being made on or before a particular date includes any payment or distribution that has fallen due and payable on or before that date,
- (d) an Event that occurred on or before Completion includes a combination of two

or more Events, the first or some of which occurred outside the ordinary course of business of the relevant Group Company on or before Completion, and the second or later of which occurred inside the ordinary course of business of the relevant Group Company after Completion, and

- (e) the occurrence of Events on or before a particular date or in respect of a particular period includes Events that are for any Tax purpose treated as having occurred or existed at or before that date or in respect of that period

2 **Covenant**

2.1 **Covenant to Pay**

Subject to **Paragraph 3** the Sellers jointly and severally covenant with the Buyer that they shall pay to the Buyer a sum equal to

- (a) any Tax Liability of any Group Company arising as a consequence of any Event that occurred on or before Completion or in respect of any income, profits or gains that were earned, accrued or received on or before Completion, and/or
- (b) any Tax Liability of any Group Company arising as a consequence of any Dividend paid on or before Completion, and/or
- (c) any Tax Liability of any Group Company arising as a consequence of any acquisition, disposal or supply, or deemed acquisition, disposal or supply, occurring or being deemed to occur on or before Completion, of assets, goods, services or facilities of any nature for consideration deemed for any Tax purpose to exceed the actual consideration (if any), but only to the extent of the excess, and/or
- (d) any Tax Liability of any Group Company arising as a consequence of any Event occurring on or before Completion or the earning of any income, profits or gains on or before Completion that results in any Group Company becoming liable to pay or bear a Tax Liability chargeable primarily against or attributable to another person, and/or
- (e) any Tax Liability arising as a consequence of an Event occurring
 - (i) after Completion and for which any Group Company is liable as a result of having been a member of a group for any Tax purpose at any time before Completion, or
 - (ii) at any time and for which any Group Company is liable as a result of having been controlled by any person for any Tax purpose at any time before Completion, and/or
- (f) any Tax Liability of any Group Company arising as a consequence of a failure occurring on or before Completion to deduct and/or account for any PAYE, withholding tax or national insurance contributions, and/or
- (g) any liability of any Group Company to make a payment in respect of a covenant, guarantee or indemnity relating to Tax and given on or before Completion, and/or

- (h) the amount of any liability of any Group Company to pay for or repay any amount paid to any Group Company for any surrender of Group Relief pursuant to an arrangement entered into on or before Completion, and/or
- (i) any depletion in or reduction in value of the assets or increase in the liabilities of the Buyer or any Group Company as a result of any inheritance tax that
 - (i) is at Completion a charge on any of the Shares or assets of any Group Company or gives rise to the power to sell, mortgage or charge any of the Shares or assets of any Group Company, or
 - (ii) after Completion becomes a charge on or gives rise to a power to sell, mortgage or charge any of the Shares or assets of any Group Company being a liability in respect of inheritance tax payable as a result of the death of any person (whenever occurring) within seven years after a transfer of value or a deemed transfer of value where such transfer of value or deemed transfer of value occurred on or before Completion, and/or
- (j) any costs and expenses reasonably and properly incurred by the Buyer or any Group Company
 - (i) in connection with any Tax Liability or other liability or depletion in or reduction in the value of assets or increase in liabilities referred to in this **Paragraph 2.1**, or
 - (ii) in connection with any Demand, or
 - (iii) in successfully taking or defending any action under this Schedule, and/or
- (k) in particular but not limited to
 - (i) any VAT liability in connection with the false declaration of Swiss VAT,
 - (ii) additional income tax liabilities due to higher effective tax rate applicable in Switzerland (should tax status as a domicile company be not applicable),
 - (iii) any withholding and income taxes payable due to hidden profit distributions and/or other expenses, which are not considered as tax deductible by the Swiss federal, cantonal and communal tax authorities, and
 - (iv) withholding taxes in connection a buy back of shares by any Group Company

3 Limits in Respect of Tax Claims

3.1 Specific Limits

The Sellers shall not be liable in respect of a Tax Claim to the extent that

- (a) specific allowance, provision or reserve in respect of the matter or thing giving

rise to the Tax Claim has been made in the Accounts/Completion Accounts, or

- (b) the matter or thing that is the subject of the Tax Claim would not have arisen but for any increase in rates of Tax or any change in law, published practice or any withdrawal of any extra-statutory concession by a Tax Authority, being an increase, change or withdrawal made after Completion with retrospective effect,
- (c) the matter or thing that is the subject of the Tax Claim would not have arisen but for a change, after the date of this Agreement, in Accounting Practices other than a change required to ensure compliance with the law or with GAAP applicable to the relevant Group Company at Completion,
- (d) the matter or thing that is the subject of the Tax Claim would not have arisen or would have been reduced or eliminated but for a failure on the part of any Group Company to make any claim, election, surrender or disclaimer or give any notice or consent or do anything after Completion the making giving or doing of which was taken into account in preparing the Accounts/Completion Accounts and of which specific notice and detail was given to the Buyer at least 30 days before the last date on which such claim, election, surrender, disclaimer, notice or consent could validly be made or given,
- (e) the matter or thing that is the subject of the Tax Claim arises or is increased as a consequence of the withdrawal or postponement by any Group Company after Completion of any claim for Relief made on or before Completion,
- (f) the matter or thing that is the subject of the Tax Claim arises as a consequence of an Event that has occurred since the Accounts Date and before Completion in the ordinary course of business of the relevant Group Company, or
- (g) the matter or thing that is the subject of the Tax Claim would not have arisen but for a cessation of, or change in the nature or conduct of, any trade carried on by any Group Company, being a cessation or change occurring on or after Completion,
- (h) the matter or thing that is the subject of the Tax Claim would not have arisen but for any failure or delay by the Buyer or any Group Company in paying over to any Taxation Authority any payment previously made by the Sellers in respect of a Tax Claim,
- (i) the matter or thing that is the subject of the Tax Claim arises as a consequence of a breach by the Buyer of any of its obligations under this Agreement,
- (j) the matter or thing that is the subject of the Tax Claim arises by virtue of the average rate of tax of any Group Company increasing as a consequence of the Buyer acquiring the Shares,
- (k) the matter or thing that is the subject of the Tax Claim arises because any Group Company's assets are more than, or its liabilities less than, the amount that was taken into account in computing the provision for deferred Tax in the

