

Date: 30th Mar 2005 **BUSINESS SALE AGREEMENT**



Parties:

- (1) **TRIBOLOGY LIMITED** (registered in Scotland under company registration number SC260723) whose registered office is c/o Gordon Ferguson & Co Ltd C.A, 33 Laird Street, Coatbridge, Lanarkshire ML5 3LWL (the "Seller"); and
- (2) **DRY LUBE LIMITED** (registered in England and Wales under company registration no: 05390685) whose registered office is c/o Pettman Smith, Solicitors, 79 Knightsbridge, London SW1X 7RB (the "Buyer");
- (3) **COLIN McARTHUR** whose address is at 4 Bowling Street Coatbridge Lanarkshire ML5 1PP ("CM");
- (4) **KINDERSLEY HOLDINGS LIMITED** (registered in England under company registration no. 05307051) whose registered office is at Hedges, Cheapside, Woking, Surrey, GU21 4JL ("Kindersley").

RECITALS:

- (A) The Seller is presently in the business of the manufacture sale and distribution, installation and maintenance of certain proprietary lubricants and dry lubrication systems;
- (B) CM is the legal and beneficial owner of all of the issued and outstanding shares in the capital of the Company;
- (C) The Buyer is a newly incorporated company formed for the purpose of acquiring from the Seller that part of the business and assets of the Seller as relate to the manufacture sale and distribution of lubricants; and
- (D) The Seller is willing to sell the said business and assets and the Buyer is willing to purchase the same on the terms set out in this agreement.

NOW, THEREFORE the parties agree as follows:

1. Definitions and interpretation

- 1.1 In this agreement unless the context otherwise requires the following expressions shall have the following meanings:

"Agreed Creditors"	means those Creditors disclosed to the Buyer in the Disclosure Letter or the Management Accounts and to whom the Buyer has not specifically objected;
"Accounts Date"	means 31 January, 2005;
"Agreed Documents"	this agreement and all the agreed form documents referred to in it;
"Agreed Form"	in a form which has been agreed by the parties and which has been duly executed or initialled for identification by them or on their behalf;
"Assets"	the interest in Property, the Fixed Equipment, the Moveable Equipment, the Stock, the Goodwill, the Business Records, the Intellectual Property, the Cash Balance, the Debtors, the benefit of the Contracts, the right to any repayment of tax or insurance claim, the benefit of the Third Party Rights and all other assets used for the purposes of the Business;
"Business"	means the business of the Seller known as Tribology being the business of the manufacture sale and distribution, installation and maintenance of dry lubrication systems to the fast moving consumer packaging industry as carried on at the Completion Date;
"Business Day"	means any day other than a Saturday, Sunday or public holiday in the UK;

"Business Information"	Confidential Information relating to, or used by the Seller in, the Business including any contained in the Business Records 2(or any of them);
"Business Names"	means "Tribology" "Tribolube" and each and every name, title, device or logo (including any of them and including in each case any part, derivative or abbreviation of any of them) used in connection with the Business or (if the context requires) all rights, title and interest of the Seller in each of them;
"Business Records"	means all records, documents and materials which relate to the Business or any of the Assets, including the materials described in <u>Schedule 10</u> ;
"Buyer's Solicitors"	means Pettman Smith of 79 Knightsbridge London SW1X 7RB;
"Cash Balance"	means any cash in hand or at bank of the Seller including cheques received but not banked or which are in the course of clearance;
"Completion"	means completion of the sale and purchase of the Assets by the performance by the parties of their respective obligations under clause 8 and <u>Schedule 1</u> ;
"Completion Date"	the date of this agreement;
"Confidential Information"	means all information and records wherever located (including accounts, business plans and financial forecasts, Tax records, correspondence, designs, drawings, manuals, specifications, customer, sales and supplier information, technical or commercial expertise, software, formulae, processes, trade secrets, methods, knowledge and know-how) and which (either in their entirety or in the precise configuration or assembly of their components) are not publicly available and in each case whether or not recorded;
"Consideration"	means the consideration to be given by the Buyer to the Seller or to the Seller's nominee on Completion as set out in clause 4;
"Consideration Shares"	the 750,000 Ordinary Shares of 1p each in the capital of the Buyer to be issued and allotted to the Buyer or at the Buyer's direction;
"Contracts"	the Customer Contracts, the Supply Contracts and the Finance Agreements;
"Contracts Act"	means the Contracts (Rights of Third Parties) Act 1999;
"Creditors"	the aggregate amount due to trade and other creditors of the Seller in relation to the Business including accrued charges, customers' prepayments and trade and other bills payable (whether or not yet due and payable) at the Completion Date;
"Customer Contracts"	means all of the contracts, agreements, orders, engagements and arrangements (whether written or oral) between the Seller and customers of the Business for the supply of goods or services by the Seller in the ordinary course of trading in relation to the Business which are subsisting at the Completion Date whether or not listed in part 1 of <u>Schedule 7</u> ;
"Customs"	HM Customs & Excise;
"DPA 1998"	the Data Protection Act 1998;
"Debtors"	the aggregate amount due from trade and other debtors of the Seller in relation to the Business including

"Developed Software"	payments in advance to suppliers of the Seller and trade and other bills receivable at the Completion Date; any software developed by or on behalf of the Seller in relation to the Business;
"Disclosure Letter"	the agreed form letter of the same date as this agreement from the Seller to the Buyer disclosing certain matters in relation to the Warranties which has been delivered to the Buyer prior to the execution of this agreement;
"Due Diligence Bundle"	the bundle of documents compiled by the Seller in response to a document entitled "Memorandum of Information Requirements" addressed to the Seller in connection with the proposed subscription of Shares in the Seller or a successor company; "Employees" means the persons employed by the Seller in the Business particulars of whom are set out in Schedule 9;
"Employment Liabilities"	means without limitation any costs, claims, fines, liabilities or expenses (including reasonable legal and other professional expenses) arising from: <ul style="list-style-type: none"> (a) the employment of any person; (b) the termination of any such employment; (c) any dispute (whether or not the subject of litigation in any court or tribunal) which relates to any such employment; and (d) any failure to discharge in full any obligation to inform or consult appropriate representatives of any person about the transaction contemplated by this agreement or any other matter;
"Enactment"	means any statute or statutory provision (whether of the United Kingdom or elsewhere), subordinate legislation (as defined by section 21(1) Interpretation Act 1978) and any other subordinate legislation made under any such statute or statutory provision;
"Encumbrance"	means any option, trust, power of sale, title retention, pre-emption right, right of first refusal, Security Interest or other right, claim or interest, whether legal or equitable, of any third party (or an agreement or commitment to create any of them);
"Excluded Assets"	means those items details of which are set out in <u>Schedule 4</u> ;
"Fairly Disclosed"	means disclosed in such detail as to enable a reasonable buyer to make an informed and accurate assessment of the matter concerned;
"Finance Agreements"	means the leasing, hire purchase, credit sale and other similar agreements relating to any of the Assets and subsisting at the Completion Date details of which are partially set out in part 3 of <u>Schedule 7</u> ;
"Fixed Equipment"	means all of the plant, machinery and equipment used in the Business and affixed to the Property partially set out in <u>Schedule 5</u> ;
"Goodwill"	means the goodwill and connection of the Business including the exclusive right for the Buyer to use and trade under the Business Name and to carry on the Business after Completion in succession to the Seller in each case in any part of the world;
"Guarantee"	means any guarantee, indemnity, suretyship, letter of comfort or other assurance, security or right of set-off given or undertaken directly or by way of counter-