Completion Accounts,

- (l) the matter giving rise to the Tax Claim is a Tax Liability that has been discharged on or before Completion,
- (m) the matter or thing that is the subject of the Tax Claim would not have arisen but for a voluntary transaction, action or omission carried out or effected by any Group Company at any time after Completion, other than any such transaction, action or omission
 - (i) carried out or effected pursuant to a legally binding commitment created on or before Completion, or
 - (ii) carried out or effected to comply with any law, regulation or the request of any Tax Authority,
 - (iii) carried out or effected in the ordinary course of business of any Group Company,
 - (iv) involving the payment of any stamp duty or the bringing into the United Kingdom of any instrument referred to in **Paragraph 1.2** of this Schedule, or
 - (v) carried out or effected at the written request of the Sellers

3.2 Ordinary Course of Business

For the purposes of this Schedule an Event occurring in the ordinary course of business of any Group Company does not include

- (a) any Dividend or distribution as defined in Part VI or section 418 of ICTA,
- (b) any acquisition, disposal or supply, or deemed acquisition, disposal or supply, of assets, goods, services or facilities of any nature for consideration deemed for any Tax purposes to be different from the actual consideration (if any),
- (c) an Event giving rise to a liability under section 126 or Schedule 23 to the FA 1995 (UK representatives of non-residents etc) or Part XVII of ICTA (tax avoidance),
- (d) any Event which results in any Group Company becoming liable to pay or bear any Tax which is primarily chargeable against, recoverable from or attributable to another person (other than Tax required to be deducted or withheld by any Group Company on making any payment),
- (e) any Event giving rise to a liability under section 419 of ICTA,
- (f) any variation in the share capital of any Group Company or any alteration of the rights attaching to any shares in the capital of any Group Company,
- (g) any Group Company's failure to deduct or account for Tax or pay Tax when due,
- (h) a disposal of capital assets,

- (i) a release of all or part of any debt,
- (j) the making of, or providing for, any redundancy or similar payments, or
- (k) any Event that results in a chargeable gain being attributed to any Group Company under section 13 or 87 TCGA

3.3 Interest

Clause 13 (*Interest*) of this Agreement does not apply to a payment under the Tax Covenant to the extent that the Buyer is compensated for late payment by virtue of the Tax Covenant extending to interest and penalties

4 Quantification of Liability

In any case falling within any of Paragraphs (b) and (c) of the definition of Tax Liability, the amount that is to be treated as a Tax Liability of any Group Company (**Deemed Tax Liability**) is

- (a) in a case that falls within Paragraph (b) where the Accounts Relief lost was a right to repayment of Tax, the Deemed Tax Liability is the amount of the repayment that would have been obtained but for the loss,
- (b) in a case that falls within Paragraph (b) where the Accounts Relief lost was not a right to repayment of Tax, the Deemed Tax Liability is the amount of the additional Tax that any Group Company is (or would but for the availability of any Accounts Relief or Interim Relief or Post Completion Relief be) liable to pay as a result of such loss, and
- (c) in a case that falls within Paragraph (c), the Deemed Tax Liability is the amount of Tax that would have been payable by any Group Company but for such setting-off

5 Due Date of Payment

Where the Sellers become liable to make any payment in respect of a Tax Claim, the due date for making that payment is

- (a) in a case that involves an actual payment by any Group Company, the later of
 - (i) five Business Days before the last date on which the relevant Group Company can make the payment in question without incurring a liability to interest or penalties, and
 - (ii) five Business Days after the Buyer or the relevant Group Company notifies the Sellers of the liability to make a payment and the amount of that payment,
- (b) in a case that falls within **Paragraph 4(a)** of this Schedule, the later of
 - (i) the date on which repayment would have been received, and
 - (ii) five Business Days after the Buyer or the relevant Group Company notifies the Sellers of the liability to make a payment and the amount

of that payment,

- (c) in a case that falls within **Paragraph 4(b)** of this Schedule, the later of
 - (i) five Business Days before the relevant Group Company becomes due to pay any Tax which it would not, but for such loss, have had to pay (or would have become so due but for the use of any Accounts Relief or Interim Relief or Post-completion Relief), and
 - (ii) five Business Days after the Buyer or the relevant Group Company notifies the Sellers of the liability to make a payment and the amount of that payment,
- (d) in a case that falls within **Paragraph 4(c)** of this Schedule, the later of
 - (i) five Business Days before the relevant Group Company would have been due to pay the Tax but for such setting off, and
 - (ii) five Business Days after the Buyer or the relevant Group Company notifies the Sellers of the liability to make a payment and the amount of that payment, or
- (e) in any other case, five Business Days after the Buyer or any Group Company notifies the Sellers of the liability to make a payment and the amount of that payment

6 Recovery From Other Persons

6.1 Recovery

If the Buyer or any Group Company is, within seven years from Completion, entitled to recover from any other person (including a Tax Authority) a sum in respect of any matter to which a Tax Claim relates and that has been satisfied in full by the Sellers, the Buyer shall, or shall procure that the relevant Group Company shall (as relevant), as soon as reasonably practicable give written notice of that entitlement to the Sellers and if the Sellers indemnify and secure the Buyer or, as appropriate, the relevant Group Company (to the Buyer's reasonable satisfaction) against the reasonable costs of the Buyer or, as appropriate, the relevant Group Company in connection with taking the following action, the Buyer shall or shall procure that the relevant Group Company shall take such action as may be reasonably requested by the Sellers to enforce recovery against that person