"ICTA 1988"	indemnity by a person to secure or support the obligations (actual or contingent) of any third party; means the Income and Corporation Taxes Act 1988;
"Intellectual Property"	means all the Intellectual Property Rights owned and/or used by the Seller prior to the Completion Date in the products manufactured or services provided by the Seller or on its behalf in connection with the Business including the Business Name;
"Intellectual Property Rights"	means design rights, trade marks and service marks (in each case whether registered or not), patents, registered designs, copyright, moral rights, rights in databases, utility models and all similar property rights whether registrable or not, including those subsisting (in any part of the world) in inventions, designs, drawings, performances, know-how, computer programs, semiconductor topographies, plant varieties, genetic material, Confidential Information, business or brand names, domain names, metatags, goodwill or the style of presentation of goods or services and including applications for protection of any such rights;
"Liabilities"	shall include all losses, costs (including legal costs on an indemnity basis, other professional fees and disbursements and associated VAT), damages, expenses, interest, charges, actions, proceedings, claims and demands associated with or arising out of the relevant subject matter (including Employment Liabilities and Environmental Liabilities);
"Licences"	means the benefit (so far as capable of assignment) of all such licences, permits or consents (not falling within the Contracts or relating to the Property) as relate to the Business and are held by the Seller at the Completion Date (including any licences by or in favour of the Seller of any Intellectual Property Rights;
"Management Accounts"	means the unaudited balance sheet of the Seller as at the Accounts Date and the unaudited profit and loss account of the Seller for the period from 1 June 2004 to 31 January, 2005 (both dates inclusive);
"Moveable Equipment"	means all of the moveable plant, machinery and equipment (including tools, furniture and fittings, computers and related equipment, motor vehicles and spare parts) used in the Business as at the Completion Date reference to some of the principal items of which are set out in <u>Schedule 6</u> ;
"PAYE and NIC records"	means the working sheets records and other documents relating to the Business required to be preserved for the purposes of the Pay As You Earn and National Insurance systems;
"Property"	means the licensed property brief details of which are set out in <u>Schedule 5</u> ;
"Regulations" or "TUPE"	means the Transfer of Undertakings (Protection of Employment) Regulations 1981;
"Relevant Authority"	means any person or authority (including any nation, national or local government or international organisation and any subdivision or agency or executive arm of any of them, any court or judicial officer or any securities exchange) with legal or de facto power to

	impose and/or enforce compliance with any Official Requirement;
"Relevant Breach"	any event, matter or circumstance which is inconsistent with, contrary to or otherwise a breach of any of the Warranties;
"Security Interest"	means a mortgage, lien, pledge, charge (fixed or floating), assignment by way of security, hypothecation or other security interest (or an agreement or commitment to create any of them);
"Stock"	all stock including raw materials and components, work-in-progress, finished and partly finished goods, fuel, packaging, stationery and other consumables relating to the Business as at Completion;
"Subscription and Shareholders' Agreement"	means the subscription and shareholders' agreement of even date entered into or to be entered in the Agreed Form between the Buyer, CM, Kindersley, FF&P Special Situations II LLP and FF&P Investor I LP;
"Supply Contracts"	all of the contracts, agreements, orders, engagements and arrangements (whether written or oral) between the Seller and suppliers for the supply of goods or services to the Seller in the ordinary course of trading in relation to the Business or any of the Assets subsisting at the Completion Date whether or not set out in <u>Schedule 7</u> ;
"Tax"	means: <ul style="list-style-type: none"> (a) all forms of taxes duties imposts and levies and all deductions and withholdings in relation to tax whenever created or imposed and whether of the United Kingdom or elsewhere including deductions under the Pay As You Earn system, National Insurance contributions and VAT; and (b) all penalties fines charges surcharges and interest in relation to tax within paragraph (a) or to any return or information required to be provided for the purposes of any such tax;
"Third Party Rights"	means the benefit of: <ul style="list-style-type: none"> (a) all claims made by the Seller for a loan, grant or other aid from any Relevant Authority in respect of the Business or any of the Assets so far as any such loan, grant or aid relates to any period after the Completion Date; (b) all rights of the Seller in respect of goods supplied by the Seller in the course of the Business on terms as to retention of title and to which the Seller retains title at Completion (other than the consideration for any such supply where included in the Debtors); (c) all claims against, or rights to make any claims against, any third party in respect of any goods, equipment or other items supplied to the Seller and which form part of the Assets;
"Third Party Software"	means any software used by the Seller in connection with the Business the Intellectual Property Rights in which are owned by a third party;
"VAT"	value added tax;
"VAT Records"	all records invoices and other documents relating to the Business which are required to be preserved for the

	purposes of VATA 1994 and/or regulations made under that enactment;
"VATA 1994"	means the Value Added Tax Act 1994;
"Warranties"	means the warranties contained in clause 12 and <u>Schedule 2</u> ; and
"Warrantors"	means the Seller and CM and "Warrantor" shall mean any one of them.

1.2 In this agreement unless the context otherwise requires:

- 1.2.1 references to a clause or schedule are to a clause of, or a schedule to, this agreement, references to this agreement include its schedules and references in a schedule or part of a schedule to a paragraph are to a paragraph of that schedule or that part of that schedule;
- 1.2.2 references to this agreement or any other document or to any specified provision in any of them are to this agreement, that document or that provision as in force for the time being and as amended from time to time in accordance with their terms or, as the case may be, with the agreement of the relevant parties;
- 1.2.3 words importing the singular include the plural and vice versa, words importing a gender include every gender and references to persons include corporations, partnerships and other unincorporated associations or bodies of persons;
- 1.2.4 the words and phrases "other", "including" and "in particular" shall not limit the generality of any preceding words or be construed as being limited to the same class as the preceding words where a wider construction is possible;

2. Sale of the Business and the Assets

- 2.1 Subject to clause 2.2 below, the Seller shall sell to the Buyer and the Buyer (relying, as the Seller acknowledges, on the representations, warranties, undertakings, covenants and indemnities of the Seller and CM referred to or contained in the Agreed Documents) shall purchase from the Seller the Business and the Assets on the terms and subject to the provisions of this agreement with a view to carrying on the Business as a going concern in succession to the Seller.
- 2.2 The sale of the Business and the Assets by the Seller is conditional upon the execution and delivery of the Subscription and Shareholders' Agreement;
- 2.3 The Seller covenants with the Buyer that:
 - 2.3.1 the Seller has the right to dispose of the Business and the Assets on the terms set out in this agreement;
 - 2.3.2 the Seller shall at its own cost do everything possible to give the Buyer full and unrestricted legal and beneficial title to each of the Assets; and
 - 2.3.3 the Assets shall be sold and transferred free from Encumbrances (other than those expressly contemplated by this agreement) including any which:
 - (a) the Seller does not know or could not reasonably be expected to know about; or
 - (b) at the time of transfer is within the actual knowledge, or is a necessary consequence of facts then within the actual knowledge, of the Buyer; and the transfer of the Assets to the Buyer shall be deemed to include expressly and be made subject to all the above provisions of this clause 2.2.
- 2.4 Title to, beneficial ownership of, and any risk attaching to, the Assets shall pass on Completion except that:
 - 2.4.1 beneficial interest in the lease to the Property shall pass as specified in Schedule 5; and
 - 2.4.2 title to and beneficial ownership of the Contracts shall pass to the Buyer as provided in clause 6
- 2.5 The Buyer shall not be obliged to complete the purchase of any of the Assets unless the purchase of all the Assets is completed simultaneously.

- 2.6 As from Completion, all the Assets shall, pending any necessary legal assignment or assurance, be held by the Seller on trust for the Buyer absolutely.
- 2.7 Following Completion and at the request and expense of the Buyer the Seller will acquire a new name and allow the Buyer to register a change of name as "Tribology Limited". At the same time the Seller and CM undertake to procure that any other company over which they have control and which bears the name 'Tribology' (including Tribology Consumables Limited) shall likewise change its name and cease to use the name 'Tribology'.