6.2 Accounting for Amount Recovered

In the event that the Buyer or any Group Company recovers any sum referred to in **Paragraph 6.1** of this Schedule, the Buyer shall as soon as is reasonably practicable account to the Sellers for the lesser of

- (a) the sum recovered, net of any Tax on the sum and the costs and expenses of recovering it, and
- (b) the amount already paid by the Sellers in respect of the Tax Claim in question

6 3 No Relevant Relief Under Tax Warranty Claim

The provisions of this **Paragraph 6** do not apply in respect of any sum recovered in respect of a Tax Claim relating to any breach of any Tax Warranty to the extent that the sum recovered has been taken into account in quantifying the liability of the Sellers in respect of the breach of the relevant Tax Warranty

7 Reliefs, Corresponding Savings and Over-provisions

7 1 Reliefs

Where a Tax Claim in respect of which payment has been made has resulted in the Buyer or any Group Company obtaining a Relief (**Relevant Relief**) which would not otherwise have arisen then

- (a) the Relevant Relief shall first be set off against any payment then due from the Sellers in respect of a Tax Claim,
- (b) to the extent there is an excess, a refund shall be made to the Sellers of any previous payment or payments made by the Sellers in respect of a Tax Claim and not previously refunded under this Paragraph up to the amount of such excess, and
- (c) to the extent that the excess referred to in Paragraph (b) is not exhausted, the remainder shall be carried forward and set off against any future payment or payments which become due from the Sellers in respect of a Tax Claim

7 2 Over-provisions

If, at the request and expense of the Sellers, the Auditors determine that any provision for Tax in the Completion Accounts (excluding any provision for deferred Tax) has proved to be an over-provision then the over-provision shall be applied in the same manner as a Relevant Relief would be applied under **Paragraph 7 1** of this Schedule

7 3 No Relevant Relief Under Tax Warranty Claim

The provisions of this **Paragraph 7** do not apply in respect of any Relief that results from a Tax Claim relating to any breach of any Tax Warranty to the extent that the Relief has been taken into account in quantifying the liability of the Sellers in respect of the breach of the relevant Tax Warranty

8 Claims procedure

8 1 Notice of Demand and Action and Assistance

If the Buyer or any Group Company becomes aware of a Demand relevant for the purposes of this Schedule

- (a) the Buyer shall as soon as reasonably practicable, and in any event in the case of a Demand that requires action to be taken within a specific period, not later than ten Business Days before that period ends, give or procure that the relevant Group Company gives written notice of the Demand to the Sellers, but notice is not a condition precedent to the liability of the Sellers under this

Schedule, and

- (b) subject to **Paragraphs 8.2(b)(iv)** and **8.4** of this Schedule, the Buyer shall or shall procure that the relevant Group Company shall take any action the Sellers may reasonably and promptly by written notice request to avoid, resist, appeal or compromise the Demand if the Sellers first agree to indemnify and secure the Buyer and the each relevant Group Company (to the Buyer's reasonable satisfaction) against all costs and expenses (including interest on overdue tax) that the Buyer or each relevant Group Company may incur in connection with the taking of action pursuant to this **Paragraph 8.1(b)**

8 2 **Sellers' Conduct**

The action that the Sellers can reasonably request under **Paragraph 8.1(b)** of this Schedule includes the relevant Group Company allowing the Sellers to have conduct of any action referred to in **Paragraph 8 1(b)** if the Sellers

- (a) keep the Buyer fully informed of all material matters relating to the Demand and deliver to the Buyer copies of all material correspondence relating to the Demand, and
- (b) obtain the Buyer's prior written approval (not to be unreasonably withheld or delayed) to
 - (i) the appointment of solicitors or other professional advisers,
 - (ii) the content of all material communications relating to the Demand sent to a Tax Authority,
 - (iii) the settlement or compromise of the Demand, and
 - (iv) the agreement of any matter that is likely to affect the amount of the Demand or the future liability of the Buyer or any Group Company to Tax

8 3 **Court proceedings**

The Buyer is not obliged to take any action under **Paragraph 8.1(b)** of this Schedule that involves contesting any Demand before any court or other appellate body (excluding the Tax Authority that has made the Demand) unless the Sellers furnishes the Buyer with the written opinion of leading Tax counsel to the effect that an appeal against the Demand in question is a reasonable course of action given the amounts involved and the likelihood of success

8 4 **Company Action**

Where the Sellers do not promptly make a request under **Paragraph 8 1(b)** of this Schedule, the relevant Group Company shall be free, without prejudice to the rights of the Buyer in respect of the Demand, to take such action as it in its absolute discretion considers appropriate in the circumstances to settle the matter to which the Demand relates

8 5 Fraudulent or Negligent Conduct

Paragraph 8 2 of this Schedule does not apply if a Tax Authority alleges in writing that the Sellers have committed an act or are responsible for an omission that constitutes fraudulent or negligent conduct

9 Conduct of Tax Affairs

9 1 Computations and Returns – Completed Accounting Periods

The Sellers have the responsibility for, and the conduct of (at their cost and expense) preparing, submitting, negotiating and agreeing with the relevant Tax Authorities all outstanding Tax returns and computations of all Group Companies for all accounting periods ended on or prior to Completion (**Completed Accounting Periods**)

9 2 Computations and Returns – Current Accounting Period

The Sellers have the responsibility for, and the conduct of (at their cost and expense) preparing, submitting, negotiating and agreeing with the relevant Tax Authorities the Tax returns and computations of all Group Companies for the accounting period current at Completion (**Current Accounting Period**)

9 3 Obligations of Sellers

In relation to any action described in **Paragraph 9.1** and **9.2** of this Schedule, the Sellers shall

- (a) submit to the Buyer for comment all Tax returns, computations and other material documents that they intend to submit to a Tax Authority and take into account all reasonable comments made by the Buyer, and
- (b) not submit any material document to a Tax Authority, or agree any matter with a Tax Authority, without the prior written approval of the Buyer (not to be unreasonably withheld or delayed)