3. Liabilities

- 3.1 Except as expressly provided otherwise in this agreement, the Buyer shall not assume under this agreement, and nothing in this agreement shall operate to transfer to the Buyer or to make it responsible for, any of the debts, liabilities or other obligations of the Seller, including:
- 3.1.1 Creditors other than Agreed Creditors;
 - 3.1.2 Tax and all Tax creditors;
 - 3.1.3 amounts owed to any third party banks or other third party lenders by way of overdraft, term loan or otherwise other than amounts due under the Finance Agreements (see Schedule 7) in relation to periods after Completion;
 - 3.1.4 any amounts owed by the Seller in respect of the Business on loan account or otherwise;
 - 3.1.5 any failure by the Seller in the performance of any of the obligations of the Seller under any contract including any of the Contracts or the Licences or otherwise;
 - 3.1.6 any act, default or transaction of the Seller or any circumstance occurring in respect of the use of the Assets or the carrying on of the Business up to Completion including those in any way relating to products manufactured and delivered and/ or services rendered up to Completion and any work in progress or *products manufactured up to Completion*; and
 - 3.1.7 any Liability in respect of anything done or omitted to be done by or on behalf of the Seller up to Completion or in relation to the use of the Assets or the carrying on of the Business generally up to Completion; and subject to any express undertaking or indemnity given by the Buyer to the Seller in this agreement, the Seller undertakes to discharge or otherwise satisfy all those debts, liabilities and obligations so far as they relate to the Business or the Assets and to indemnify the Buyer against all Liabilities incurred by the Buyer in relation to any of them (whether or not they relate to the Business or the Assets).
- 3.2 Except as otherwise expressly provided in this agreement and except in relation to any such matter which is or gives rise to a Relevant Breach (of the Warranties), the Buyer shall indemnify the Seller against any and all Liabilities arising out of or in connection with the carrying on of the Business and the possession of the Assets after the Completion Date by the Buyer

4. Consideration

- 4.1 The consideration for the Business and the Assets shall be satisfied in full by the issue and allotment to the Seller or to the Seller's order the Consideration Shares subject to the terms of the Subscription and Shareholders' Agreement together with the assumption by the Buyer of those liabilities (actual or contingent) of the Seller or other parties which the Buyer expressly agrees to assume or reimburse under this agreement.
- 4.2 For the avoidance of doubt, the Seller has irrevocably directed the Buyer that the Consideration Shares should be issued and allotted to CM or at his direction.

5. Debtors and Creditors

- 5.1 Debtors and Agreed Creditors are included in the sale and purchase under this agreement.
- 5.2 The Buyer shall pay the Creditors promptly as and when they fall due for payment.

6. Contracts and Licences

6.1 The Contracts and the Licences shall be dealt with as follows:

- 6.1.1 this agreement shall constitute an assignment to the Buyer of the benefit of all the Contracts and the Licences which the Seller is entitled to assign without the consent of any third party in each case with effect from the Completion Date;
- 6.1.2 as from the Completion Date the Seller shall hold the benefit of those of the Contracts and the Licences which cannot be assigned without the consent of a third party on trust for the Buyer (and all profits and losses arising from them shall belong to and be borne by the Buyer) and the Seller shall, at the Buyer's request and cost, give to the Buyer all reasonable assistance to enable the Buyer to enforce the Contracts and the Licences;
- 6.1.3 the Seller and the Buyer shall each use their reasonable endeavours to obtain all necessary consents for and subsequently effect the assignment or novation of each of the Contracts and the Licences referred to in clause 6.1.2;
- 6.1.4 with effect from Completion and subject to the Seller performing its obligations under this clause 6 the Buyer shall assume the obligations and carry out, complete and discharge all of the obligations of the Seller under the Contracts and the Licences and shall indemnify the Seller from all Liabilities arising by reason of the Buyer's failure to observe or perform the terms of any of the Contracts and the Licences after Completion; and
- 6.1.5 if the other party or parties to a Contract or a Licence shall rescind or terminate or purport to rescind or terminate that Contract or Licence or shall make any other claim on the ground that the transfer or purported transfer of that Contract or Licence by the Seller to the Buyer or the performance and discharge of the obligations under it by the Buyer constitutes a breach of, or event of default under, the relevant Contract or Licence, the Seller shall indemnify the Buyer against all Liabilities to any such other party under any such claim but the Seller shall not otherwise be liable to compensate the Buyer for, and the Buyer shall have no claim against the Seller in respect of, any loss of the benefit of the relevant Contract or Licence arising from any such action or claim by the other party or parties to it.

7. Employment

7.1 The parties acknowledge that the purchase of the Business will constitute a relevant transfer for the purposes of the Regulations and the parties agree that the contracts of employment of the Employees will take effect as if originally made between the Buyer and the Employees on and from the Completion Date except:

- 7.1.1 in so far as those contracts or agreements relate to benefits for old age, invalidity or survivors under any occupational pension scheme; or
- 7.1.2 where any Employee objects under Regulation 5(4A) of the Regulations.

8. Completion

- 8.1 Completion shall take place at the offices of the Buyer's Solicitors (or at such other place as the parties may agree) on the Completion Date when all (but not part only unless the parties shall so agree) of the business specified in Schedule 1 shall be transacted.
- 8.2 Following compliance with the provisions of schedule 1, the Buyer shall procure the issue and allotment of the Consideration Shares.

9. Value Added Tax and Capital Allowances

- 9.1 All amounts stated in this agreement to be payable by any party to it are stated exclusive of any VAT which may be chargeable on those amounts and the amount of any VAT shall be payable in addition to those amounts.

- 9.2 The parties each consider that article 5 of the Value Added Tax (Special Provisions) Order 1995 ("Article 5") applies to the purchase of the Business and the Assets by the Buyer so that the purchase is treated as a transfer of a business (or part of a business) as a going concern and is treated neither as a supply of goods nor a supply of services.
- 9.3 In any communication with Customs relating to the sale and purchase of the Business and the Assets under this agreement the parties shall each use all reasonable endeavours to persuade Customs that Article 5 applies to the sale and purchase of the Business and the Assets and (without limitation) the Seller shall:
- 9.3.1 promptly after execution of this agreement, submit a written request in the agreed form to Customs for a ruling that the sale and purchase under this agreement constitutes the sale of a business (or part of a business) as a going concern within Article 5 and shall provide a copy of that application to the Buyer; and
- 9.3.2 inform the Buyer of any response from Customs as soon as practicable following receipt (and shall provide copies of all relevant correspondence).
- 9.4 The Seller shall not charge any VAT to the Buyer in respect of the sale and purchase of the Business and the Assets unless Customs shall first have provided a written ruling to the effect that the Seller is obliged to charge VAT to the Buyer in respect of the sale and purchase under this agreement.
- 9.5 On Completion, the Seller shall deliver to the Buyer the VAT Records and no application shall be made under section 49(1)(b) VATA 1994 for the Seller to retain the VAT Records.
- 9.6 No application shall be made to transfer the Seller's VAT registration to the Buyer.
- 9.7 The Seller shall on the written request of the Buyer sign and submit to the Inland Revenue any claims or elections which the Buyer reasonably requires in order to enable the Buyer to claim capital allowances in respect of the Buyer's acquisition of the Assets including:
- 9.7.1 any elections in respect of Assets which are fixtures for the purposes of the Capital Allowances Act 2001; and
- 9.7.2 any elections in respect of the apportionment of the consideration payable under this agreement.

10. Post-completion Matters and Further Assurances

- 10.1 Immediately following Completion:
- 10.1.1 the Seller shall wholly discontinue carrying on the Business (whether as principal, agent or otherwise), to the intent that the Buyer may carry on and continue the Business in succession to the Seller; and
- 10.1.2 the Seller and the Buyer shall dispatch to the suppliers and customers of the Business letters in the agreed form announcing the sale effected under this agreement and introducing the Buyer as the Seller's successor in the Business.
- 10.2 The Seller shall execute or, so far as it is able, procure that any relevant third party shall execute all such documents and/ or do or, so far as it is able, procure the doing of such acts and things as the Buyer shall after Completion require in order to give effect to this agreement and any documents entered into under it and to give to the Buyer the full benefit of all the provisions of this agreement.
- 10.3 The Seller shall, at the expense of and to the extent reasonably required by the Buyer, exercise and enforce all such rights and make all such claims the benefit of which is comprised within the Third Party Rights and shall institute all such proceedings as are reasonably necessary for that purpose and further shall, as and when any sums or proceeds are received by the Seller in respect of those rights or claims, promptly pay over those sums or proceeds to the Buyer.