9 4 Buyer's Obligations

In relation to any action described in **Paragraph 9.2** of this Schedule, the Buyer shall

- (a) submit to the Sellers for comment all material documents that it intends to submit to a Tax Authority and take into account all reasonable comments made by the Sellers, and
- (b) not submit any material document to a Tax Authority, or agree any matter with a Tax Authority, without the prior written approval of the Sellers (not to be unreasonably withheld or delayed)

9 5 Mutual Assistance

The Sellers and the Buyer shall

- (a) procure the provision to each other of such information and assistance that each reasonably requires of the other to prepare, submit, negotiate and agree all Tax returns, computations and related correspondence for the Completed

Handwritten signature/initials

Accounting Periods and the Current Accounting Period, and

- (b) promptly deliver to each other copies of all correspondence sent to, or received from, a Tax Authority in relation to the Tax returns and computations for the Completed Accounting Periods and the Current Accounting Period

9 6 Buyer Assistance

The Buyer covenants with the Sellers to procure that all Group Companies take such action (including signing and authorising Tax returns and computations) as is necessary or desirable to give effect to this **Paragraph 9** but this covenant does not require the Buyer to procure that all Group Companies take any action in relation to any Tax return that is not true and accurate in all material respects

9 7 Fraudulent or Negligent Conduct

Paragraphs 9.1 and **9.2** of this Schedule do not apply if a Tax Authority alleges in writing that the Sellers have committed an act or are responsible for an omission that constitutes fraudulent or negligent conduct

9 8 Conduct of Tax Affairs Subject to Claims

This **Paragraph 9** is subject to **Paragraph 8** of this Schedule

10 Buyer's Covenant

10 1 Covenant

The Buyer undertakes to the Sellers to pay to the Sellers an amount equal to any liability of the Sellers, or any other person falling within section 767A(2) or 767AA(4) ICTA, section 132(3) FA 1988 or section 190(3) TCGA by virtue of a relationship which that person has or has had with the Sellers (and any related interest, penalties, costs and expenses) assessed on the Sellers or on any such person pursuant to sections 767A, 767AA or 767B ICTA or section 132 FA 1988 or section 190 TCGA as a result of any Group Company failing to pay any corporation tax assessed on it

10 2 Covenant not to Apply

The covenant contained in **Paragraph 10.1** of this Schedule does not apply to any Tax in respect of which the Buyer has a Tax Claim or to any Tax that the Sellers have recovered from any Group Company under any statutory right of recovery and the Sellers shall procure that no recovery under such statutory right is sought to the extent that payment has been made to the Sellers by the Buyer under **Paragraph 10.1** of this Schedule in respect of that Tax

10 3 Due Date for Payment

Where the Buyer becomes liable to make any payment under **Paragraph 10.1** of this Schedule, the due date for making that payment is the later of

- (a) five Business Days before the last date on which the Sellers or the other person can make the payment in question without incurring a liability to interest or penalties, and

- (b) five Business Days after the Sellers or the other person notifies the Buyer of the liability to make a payment and the amount of that payment

11 Mitigation

The Buyer shall, at the written direction of the Sellers, procure that all Group Companies take all such steps as the Sellers may require to

- (a) use any Relief that is not an Accounts Relief or Post-completion Relief as is available to any Group Company to reduce or eliminate any Tax Liability in respect of which the Sellers would otherwise have been liable in respect of a Tax Claim, the said use being to effect the reduction or elimination of any such Tax Liability to the extent permitted by law, and to provide to the Sellers a certificate from the Auditors confirming that any such Relief has been so used,
- (b) make all such claims and elections as may be specified in writing by the Sellers to the Buyer on or before Completion in respect of any accounting period of the relevant Group Company commencing before Completion as have the effect of reducing or eliminating any such Tax Liability, and
- (c) allow the Sellers to reduce or eliminate any Tax Liability by surrendering, or procuring the surrender by any company other than any Group Company of Group Relief to any Group Company to the extent permitted by law, but without any payment being made in consideration for the surrender

12 Indemnities

The Sellers undertake with the Buyer that they will indemnify and at all times keep the Buyer and the Company fully and effectively indemnified against all losses, claims, costs, charges, expenses, liabilities, actions, demands, proceedings and judgments whatsoever which the Buyer and/or the Company may wheresoever pay, suffer or incur or which may be brought or be threatened against or incurred by the Buyer in any jurisdiction whatsoever (and, in the case of a claim, whether or not such claim is successful, compromised or settled) by any person whatsoever (including, without limitation, all costs, charges and expenses as the Buyer may pay, suffer or incur in investigating, responding to, seeking advice on, disputing, defending or considering any such actual or potential actions, claims or demands or in enforcing the Buyer's rights under this Agreement) and which arise out of or in connection with or result from or are attributable to

- 12.1 the Company or any of its directors or officers being liable to pay social security contributions in relation to fees paid to Agilior GmbH and Berner Consult in respect of consultancy services provided to the Company or any Subsidiary

the Buyer, any member of the Buyer's Group

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- (b) five Business Days after the Sellers or the other person notifies the Buyer of the liability to make a payment and the amount of that payment.