11. Warranties

- 11.1 In consideration of the Buyer entering into this agreement the Warrantors jointly and severally warrant to the Buyer:
- 11.1.1 (subject to clause 11.4) in the terms set out in Schedule 2; and

- 11.1.2 that any statement in Schedule 2 which is qualified as being made "so far as the Seller is aware" or "to the best of the knowledge, information and belief of the Seller" or any similar expression has been so qualified after due diligent and careful enquiries by the Seller (including enquiry of the executive directors and company secretary of the Seller and each or any general manager, financial controller, taxation manager and personnel manager employed or engaged in connection with the Business, and the accountants, solicitors, tax advisers and insurance brokers who act, or at the relevant time acted, for the Seller in connection with the Business or the Assets) and that the Seller has used all reasonable endeavours to ensure that all information given, referred to or reflected in that statement is accurate in all material respects.
- 11.2 The Warrantors shall indemnify the Buyer against any Liabilities arising from any breach of the Warranties in paragraph 1 of Schedule 2 [Ownership of Assets etc] or of the covenants in clause 2.3.
- 11.3 The indemnity set out in clause 11.2 shall not be subject to the provisions of Schedule 3 and shall not be qualified by anything contained or referred to in the Disclosure Letter.
- 11.4 Except as provided in clause 11.3, the Warranties are qualified to the extent, but only to the extent, of those matters fairly disclosed in the Disclosure Letter.
- 11.5 Each of the paragraphs in Schedule 2:
- 11.5.1 shall be construed as a separate and independent warranty; and
- 11.5.2 except as expressly otherwise provided in this agreement, shall not be limited by reference to any other paragraph in Schedule 2 or by any other provision of this agreement; and the Buyer shall have a separate claim and right of action in respect of every Relevant Breach.
- 11.6 The rights and remedies conferred on the Buyer under this agreement: .
- 11.6.1 are cumulative and are additional to, and not exclusive of, any rights or remedies provided by law or otherwise available at any time to the Buyer in respect of any Relevant Breach (including the right to damages for any loss or additional loss suffered by the Buyer);
- 11.6.2 shall not be affected or limited, and the amount recoverable shall not be reduced, on the grounds that the Buyer may before Completion have had actual, constructive or implied knowledge of the matter giving rise to the claim (subject to clause 11.3, other than by way of that matter being fairly disclosed in the Disclosure Letter); and
- 11.7 All claims by the Buyer for damages or compensation in respect of any Relevant Breach shall (subject to clause 11.3) be subject to the provisions for the protection of the Seller in Schedule 3.
- 11.8 The Seller shall indemnify the Buyer against any Liabilities which the Buyer may reasonably incur, either before or after the commencement of any action, in connection with:
- 11.8.1 the settlement of any claim by the Buyer that there has been a Relevant Breach;
- 11.8.2 any legal proceedings in which the Buyer claims that there has been a Relevant Breach and in which judgement is given for the Buyer; or
- 11.8.3 the enforcement of any such settlement or judgement.

12 Restrictive Covenants

- 12.1 In order to protect the value of the Goodwill and the Business Information, the Seller covenants with the Buyer that without the prior consent in writing of the Buyer (which consent shall not be unreasonably withheld) it shall not directly or indirectly, whether itself or by its employees or agents and whether on its own behalf or on behalf of any other person, firm or company or otherwise at any time compete with the Business as carried on during the period of 12 months from the date hereof.

13 Insurances

- 13.1 The Seller shall keep on risk up to and including Completion all of its existing insurances in relation to the Business and the Assets.
- 13.2 Following Completion the Buyer shall have the benefit of any claim under each insurance policy referred to in clause 13.1 which may arise in relation to the Business and the Assets between the date of this agreement and Completion and the Seller shall co-operate with the Buyer in ensuring the noting of the Buyer's interests on the relevant policies and in making any claim under any such insurance policy.

14 Notices

- 14.1 Except as otherwise provided in this agreement, every notice under this agreement shall be in writing and shall be deemed to be duly given if it (or the envelope containing it) identifies the intended recipient as the addressee and is delivered by being handed personally to the addressee (or, where the addressee is a corporation, any one of its directors or its secretary); or it is delivered by being left in a letter box or other appropriate place for the receipt of letters at the addressee's authorised address.

15 Entire agreement

- 15.1 The Agreed Documents constitute the entire agreement between the parties in relation to the sale and purchase of the Business and the Assets and other matters covered by them and supersede any previous agreement between the parties in relation to those matters, which shall cease to have any further effect. It is agreed that:
 - 15.1.1 no party has entered into any Agreed Document in reliance on, and each party unconditionally waives any claims in relation to, any statement, representation, warranty or undertaking which is not expressly set out or referred to in the Agreed Documents;
 - 15.1.2 in the absence of fraud, no party shall have any remedy in respect of any untrue statement made, to it or its representatives or agents, prior to this agreement being entered into and on which it or they relied other than representations, warranties or undertakings set out or referred to in the Agreed Documents and that party's only remedy in respect of representations, warranties and undertakings set out in the Agreed Documents shall be for breach of contract; and
 - 15.1.3 this clause 15 shall not exclude any remedy or liability for fraudulent concealment or fraudulent misrepresentation.

16 Alterations

- 16.1 No purported alteration of this agreement shall be effective unless it is in writing, refers specifically to this agreement and is duly executed by each party to this agreement.

17 Severability

- 17.1 Each provision of this agreement is severable and distinct from the others. The parties intend that each of those provisions shall be and remain valid and enforceable to the fullest extent permitted by law. If any such provision is or at any time becomes to any extent invalid, illegal or unenforceable under any enactment or rule of law, it shall to that extent be deemed not to form part of this agreement but (except to that extent in the case of that provision) it and all other provisions of this agreement shall continue to be effective and their validity, legality and enforceability shall not be affected or impaired as a result, subject to the operation of this clause not negating the commercial intent and purpose of the parties under this agreement.
- 17.2 If any provision of this agreement is illegal or unenforceable because any period or area specified in it exceeds that permitted by a Relevant Authority, that provision shall take effect with the minimum modification necessary to make it valid, effective and acceptable

to that Relevant Authority subject to that modification not negating the commercial intent of the parties under this agreement.

18 Counterparts

- 18.1 This Agreement may be entered into in the form of two counterparts each executed by one of the parties but, taken together, executed by both of them and, provided that each party duly executes such a counterpart, each of the executed counterparts, when duly exchanged or delivered, shall be deemed to be an original, but, taken together, they shall constitute one instrument.

19 Payment of Costs

- 19.1 Each party shall (except to the extent, if any, expressly provided otherwise in this agreement) be responsible for its respective legal and other costs incurred in relation to the negotiation, preparation and completion of each of the Agreed Documents and all other relevant documents.

20 Successors and Assigns

- 20.1 This Agreement shall be binding on and shall enure for the benefit of the successors in title of each party.
- 20.2 None of the parties (nor any other person entitled to enforce rights under this agreement) may assign, novate, transfer, charge or otherwise deal with the benefit of any rights under this agreement.
- 20.3 The parties agree that:
- 20.3.1 the Contracts Act shall not apply to this agreement; and
 - 20.3.2 no person (including any employee, officer, agent, representative or sub-contractor of a party) other than a party to this agreement shall have the right (whether under the Contracts Act or otherwise) to enforce any term of this agreement which expressly or by implication confers a benefit on that person without the express prior agreement in writing of the parties, which agreement must refer to this clause 20.3.
 - 20.3.3 No consent shall be required from any person having rights under this agreement by virtue only of the Contracts Act to any amendment, variation, waiver or settlement of this agreement or any right or claim arising from or under it which (in each case) has been agreed by any party to it.

21 Applicable Law and Submission to Jurisdiction

- 21.1 This Agreement and any dispute or claim arising out of or in connection with it shall be governed by and construed in accordance with English law.
- 21.2 All disputes or claims arising out of or relating to this agreement shall be subject to the non-exclusive jurisdiction of the English Courts, to which the parties irrevocably submit.

IN WITNESS of the above the parties have executed this agreement on the date written at the head of this agreement.

SCHEDULE 1

COMPLETION OBLIGATIONS

1. Seller's obligations

- 1.1 On Completion in accordance with clause 8 the Seller shall (to the extent not previously delivered or provided):
- 1.1.1 deliver to the Buyer or make available for collection by the Buyer or its authorised representatives at the Property all of the Assets title to which is transferable by delivery;
- 1.1.2 deliver into the possession of the Buyer (or as the Buyer shall direct):
- (a) all documents of title or other records establishing title to the Assets referred to in paragraph 1.1.1 above;
 - (b) duly executed assignments in the agreed form in respect of the Intellectual Property together with all relevant documents of title and (where registration in respect of any Intellectual Property has been applied for but has not been obtained at the Completion Date) copies of the relevant applications;
 - (c) duly executed assignments, transfers or other assurances in relation to the Property and (if requested by the Buyer) duly executed assignments, transfers or other assurances (each in the agreed form) of those of the other Assets title to which is not transferable by delivery;
 - (d) the originals of all documents in the Seller's possession constituting or evidencing the Contracts and the Licences and the terms and conditions of employment of each of the Employees together with such assignments and/ or novation agreements (each in the Agreed Form) as may be required to transfer to the Buyer in accordance with clause 6.1.1 all of the Contracts and the Licences which are freely transferable as at Completion, duly executed by all parties to them other than the Buyer;
 - (e) the registration documents in respect of any and all motor vehicles comprised in the Moveable Equipment duly signed on behalf of the Seller or CM (as appropriate) in favour of the Buyer together with all keys of those vehicles (except any held by an Employee who is entitled to hold them);
 - (f) releases in the agreed form of any Security Interest to which any of the Assets are subject (other than floating charges) duly executed by those entitled to the benefit of those Security Interests;
 - (g) a certificate in the agreed form dated as at the Completion Date from each holder of a floating charge over assets of the Seller confirming that those floating charges have not crystallised at that time, accompanied by an acknowledgement from each such holder that it consents to the sale of the Business and the Assets free of those charges and of any other charge which by virtue of those charges might otherwise attach to them in consequence of that sale;
 - (h) the PAYE and NIC Records (duly completed and up to date) and all of the other Business Records (where applicable, duly completed and up to date) including a list of all of the customers of the Business during the last 12 months, a list of parties to whom outstanding quotations have been given and a list of unfulfilled orders as at the Completion Date;
 - (i) the VAT Records in accordance with clause 9.;
 - (j) the deeds and documents of title to the Property together with consent to assign from each landlord of any leasehold property; and

- (k) certified copies of minutes of a meeting of the board of the Seller approving the sale of the Business and Assets on the terms set out in this agreement.

1.2 CM shall duly execute and deliver to the Buyer the Subscription and Shareholders' Agreement

2. Buyer's obligations

2.1 On Completion the Buyer shall deliver to the Seller:

- 2.1.1 certified copies of minutes of a meeting of the board of the Buyer approving the purchase of the Business and the Assets on the terms set out in this agreement.
- 2.1.2 counterparts of the documents referred to in paragraphs 1.1.2(b) and 1.1.2(c) above to which the Buyer is a party (if any), duly executed by or on behalf of the Buyer.
- 2.1.3 The Subscription and Shareholders' Agreement duly signed on behalf of all parties other than CM

SCHEDULE 2 THE WARRANTIES

1. Ownership of assets and capacity

- 1.1 The Assets are the absolute legal and beneficial property of the Seller free from any lease, hire or hire purchase agreement, bill of sale, mortgage, charge, lien or other Encumbrance.
- 1.2 There are no agreements or arrangements restricting the freedom of the Seller to sell the Assets to the Buyer or otherwise to use or dispose of the Assets as it thinks fit.
- 1.3 The Seller has:
 - 1.3.1 all requisite corporate or other power to enter into and perform this agreement and the transactions and matters contemplated in this agreement; and
 - 1.3.2 taken all necessary action to authorise the entry into and performance of this agreement and the transactions and matters contemplated in it.
- 1.4 Each of the obligations expressed to be assumed by the Seller under this agreement and any other agreement entered into in accordance with this agreement constitutes a valid and binding obligation on the Seller.
- 1.5 Neither the execution nor the performance of this agreement by the Seller is prohibited or restricted by any provision of law or any other matter or thing and in particular is not subject to the approval or consent of any Relevant Authority or regulatory body or of the shareholders of the Seller.

2. Assets

- 2.1 Each Asset is in the possession or under the control of the Seller and (in the case of tangible assets) located at the Property.
- 2.2 No Asset has been acquired by the Seller other than by way of an arm's length transaction for full market value.
- 2.3 The Assets comprise all the rights, assets and benefits owned or used for the purposes of operating the Business and which are necessary for the continuation of the Business as carried on immediately prior to the date of this agreement.
- 2.4 The information in Schedules 5 to 8 inclusive is accurate.
- 2.5 All items comprised in the Fixed Equipment and the Moveable Equipment:
 - 2.5.1 are in good repair and condition (having regard to their age and reasonable usage);
 - 2.5.2 are in good working order (fair wear and tear excepted);
 - 2.5.3 are capable of being used for the purposes for which they were or are designed, acquired or used by the Seller;
 - 2.5.4 have been maintained on a regular basis by competent personnel and serviced in accordance with their manufacturers' recommendations; and

3. Management Accounts

- 3.1 The Management Accounts have been prepared on a prudent basis in accordance with generally accepted accounting principles and practices for management accounts.
- 3.2 The Management Accounts give a true and fair view of the Assets and of the Liabilities (including contingent unquantified and disputed liabilities) capital commitments and state of affairs of the Seller as at the Accounts Date and of the profits and losses of the Seller for the financial period to which the Management Accounts relate

4. Contracts and Licences

- 4.1 There are annexed to the Disclosure Letter true complete and up-to-date copies of all documents comprising each of the Contracts and the Licences and there has been no amendment or addition to any of them, whether express or implied, which is not contained in those documents.

- 4.2 Each of the Contracts and the Licences is in full force and effect, neither the Seller nor any third party is in breach of any of its obligations under the Contracts or the Licences and there are no circumstances likely to give rise to any such breach by the Seller or (so far as the Seller is aware) any third party.
- 4.3 No event or omission has occurred which would entitle the Seller or any third party to terminate prematurely any of the Contracts or the Licences.
- 4.4 There are no contracts which relate to the Business between the Seller and customers or suppliers of the Business or providers of Assets on lease, hire purchase, credit sale or similar agreements other than the Contracts and the Licences.
- 4.5 No offer, tender or the like relating to the Business which is capable of being converted into an obligation of the Seller by an acceptance or other act of some other person is outstanding.

5. Conduct of the Business

- 5.1 The Business has been carried on exclusively by the Seller for a period of at least 12 months preceding the date of this agreement and the Business has at all times been carried on by the Seller in the ordinary and normal course and conducted in a proper and efficient manner.
- 5.2 Since the Accounts Date:
 - 5.2.1 there has been no material adverse change in the financial or trading position or prospects of the Business;
 - 5.2.2 the Seller has not disposed of any assets used in connection with the Business other than in the normal course of trading;
- 5.3 The Seller has obtained all licences, permissions and consents required for the carrying on of the Business all of which are in full force and effect, the Seller is not in breach of any of the terms or conditions of any such licences, permissions or consents (details of all of which are fairly disclosed in the Disclosure Letter) and the Seller is not aware of any reason why any of them may be revoked or not renewed in the ordinary course or should not be capable of being transferred to or obtained by the Buyer without the necessity for any special arrangements or expense.
- 5.4 No substantial part of the Business is carried on under the agreement or consent of a third party, nor is there any agreement to which the Seller is party (whether or not in respect of Intellectual Property Rights) which restricts the manner or fields in which the Business has been carried on by the Seller or in which the Buyer may carry on the Business in succession to the Seller.

6. Litigation, Offences and Processes

- 6.1 Apart from collection by the Seller of trade debts arising in the ordinary course of the Business (not exceeding in aggregate £5,000) there is no litigation, arbitration or prosecution nor are there any other legal proceedings relating to the Business or any of the Assets pending, threatened or outstanding by or against the Seller and the Seller is not aware of any facts or circumstances likely to give rise to any such proceedings.
- 6.2 No distress execution or other process has been levied on any of the Assets nor has any person threatened any such distress execution or other process.
- 6.3 The Seller is not insolvent or unable to pay its debts within the meaning of section 123 Insolvency Act 1986, nor has it stopped payment of its debts as they fall due.
- 6.4 No investigations or enquiries by or on behalf of any Relevant Authority in respect of the Seller, the Business or any of the Assets are pending or in existence.
- 6.5 The Seller is not, and has never been, party to or concerned in any agreement, arrangement, understanding or practice which constitutes a breach of any term or condition of any licence, authorisation, appointment, code or similar instrument applicable to the Seller in relation to the Business.