11 Mitigation

The Buyer shall, at the written direction of the Sellers, procure that all Group Companies take all such steps as the Sellers may require to

- (a) use any Relief that is not an Accounts Relief or Post-completion Relief as is available to any Group Company to reduce or eliminate any Tax Liability in respect of which the Sellers would otherwise have been liable in respect of a Tax Claim, the said use being to effect the reduction or elimination of any such Tax Liability to the extent permitted by law, and to provide to the Sellers a certificate from the Auditors confirming that any such Relief has been so used,
- (b) make all such claims and elections as may be specified in writing by the Sellers to the Buyer on or before Completion in respect of any accounting period of the relevant Group Company commencing before Completion as have the effect of reducing or eliminating any such Tax Liability; and
- (c) allow the Sellers to reduce or eliminate any Tax Liability by surrendering, or procuring the surrender by any company other than any Group Company of Group Relief to any Group Company to the extent permitted by law, but without any payment being made in consideration for the surrender

12 Indemnities

The Sellers undertake with the Buyer that they will indemnify and at all times keep the Buyer and the Company fully and effectively indemnified against all losses, claims, costs, charges, expenses, liabilities, actions, demands, proceedings and judgments whatsoever which the Buyer and/or the Company may wheresoever pay, suffer or incur or which may be brought or be threatened against or incurred by the Buyer in any jurisdiction whatsoever (and, in the case of a claim, whether or not such claim is successful, compromised or settled) by any person whatsoever (including, without limitation, all costs, charges and expenses as the Buyer may pay, suffer or incur in investigating, responding to, seeking advice on, disputing, defending or considering any such actual or potential actions, claims or demands or in enforcing the Buyer's rights under this Agreement) and which arise out of or in connection with or result from or are attributable to:

- 12.1 the Company or any of its directors or officers being liable to pay social security contributions in relation to fees paid to Agilior GmbH and Berner Consult in respect of consultancy services provided to the Company or any Subsidiary.

the Buyer, any member of the Buyer's Group

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Schedule 6 - Additional consideration

1. Calculation of number of First Additional Consideration Shares and Second Additional Consideration Shares

- 1 1 Subject to **Paragraphs 5.2** and **5.3** below, the number of First Additional Consideration Shares (**F**) to be allotted shall be calculated in accordance with the following formula

$$F = (PTP - \text{€}500,000) * 0.29377$$

Where "PTP" = Pre-Tax Profits

PROVIDED THAT if PTP is more than €1,250,000, PTP shall be deemed to be €1,250,000 and if PTP is less than €500,000 is shall be deemed to be €500,000 and accordingly F shall be zero

- 1 2 Subject to **Paragraphs 5.2** and **5.3** below, the number of Second Additional Consideration Shares (if any) (**S**) to be allotted shall be calculated in accordance with the following formula

$$S = (PTP - \text{€}1, 250,000) * 0.73443$$

Where "PTP" = Pre-Tax Profits

PROVIDED THAT if PTP is equal to or less than €1,250,000, PTP shall be deemed to be €1,250,000 (and accordingly S shall be zero) and where PTP is more than €1,750,000 PTP shall be deemed to be €1,750,000

2. Calculation of the number of Consideration Shares

The number of Consideration Shares shall not be rounded-up to the nearest whole Consideration Share and fractions of Consideration Shares shall be disregarded

3. Procedure for allotting Consideration Shares

- 3 1 The Buyer shall use all reasonable endeavours to ensure that the accounts of the Company and each of its Subsidiaries for the Earn Out Period (the **Earn Out Accounts**) are prepared within three months' of the last day of the Earn Out Period

- 3 2 The Earn Out Accounts shall be prepared

- (a) in accordance with the accounting principles, policies and practices identified in **Paragraph 6** of this Schedule,
- (b) where it is not possible to account for a matter or thing in accordance with **Paragraph 3.2(a)**, on a basis consistent with and using the accounting principles, policies and practices adopted by the Buyer when preparing its annual accounts, and
- (c) where it is not possible to account for a matter or thing in accordance with **Paragraph 3.2(a)** or **3 2(b)**, in accordance with the international financial reporting standards in effect at the date of Completion

- 3 3 The Buyer shall, within 10 Business Days of receiving the Earn Out Accounts, send to the Sellers
- 3 3 1 a copy of the Earn Out Accounts of the Company and each of its Subsidiaries, and
- 3 3 2 a certificate issued by the Buyer's accountants stating
- (a) the Pre-Tax Profits for the Earn Out Period,
 - (b) any adjustments made to the Earn Out Accounts in arriving at the Pre-Tax Profits, and
 - (c) the aggregate number of First Additional Consideration Shares and Second Additional Consideration Shares (if any) to be allotted to the Sellers (subject to any deduction made in accordance with **Paragraph 3.8** of this Schedule)
- 3 4 The Sellers have 30 days, starting with the day on which they receive the Earn Out Accounts and certificate referred to in **Paragraph 3.2** of this Schedule, within which jointly to give notice to the Buyer that they do not accept the accuracy of the certificate. If the Sellers do not jointly give notice under this **Paragraph 3.3**, they are all deemed to have accepted the certificate as accurate at the expiry of the 30 day period
- 3 5 Where the Sellers jointly give notice that they do not accept the accuracy of the certificate, the parties have 30 days, starting with the day on which the Buyer receives the notice, within which to resolve any disagreement relating to the certificate. The parties shall use their best endeavours to resolve the disagreement within that period
- 3 6 Where the parties are unable to resolve their disagreement within the 30 day period, the calculation of the Pre-Tax Profits and Additional Consideration shall be referred to an expert arbiter (*Schiedsgutachter*) (the **Reporting Accountant**) agreed upon between them or (failing agreement within 20 days) to be selected (at the instance of either party) by the President of the Swiss Institute of Certified Accountants and Tax Consultants (*Treuhand-Kammer Schweizerische Kammer der Wirtschaftsprüfer, Steuerexperten und Treuhandexperten*)
- 3 7 Subject to **Paragraph 3.8**, in relation to the Earn Out Period, the Buyer shall allot the Consideration Shares due to the Sellers in the proportions set out in Column (5) of **Schedule 1** set opposite the Sellers' names and procure that such Consideration Shares are admitted to trading on AIM within seven Business Days starting with the day on which
- 3 7 1 the Sellers accept or are deemed to have accepted the certificate relating to the Additional Consideration as accurate in accordance with **Paragraph 3.3** of this Schedule, or
- 3 7 2 the parties have resolved all disagreements on that certificate, or
- 3 7 3 the parties receive notice of the Reporting Accountant's decision on the Additional Consideration
- 3 8 The Buyer may withhold from any Consideration Shares to be allotted such number of Consideration Shares as has a value, at the Relevant Share Price, equal to the

amount in respect and satisfaction of any Claim, claim under the Tax Covenant or claim under **Clause 6.6** which has been brought in good faith by the Buyer and is supported by legal advice that such a claim has a reasonable chance of success and/or has been settled or determined in favour of the Buyer but which has not been satisfied in full by the Sellers

- 3.9 Save as otherwise provided in this Schedule, the parties shall each bear their own costs incurred in the preparation of the certificate and the agreement of the Pre-Tax Profits and Additional Consideration

4. Reporting Accountant

- 4.1 The Reporting Accountant is required to prepare a written decision and give notice (including a copy) of the decision to the parties within a maximum of three months of the matter being referred to the Reporting Accountant

- 4.2 All matters under this **Paragraph 4** shall be conducted, and the Reporting Accountant's decision shall be written, in the English language

- 4.3 The parties are entitled to make submissions to the Reporting Accountant and shall provide (or procure that others provide) the Reporting Accountant with such assistance and documents as the Reporting Accountant reasonably requires for the purpose of reaching a decision

- 4.4 To the extent not provided for by this Paragraph, the Reporting Accountant may, in his reasonable discretion, determine such other procedures to assist with the conduct of the determination as he considers just or appropriate

- 4.5 Each party shall, with reasonable promptness, supply each other party with all information and give each other party access to all documentation and personnel as each other party reasonably requires to make a submission under this **Paragraph 4**

- 4.6 The Reporting Accountant shall act as an expert and not as an arbitrator. The Reporting Accountant shall determine the amount of Pre-Tax Profits and any Additional Consideration, which may include any issue involving the interpretation of any provision of this agreement, his jurisdiction to determine the matters and issues referred to him or his terms of reference. The Reporting Accountant's written decision on the matters referred to them shall be final and binding on the parties in the absence of manifest error or fraud

- 4.7 Each party shall bear its own costs in relation to the Reporting Accountant. The Reporting Accountant's fees and any costs properly incurred by him in arriving at his determination (including any fees and costs of any advisers appointed by the Reporting Accountants) shall be borne by the parties equally or in such other proportions as the Reporting Accountant directs

5. CHANGE OF CONTROL

- 5.1 If there is a Change of Control at any time before 1 January 2009, the Sellers shall have the right to serve a notice on the Buyer (the **Early Earn Out Notice**) by giving notice in writing to the Buyer in accordance with **Clause 20**. The date of any Early Earn Out Notice shall be the **Early Earn Out Date**

- 5 2 If the Sellers elect to serve an Early Earn Out Notice on or before 31 December 2007, the Earn Out Period shall be deemed to be from the date of this Agreement until the Early Earn Out Date and the Pre-Tax Profits (**PTP**) for the purposes of **Paragraph 1** above shall be calculated using the following formula

$$PTP = \frac{PEO \times 365}{D}$$

Where

"PEO" = Pre-Earn Out Pre-Tax Profits as at the Early Earn Out Date

"D" = the number of days inclusive from Completion to the Early Earn Out Date

- 5 3 If the Sellers serve an Early Earn Out Notice on or after 1 January 2008, the Earn Out Period shall be deemed to be from the date of this Agreement until the Early Earn Out Date and the PTP for the purposes of **Paragraph 1** above shall be calculated using the following formula

$$PTP = \frac{PEO \times 365}{D}$$

Where

"PEO" = Pre-Earn Out Pre-Tax Profits plus the Pre-Tax Profits as at the Early Earn Out Date, and

"D" = the number of days inclusive from Completion to the Early Earn Out Date,

- 5 4 Upon the exercise of the Early Earn Out Notice, the Sellers shall be able to elect to
- 5 4 1 be issued such number of Consideration Shares in accordance with the procedures set out in **Paragraphs 3** and **4** of this **Schedule 6**, or
- 5 4 2 upon the acceptance of a general offer made to all the holders of Shares for the time being that is recommended by the board of directors of the Buyer and made in accordance with the City Code on Takeovers and Mergers, receive such amount in cash as has a value equal to the number of Consideration Shares as would have been allotted in accordance with the procedures set out in **Paragraphs 3** and **4** of this **Schedule 6** For the purposes of this **Paragraph** the Consideration Shares shall be taken to have a value equal to the average middle market quotations for ordinary shares in the Buyer as derived from the Daily Official List of the London Stock Exchange plc for the five Business Days immediately preceding the date on which such general offer is accepted as certified by the Buyer's broker

6 Specific accounting policies to be applied to the Earn Out Accounts

6 1 IFRS accounting rules adopted by the Buyer at the time of Completion shall be applied during the Earn Out Period provided that the Company's accounting policies as applied at the date of Completion shall be accepted unless they specifically contradict IFRS rules

6 2 The following specific accounting policies will be applied in the preparation of the Earn Out Accounts

6 2 1 income shall be recognised when the service is provided,

6 2 2 content costs shall be recognised when the service is provided,

6 2 3 receivables are recorded at estimated recovery amount,

6 2 4 content stock and information technology assets are amortised over 36 months,

6 2 5 interests in subsidiaries are recorded at original investment together with the share of retained profits,

6 2 6 creditors (including tax liabilities) are shown at the actual amount due, and

6 2 7 the Beate Uhse licence contract is amortised over 12 months or as stipulated otherwise in the contract

7 Earn out protections

7 1 The Buyer and the Sellers acknowledge that the purpose and intention of this **Paragraph 7** is to confer certain protections on the Sellers to ensure that the Buyer in exercising its powers of control and influence over the Company's affairs should not act in such a way as to make it more difficult for the Pre-Tax Profit target to be achieved than would otherwise have been the case had the Buyer not gained the control of the Company

7 2 It is difficult to anticipate all eventualities that may arise during the Earn Out Period Accordingly the Buyer and the Sellers agree that between the date of this Agreement and the end of the Earn Out Period

7 2 1 the Buyer and the Sellers shall at all times act in good faith towards each other,