7. Defective products or services

- 7.1 There is no claim against and there are no circumstances which may lead to a claim against the Seller for defective goods, services, work or materials or for breach of warranty, representation, condition or any enactment, directive, order or notice of a Relevant Authority in relation to goods or services or for delays in delivery or completion of contracts or for deficiencies of design or performance or otherwise relating to liability for goods or services sold or supplied by the Seller, in each case in connection with the Business.
- 7.2 Details of all material customer claims, complaints or returns relating to the Business made during the twelve months prior to the date of this agreement have been fairly disclosed in the Disclosure Letter.

8. Employees

- 8.1 All of the Employees are employed by the Seller wholly or mainly in connection with the Business and no person other than the Employees is now or has been within the six months preceding the date of this agreement employed wholly or mainly or engaged as an independent contractor in connection with the Business.
- 8.2 Full, accurate and up to date particulars of all material terms of employment of all of the Employees are contained in the Disclosure Letter
- 8.3 None of the Employees are members of a trade union or any similar organization.
- 8.4 There is no claim, demand or liability outstanding or threatened (nor so far as the Seller is aware are there any circumstances, facts or events which may lead to any claim, demand or liability) against the Seller or the Buyer on the part of any Employee or any person who was employed wholly or mainly in connection with the Business but dismissed immediately before Completion (or the dependant of any such person).
- 8.5 The Seller has in relation to each of the Employees complied with:
 - 8.5.1 all orders, judgements, and decisions of any court or tribunal; and
 - 8.5.2 all obligations imposed on it under the contracts or terms of employment each of the Employees.
- 8.6 There are no amounts of remuneration outstanding (including bonuses, holiday pay, and liabilities under section 13 Employment Rights Act 1996 accrued to the Completion Date) to any Employee (other than amounts representing salary accrued due for the current pay period or for reimbursement of legitimate business expenses).
- 8.7 No Employee has given notice to terminate, or is under notice of termination of, and there are no grounds on which any Employee may give, or may be given, notice to terminate, his employment.
- 8.8 The Seller has not made an offer of employment to any person in relation to the Business which has yet to be accepted or rejected.
- 8.9 No Employee is required to have a work permit in order to perform his duties in full.

9. Business name

- 9.1 The Business is not carried on, and has not in the past 12 months been carried on, under any name other than the Business Name.
- 9.2 No person other than the Seller has any rights in relation to the Business Name or has required the Seller to refrain from using that name or attempted to prevent its use by the Seller.

10. Intellectual property

- 10.1 Full and accurate details of all registrations of and applications for registration of Intellectual Property and of all material unregistered Intellectual Property are set out in the Disclosure Letter and/ or in Schedule 8.
- 10.2 Full and accurate details of all licences (if any) of any of the Intellectual Property by or to the Seller are contained in the Disclosure Letter.

- 10.3 The Seller owns those Intellectual Property Rights referred to in Schedule 8 free from Encumbrances.
- 10.4 The Intellectual Property is valid and subsisting and the Seller does not know of, or of any basis for, any claim for revocation, amendment, opposition or rectification or any challenge to ownership or entitlement in respect of any of the Intellectual Property (due to non-payment of renewal or other fees or for any other reason).
- 10.5 The Seller has not entered into any licence of the Intellectual Property Rights.
- 10.6 The Seller is not required nor is it likely to become liable to pay a royalty or any other sum to any third party in respect of any of the Intellectual Property except as fairly disclosed in the Disclosure Letter.
- 10.7 The Seller is free to disclose any Business Information but has not disclosed any of it except in the ordinary course of business and against written undertakings from the recipient to keep all such disclosed Business Information confidential, or to the Buyer.
- 10.8 In the course of carrying on the Business and in relation to any of the Assets, the Seller is not infringing, nor has it ever infringed, either directly or through any other person, the Intellectual Property Rights of any third party, and no third party has alleged any such infringement.
- 10.9 The Seller does not use any of the Intellectual Property otherwise than in connection with the Business.
- 10.10 There is no Developed Software
- 10.11 No Intellectual Property Rights (other than the Intellectual Property) are required in order to use all processes employed in the Business and to manufacture, use and sell the products which result from those processes or otherwise to carry on the Business.

11. Insurance

- 11.1 All of the Assets which are of an insurable nature are, and have at all material times been, fully insured for their full replacement value against all such risks and on all such bases as are consistent with the best practice prevailing in businesses of a similar kind to the Business.
- 11.2 The above insurances are in full force and effect and the Seller has promptly paid all premiums falling due in respect of each of them.
- 11.3 There are no circumstances which would or might lead to any liability under the above insurances being avoided by the insurers or the premiums payable for any of them being increased.
- 11.4 There is no claim outstanding under any policy of insurance of or in connection with the Business or any Asset and there are no circumstances likely to give rise to such a claim.
- 11.5 No insurer has refused to insure any of the Assets or has imposed conditions for any such insurance, whether by the imposition of increased premiums or otherwise.

12. Business records

- 12.1 All the Business Records and all other documents and records which are to be delivered to the Buyer in accordance with this agreement:
 - 12.1.1 have been kept or stored in accordance with all relevant requirements of DPA 1998;
 - 12.1.2 have at all times been fully properly and accurately made up kept and completed in all respects;
 - 12.1.3 record all matters required by law to be entered in them;
 - 12.1.4 (excluding the VAT Records and the PAYE and NIC Records) do not contain or reflect any material inaccuracies or discrepancies;
 - 12.1.5 accurately reflect and represent the assets and liabilities (including contingent liabilities) of and all transactions entered into by the Seller in relation to the Business in accordance with generally accepted practices; and
 - 12.1.6 include all documents of title relating to the Assets (which are held exclusively by the Seller) and all such documents, together with the executed copies of all the

Contracts and the Licences which have been reduced to writing, are in the possession of the seller or under its control.

13. Other activities

- 13.1 Neither the Seller nor any connected person of the Seller has any interest directly or indirectly in any business other than the Business which is or is likely to be or become competitive with the Business (except as the holder for investment only of securities dealt in on a recognised stock exchange and not exceeding 3 per cent in nominal value of the securities of that class).

14. Competition matters

- 14.1 The Seller is not and has not been party to or concerned in any agreement, arrangement, understanding or concerted practice, or any other conduct or practice (unilateral or otherwise) in relation to the Business which:
- 14.1.1 contravenes the Competition Act 1998 or the Enterprise Act 2002;
 - 14.1.2 constitutes a breach of any relevant undertaking, order, assurance or other measure taken under the Fair Trading Act 1973, the Restrictive Trade Practices Act 1976, the Resale Prices Act 1976 or the Competition Act 1980; or
 - 14.1.3 infringes any competition, anti-trust or equivalent legislation of any other jurisdiction.
- 14.2 The Seller is not subject in relation to the Business to any prohibition, order, condition, undertaking, assurance or similar measure or obligation imposed by or under any of the laws referred to in paragraph 14.1.
- 14.3 The Seller is not, and has not been, subject to any enquiry, investigation, request for information, notice or other communication (whether formal or informal, and whether or not in writing) in relation to the Business by any Relevant Authority under any of the laws referred to in paragraph 14.1.
- 14.4 The Seller has no reason to believe that any such action as is mentioned in paragraphs 14.2 or 14.3 will be taken in relation to the Business.

15. Tax

- 15.1 The Seller is a taxable person for VAT purposes and is registered under Schedule 1 VATA 1994.
- 15.2 The VAT Records are complete accurate and up-to-date and will be delivered to the Buyer on Completion.
- 15.3 The PAYE and NIC Records are complete accurate and up-to-date and will be delivered to the Buyer on Completion.
- 15.4 None of the Assets are fixtures or long life assets for the purposes of the Capital Allowances Act 2001.