7 2 2 the Buyer will not knowingly do anything the sole or primary purpose of which is (or which would or might reasonably be expected) to affect adversely the achievement of Pre-Tax Profits equal to or in excess of €1,750,000 for the Earn Out Period

7 3 Between the date of this Agreement and the end of the Earn Out Period and save with the prior written consent of the Sellers (not to be unreasonably withheld or delayed) the Buyer shall

- (a) not (and shall procure that no member of the Buyer's Group shall) cause any resolution to be passed to wind-up the Company or cause it to cease carrying on its business (unless the Buyer has received bona fide advice from a professional adviser that not doing so would be in breach of applicable insolvency or company legislation),

(b) not sell, transfer or otherwise dispose of the legal or beneficial interests in the Shares in the Company provided that the Buyer shall be entitled to sell or transfer such shares to any entity within the Buyer's Group on terms that any such interest shall automatically revert to the Buyer if the relevant entity shall cease to be in the Buyer's Group,

(c) carry on the Business with a view to maximising the Pre-Tax Profits,

(d) not knowingly interfere with or do any act or thing with the intention of or which is reasonably likely to result in impairing or materially and adversely affecting the relationship of the any Group Company with its customers, clients or suppliers or any other person who ordinarily does business with the relevant Group Company, or

Buyer (e) subject to the rights of the ~~Company~~ *Buyer* to terminate the consultancy agreements between the ~~Company~~ and Agilior GmbH and Berner Consult respectively in accordance with paragraph 7 4 of each such agreement, the Buyer will ensure that

two words replaced D.R.R.

(i) the Sellers remain fully involved in and central to the operation and management of the Company's business,

(ii) the Sellers are consulted on all material decisions which affect the Company's business and that before such decisions are made the Sellers' suggestions and views are fully considered and taken into account, and

(iii) if the Buyer and the Sellers disagree on a material decision which affects the Company's business, the parties will seek to resolve such disagreement constructively and in good faith

7 4 Between the date of this Agreement and the end of the Earn Out Period, the Buyer shall procure that the Company is given all reasonable and practicable commercial support and advice, in order to develop its business, from the Buyer's Group

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- (b) not sell, transfer or otherwise dispose of the legal or beneficial interests in the Shares in the Company provided that the Buyer shall be entitled to sell or transfer such shares to any entity within the Buyer's Group on terms that any such interest shall automatically revert to the Buyer if the relevant entity shall cease to be in the Buyer's Group;
- (c) carry on the Business with a view to maximising the Pre-Tax Profits,
- (d) not knowingly interfere with or do any act or thing with the intention of or which is reasonably likely to result in impairing or materially and adversely affecting the relationship of the any Group Company with its customers, clients or suppliers or any other person who ordinarily does business with the relevant Group Company, or
- (e) subject to the rights of the ~~Company~~ ^{Buyer} to terminate the consultancy agreements between the ~~Company~~ and Agilior GmbH and Berner Consult respectively in accordance with paragraph 7.4 of each such agreement, the ~~Company~~ ^{Buyer} will ensure that:
 - (i) the Sellers remain fully involved in and central to the operation and management of the Company's business,
 - (ii) the Sellers are consulted on all material decisions which affect the Company's business and that before such decisions are made the Sellers' suggestions and views are fully considered and taken into account, and
 - (iii) if the Buyer and the Sellers disagree on a material decision which affects the Company's business, the parties will seek to resolve such disagreement constructively and in good faith

7.4 Between the date of this Agreement and the end of the Earn Out Period, the Buyer shall procure that the Company is given all reasonable and practicable commercial support and advice, in order to develop its business, from the Buyer's Group

Schedule 7 - Completion Accounts

1 Calculation

In this **Schedule 7**, "**Net Asset Value**" means the total value of the assets of the Company less the value of the liabilities of the Company as at Completion as determined in accordance with this Schedule

1 1 1 The Completion Accounts shall consist of a balance sheet of the Company as at close of business on 30 September 2007 in the format set out in **Part 3** of this Schedule. The Completion Accounts shall be prepared

- (a) in accordance with the accounting principles, policies and practices identified in **Part 2** of this Schedule,
- (b) where it is not possible to account for a matter or thing in accordance with **Paragraph 1 1 1(a)**, on a basis consistent with and using the accounting principles, policies and practices adopted in the Accounts, and
- (c) where it is not possible to account for a matter or thing in accordance with **Paragraph 1.1.1(a) or (b)**, in accordance with generally accepted accounting principles in the UK in effect at the date of Completion

1 1 2 Unless the Buyer shall within 30 Business Days after receipt of the draft Completion Accounts serve a notice in writing on the Sellers that it objects to the draft Completion Accounts (identifying the reason for any objection and the amount(s) or item(s) in the draft Completion Accounts which are in dispute) (such notification being an **Objection Notice**), the Buyer shall be deemed to have agreed to the draft Completion Accounts for all purposes of this Agreement

1 1 3 If within the period referred to in **Paragraph 1.1.2** the Buyer shall give to the Sellers an Objection Notice then the Buyer and the Sellers shall use their reasonable endeavours to reach agreement upon any necessary adjustments to the draft Completion Accounts. The Sellers shall supply all such information and provide access to all such records and personnel as the Buyer and its accountants and any independent chartered accountant appointed under **Paragraph 1 1 4** shall reasonably require for the purposes of this Schedule

1 1 4 In the event that the Sellers and the Buyer are unable to reach agreement within 10 Business Days following service of the Objection Notice, either the Sellers or the Buyer shall be entitled to refer the matter(s) in dispute to an independent chartered accountant agreed upon between them or (failing agreement) to be selected (at the instance of either party) by the President of the Swiss Institute of Certified Accountants and Tax Consultants (*Treuhand-Kammer Schweizerische Kammer der Wirtschaftsprüfer, Steuerexperten und Treuhandexperten*). Such independent chartered accountant shall act as expert and not as arbitrator and his determination of the matter(s) in dispute shall be final and binding (save in the case of manifest error). The costs of the independent chartered accountant (together with any fee paid or payable to the Swiss Institute of Certified Accountants and Tax Consultants in respect of the selection of the independent chartered accountant) shall be borne equally between the Sellers on the one hand and the Buyer on the other hand

1 1 5 If the Buyer agrees or is deemed to agree to the draft Completion Accounts or if the draft Completion Accounts are determined in accordance with **Paragraph 1.1.4**, such

draft Completion Accounts shall be the Completion Accounts for the purposes of this Agreement and shall be final and binding on the parties. The Net Asset Value shall be the net asset value set out in such Completion Accounts.

2 Specific accounting policies

- 2.1 IFRS accounting rules adopted by the Buyer at the time of Completion shall be applied provided that the Company's accounting policies as applied at the date of Completion shall be accepted unless they specifically contradict IFRS rules.
- 2.2 The following specific accounting policies will be applied in the preparation of the Completion Accounts:
 - 2.2.1 income shall be recognised when the service is provided,
 - 2.2.2 content costs shall be recognised when the service is provided,
 - 2.2.3 receivables are recorded at estimated recovery amount,
 - 2.2.4 content stock and information technology assets are amortised over 36 months,
 - 2.2.5 interests in subsidiaries are recorded at original investment together with the share of retained profits,
 - 2.2.6 creditors (including tax liabilities) are shown at the actual amount due, and
 - 2.2.7 the Beate Uhse licence contract is amortised over 12 months or as stipulated otherwise in the contract.



3. Pro forma balance sheet

Aktiven

Umlaufvermögen

FI Mittel und Wertschriften	[]		
Bank (von WIN Plc)				
Total FI Mittel und Wertschriften			[]

Forderungen

Debitoren	[]		
11700 Vorsteuer auf Materialaufwand	[]		
11710 Vorsteuer auf Investitionen	[]		
11760 Eidg Steuerverwaltung VST	[]		
11761 Eidg Steuerverwaltung MWST	[]		
Total Forderungen			[]

Forderungen Dntte

Total Forderungen Dntte			[]
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Ford gegenüber Aktionär

Total Ford gegenüber Aktionär			[]
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Uebrig Forderungen

Total Uebrig Forderungen			[]
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Aktive Rechnungsabgrenzung

Total Aktive Rechnungsabgrenzung			[]
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Total Umlaufvermögen

			[]
--	--	--	---	---

Anlagevermögen

Finanzanlagen

Total Finanzanlagen			[]
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Beteiligungen

14204 Quattrocomm GmbH	[]		
14205 Int Mob Dev Europe Kft	[]		
Total Beteiligungen			[]

Mobile Sachanlagen

15210 EDV-Anlage	[]		
Total Mobile Sachanlagen			[]

Aktivierter Aufwand

18110 Eagle Media	[]		
18120 IMG Media, Premier League	[]		
Tzoneshost Entwicklung	[]		
Total Aktivierter Aufwand			[]

Total Anlagevermögen

			[]
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Total Aktiven

			[]
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Passiven

Fremdkapital kurzfristig

Kurzfr Verbin für Leistungen Kreditoren	[]		
Total Kurzfr Verbin für Leistungen			[]

Kurzfr Verbindlich Konzerng

20503 KK Quattrocomm GmbH Berlin	[]		
Total Kurzfr Verbindlich Konzerng			[]

Ubrige kurzfr Verbindlichk

22000 Umsatzsteuer	[]		
Total Ubrige kurzfr Verbindlichk			[]

Passive Rechnungsabgrenzung

	[]		
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Transitorische Passiven

Total Passive Rechnungsabgrenzung			[]
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Total Fremdkapital kurzfristig

			[]
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Eigenkapital

Handwritten signature/initials

Kapital			
28000 Aktienkapital	[]	
Total Kapital			[]
Reserven, Bilanzgewinn			
29000 Gesetzliche Reserven	[]	
29020 Agioeinzahlungen	[]	
29900 Gewinn- und Verlustvortrag	[]	
Total Reserven, Bilanzgewinn			[]
Total Eigenkapital			[]
Gewinn			[]
Total Passiven			[]

SIGNED as a **DEED** by **BJØRNAR JENSEN**
in the presence of

Witness signature
Witness name
Witness address

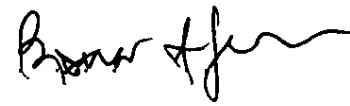
Witness occupation

SIGNED as a **DEED** by **LASSE BERNER**
in the presence of

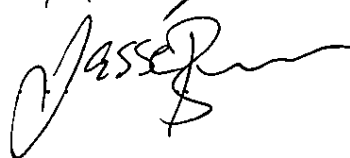
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Witness name
Witness address

Witness occupation

EXECUTED as a **DEED** by
WIN PLC acting by

) 

) M. Staehle
) Dr. Mathias Staehle

) Attorney
) 

) M. Staehle
) Dr. Mathias Staehle
) Attorney

) Director

) Director/Secretary



SIGNED as a DEED by BJØRNAR JENSEN
in the presence of.

Witness signature
Witness name
Witness address

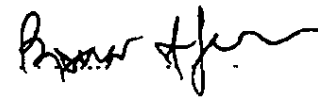
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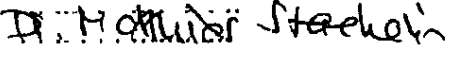
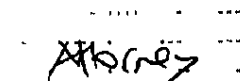
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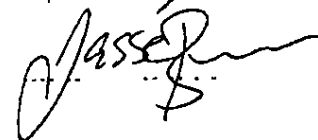
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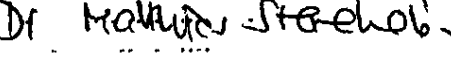
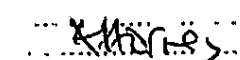
Witness occupation

EXECUTED as a DEED by
WIN PLC acting by

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Director

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Director/Secretary