16. Pensions

- 16.1 The Seller does not operate any pension scheme.

17. Property

- 17.1 The Seller does not own, use or occupy or have any interest in any land and/ or buildings for the purposes of the Business other than the Property
- 17.2 The description of the Property the details of the lease pursuant to which it is occupied and the particulars of present use contained in Schedule 6 are correct and to not omit any material fact, covenant, restriction or condition.
- 17.3 all covenants, restrictions and stipulations which do affect the Property (including covenants contained in any lease or leases under which the Property are held) have been complied with in all respects.

- 17.4 the Seller is in exclusive and undisputed occupation of the whole of each of the Property;
17.5 The Seller is not aware of any fact or circumstance which may give rise at any time in the future to any claim or liability with respect to repairs and dilapidations or similar liability and in particular the Seller does not expect any requirement for material expenditure in respect of repairs to any Property within the five years following the date of this agreement.

18. Environmental matters

The Seller in relation to the Business has at all times complied with any and all enactment including, in particular, the Environmental Protection Act 1990, directive, order or notice issued by any Relevant Authority and to which the Seller is subject and Seller knows of no matter or thing whatsoever which would give rise to any Liability for non-compliance or damage caused by any aspect of the Business.

19 Data protection

Neither the Seller, nor any of its directors, employees or Data Processors (as defined from time to time in DPA 1998) has acted, or omitted to act, in any way which may constitute a breach of DPA 1998.

20 Effect of the sale of the business and the assets

- 20.1 The sale of the Business or the Assets under this agreement will not conflict with, result in a breach of or constitute a default under the terms of any of the Contracts or the Licences.
- 20.2 To the best of the knowledge information and belief of the Seller, after Completion (whether by reason of an existing agreement or arrangement or otherwise) or as a result of the proposed acquisition of the Business and Assets by the Buyer:
- 20.2.1 no supplier of the Business will cease or be entitled to cease supplying the Business or substantially reduce or be entitled substantially to reduce its supplies to the Business;
 - 20.2.2 no customer of the Business will cease or be entitled to cease to deal with the Business or substantially reduce or be entitled substantially to reduce its existing level of purchases from the Business;
 - 20.2.3 the Buyer will not lose or fail to receive the benefit of any right or privilege which the Seller presently enjoys in relation to the Business; and
 - 20.2.4 none of the Employees will terminate or be entitled to terminate his employment.

19. Accuracy of Information

- 21.1 All information contained in or attached to the Disclosure Letter, and all replies to written enquiries raised by the Buyer or its professional advisers with the Seller or its professional advisers in relation to the Business or any of its Liabilities or any of the Assets, are true and accurate in all respects and there is no fact or circumstance which renders any such information untrue, inaccurate or misleading.

SCHEDULE 3

PROVISIONS FOR THE PROTECTION OF THE SELLER

- 1.1 The Warrantors shall not be liable for breach of Warranty:
- (a) in respect of any claim unless within 18 months following Completion ("the Warranty Period"), written notice of the claim is given by the Buyer to either or both of the Warrantors, together with an estimate of extent of the Liability which is, or is to be, the subject of the claim, including any Liability which is contingent on the occurrence of any future event;
 - (b) in respect of any claim unless the aggregate amount of all claims for which the Warrantors would otherwise be liable for breach of Warranty exceeds £50,000 but if the aggregate liability in respect of all such claims exceeds £50,000 then, all claims, including claims previously notified, shall accrue against and be recoverable from the Warrantors; and
 - (c) in respect of any claim to the extent that the aggregate amount of the Liability of the Warrantors for all claims made for breach of Warranty would exceed £1,500,000.
- 1.2 None of the limitations contained in clause 1.1 shall apply to any claim which arises or is affected, or to the extent to which it arises or is affected, as the consequence of, or which is delayed as a result of, wilful misconduct, wilful concealment or fraud by a Warrantor.
- 1.3 A Warrantor shall be liable for breach of a Warranty only if notice of a claim is given to him, prior to the close of the Warranty Period, specifying such details of the specific matter or circumstances in respect of which the claim and such particulars of the loss alleged as are available to the Buyer.
- 1.4 Any claim in respect of which notice shall have been given in accordance with clause 1.3 above shall be deemed to have been irrevocably withdrawn and lapsed (not having been previously satisfied, settled or withdrawn) if action in respect of such claim have not been issued and served on the Warrantors not later than the expiry of 6 months after the date of the notice.
- 1.5 The Buyer shall not be entitled to recover from the Warrantors under this agreement more than once in respect of the same Liability incurred.
- 1.6 The amount of any claim for breach of the Warranties shall be reduced by the amount of any relief from taxation arising by virtue of the loss or damage in respect of which the claim is made.

SCHEDULE 4

EXCLUDED ASSETS

- None -

SCHEDULE 5

THE PROPERTY

Licensed Property

Units 1 and 2 of Grovewood Business Centre, Wren Court, Strathclyde Business Park, Bellshill pursuant to licenses dated 1 January 2005 granted to Tribology Limited by UK Steel Enterprises Limited.

Principal Terms include:

Rent: Unit 1 - £631 per month plus VAT
Unit 2 - £631 per month plus VAT

Term: subject to 3 months' notice from either party.

No right to assign or sublet.

SCHEDULE 6

THE EQUIPMENT

1. All plant and equipment, generally described as 'Lubrication Systems', installed at customer premises, the ownership of which was retained by the Seller, brief particulars of which are shown under Item 'N' in the Due Diligence Bundle;
2. All office equipment and partitions at the Property;
3. All *manufacturing tools and equipment and tools used for repair and/or maintenance*, including but not limited to the high pressure diesel hose, all of which are currently located at the Property;
4. The motor vehicles, brief particulars appear under Item 'My 3' in the Due Diligence Bundle

SCHEDULE 7

Part 1 Customer Contracts

List of Customers Currently Supplied

<u>CUSTOMER</u>	<u>Description</u>
Constellation Europe	PET & glass line dep
Constellation Europe	PET lwr hall dep
	1 mnthly rental Dry Lube
Princes SD, Bradford	Bradford
McCormick Foods	Deposit & adv billing
Rexam Glass	3m deposit
Princes SD, Glasgow	3m rental for Dry Lube systems
Thwaites Brewery	rental (Jul - Dec 03) & deposit
Strathmore Mineral Water	dep & rental PET & glass lines
Britvic	Dep & rental Nov 03 - Mar 04 In1
Britvic	Ln2 dep & rental Oct - Mar 04
Britvic	Rental Oct 03 - Mar 04 + Dep
Britvic	Rental Jan - Mar 04 + DEP
Robinsons Soft Drinks	Deposit invoice
Robinsons Soft Drinks	Deposit, travelling conveyor
ACC Milk	Rental Jan - Mar 04 + DEP
Robinsons Soft Drinks	Rental May & Jun 04 + Deposit
Britvic Rugby	Rental May & Jun 04 + Deposit
Buxton Mineral	Rental Nov 03-Jun 04 + Deposit
Buxton Mineral	Rental Nov 03-Jun 04 + Deposit
CCE Wakefeld	Line 3
CCE Wakefeld	Line 6
Buxton Mineral	Glass line
McCormick Foods	Littleborough
F Duerr & Sons Ltd	Wythenshawe
Thwaites Brewery	Keg & cask lines
CCE Wakefeld	Line 5
CCE Wakefeld	Line 4
Britvic Rugby	Line 3
CCE Wakefeld	Line 8
CCE Wakefeld	Line 9
CCE Wakefeld	Line 10
Caledonian Bottlers	PET line
CCB Ulster	Line 3
Britvic Rugby	Line 1
CCE Wakefeld	Line 8
CCB Ulster	Line 2
Coca Cola Ireland	PET line
Batchelor Foods Dublin	Elopak line
Batchelor Foods Dublin	Tetra

Part 2
Supply Contracts

N/A

Part 3
Finance Agreements

1. The agreement between Tribology Limited and Bank of Scotland pursuant to which the Seller is the borrower under a Small Firm Loan Guarantee Scheme for an amount of £100,000 for a term of 5 years. The loan reference no. is 102168.
2. Authorisation of an overdraft facility in an amount of £25,000 issued to the Seller by Bank of Scotland;
3. A loan facility of up to £36,000 in favour of the Seller or CM as sole trader granted by Clydesdale Bank plc., subject to a repayment schedule of £847 per month.
4. Any and all finance agreement and arrangements relating to the Motor Vehicles referred to at Item 'M-2' of the Due Diligence Bundle.

Part 4
Licences

-none-

SCHEDULE 8

THE INTELLECTUAL PROPERTY RIGHTS

- (1) International Application No.PCT/GB2004/004628, having priority date 04/11/03 under the Patent Cooperation Treaty as notified to Kennedys Patent Agency Limited, 29 St Vincent Place, Glasgow.

International filing date: 02/11/2004

Title of Invention: Lubricating Method and Apparatus for Conveyor Belts and Systems.

- (2) Trademark Application submitted to UK Patent Office by Kennedys Patent Agency Limited with respect to the Business Name 'Tribolube'.

*

SCHEDULE 9

EMPLOYEES

<u>Surname</u>	<u>First Name</u>	<u>Designation</u>	<u>Salary</u>	<u>Date of Birth</u>	<u>Date of Eng</u>
Baird	Raymond	Sales Manager	24,000.00	02-Jan-62	31-Jan-05
Campbell	John	Warehouse	16,640.04	11-Jun-54	25-Oct-04
Daley	Pat	Service Eng	16,639.92	29-Mar-65	01-Apr-04
Doherty	Eddie	Sales Manager	30,000.00	20-Jul-63	01-Apr-04
Granger	Kenny	Warehouse	16,639.92	01-Dec-83	01-Feb-04
Green	Paul	Service Eng	25,999.92	01-Nov-61	02-May-04
Harrity	Craig	Installation Office	26,000.04	01-Aug-81	25-Oct-04
Kennedy	Sandra	Manager	16,640.04	07-Sep-47	14-Jun-04
		See new Sales employment			01-May-04
McArthur	Colin	Director	contract	13-Jan-61	
Ridings	Martin	Service Eng	27,999.96	27-May-72	01-Apr-04

SCHEDULE 10

BUSINESS RECORDS

- 1 All books of account, payroll records, stock records and other financial records (excluding the VAT Records).
- 2 All instructional and promotional materials, sales publications, advertising materials, terms and conditions of business, catalogues, manuals, inventories, specifications and other sales documents, records and materials.
- 3 All designs, drawings, plans, computer programs and data files, research notebooks and other technical records or materials.
- 4 All information maintained by or on behalf of the Seller relating to customers and suppliers.
- 5 The PAYE and NIC Records.
- 6 The Personal Data and all consents to its Processing.
- 7 All plates, blocks, negatives, computer disks and similar materials relating to any of the above.

EXECUTED AND DELIVERED by
TRIBOLOGY LIMITED

acting by: *Colin M. ARTHUR*

)
)
)
Director

~~Director/ Secretary~~

EXECUTED AND DELIVERED by
DRY LUBE LIMITED

acting by:

)
)
)
Director *RAH*

~~Director/ Secretary~~ *M. J.*

EXECUTED AND DELIVERED by
COLIN McARTHUR

in the presence of:

Witness Name: *JAKE JALIN*

Signature: *Jake*

Address: *36 KESPER MOUNT, London*

)
)
)
Director *M. J.*

~~Director/ Secretary~~ *Qhe*

EXECUTED AND DELIVERED by
KINDERSLEY HOLDINGS LIMITED

acting by:

DATED 30 March 2005

**SUBSCRIPTION and
SHAREHOLDERS AGREEMENT**
in relation to
DRY LUBE LIMITED

Pettman Smith
79 Knightsbridge
London SW1X 7RB
Tel: 020 7235 1288

DATED

30 March

2005

THIS AGREEMENT is made on 30 March, 2005

BETWEEN

- (1) **COLIN McARTHUR** of 4 Bowling Street Coatbridge Lanarkshire ML5 1PP ("CM");
- (2) **KINDERSLEY HOLDINGS LIMITED** a limited liability company (registered no. whose registered office is at ("Kindersley")
- (3) **FF&P SPECIAL SITUATIONS II LLP** a limited liability partnership whose principal place of business is at Ely House, 37 Dover Street, London W1S 4NJ ("FF&P SS");
- (4) **FF&P INVESTOR I LP** a limited liability partnership whose registered office is at Ely House, 37 Dover Street, London W1S 4NJ ("FF&P Investor" and together with FF&P SS, the "the Investors");
- (4) **FF&P PRIVATE EQUITY LIMITED** a limited liability company registered in England and Wales under company registration no. 5021464, having its registered office at Ely House, 37 Dover Street, London W1S 4NJ ("FPE");
- (5) **DRY LUBE LIMITED**, (registered in England and Wales under no. 05390685) whose registered office is c/o Pettman Smith 79 Knightsbridge London SW1 ("the Company");

RECITALS:

- (A) The Company was incorporated under the Companies Acts 1948 to 1985 on 12 March 2005 and has an authorised share capital of £20,000 divided into 5,000,000 Ordinary Shares of 1p each and 1,500,000 Preferred Shares of 1p each;
- (B) It is the intention of all of the parties that, pursuant to the terms of a business transfer agreement in an Agreed Form, the Company acquires certain agreed assets and liabilities

pertaining to the business and undertaking of Tribology Limited a company incorporated in Scotland having registered no. 260723;

- (C) Each of the foregoing parties wish to participate as shareholders in the Company for the purposes and on the terms set out in this Agreement.

OPERATIVE PROVISIONS:

1. INTERPRETATION

- 1.1 In this Agreement, unless the contrary intention appears, the following definitions apply:

'Agreed Form' means a document in form and on the terms of an annexed draft agreed between the parties or their respective legal advisers;

'Arrangement Fee' means an amount equal to 3% of the aggregate subscription price paid by the Investors with respect to the Preferred Shares payable to FPE at Completion;

'Articles' means the new articles of association of the Company initially in the agreed form and as adopted from time to time;

'Associated Company' means, in relation to a party, any holding company, subsidiary, subsidiary undertaking or fellow subsidiary or subsidiary undertaking or any other subsidiaries or subsidiary undertakings of any such holding company and in relation to any partnership, the direct or indirect members or partners of such partnership or any person who directly or indirectly, controls, is controlled by, or is under common control with any of the foregoing;

"Auditors" means the auditors of the Company from time to time as appointed in accordance with the provisions of clause 6.1;

'Board' the board of directors for the time being of the Company

'Budget'	means the annual budget for the Company as approved from time to time by Investor Consent;
'Business'	the business of the Company as carried on at the date hereof and such other business as the parties may agree in writing should be carried on by the Company and its subsidiaries;
'Business Plan'	means the business plan for the Company prepared by the Board in the Agreed Form and prepared annually in respect of the succeeding twelve (12) month period, as approved from time to time with Investor Consent
'Business Transfer Agreement'	the agreement to transfer the business assets and certain liabilities of Tribology Limited to the Company in the Agreed Form;
'Chairman'	means the chairman of the Board as appointed by FPE;
'Code'	means the City Code on Takeovers and Mergers;
'Company'	Dry Lube Limited to be renamed 'Tribology Limited';
'Confidential Information'	means all information and records wherever located (including accounts, business plans and financial forecasts, Tax records, correspondence, designs, drawings, manuals, specifications, customer, sales and supplier information, technical or commercial expertise, software, formulae, processes, trade secrets, methods, knowledge and know-how) and which (either in their entirety or in the precise configuration or assembly of their components) are not publicly available and in each case whether or not recorded;
'Control'	the right by virtue of holding shares in, or the possession of voting power in or in relation to any body corporate to

	exercise or procure the exercise of the voting rights attached to the relevant shares;
'Deed of Adherence'	a deed of adherence substantially in the form set out in <u>Schedule 3</u> ;
'Director'	a director of the Company, including where applicable an alternate director;
'Family Trusts'	as regards any Shareholder or deceased or former Shareholder, trusts (whether arising under a settlement, declaration of trust or other instrument by whomsoever or wheresoever made or under a testamentary disposition or on an intestacy) under which no immediate beneficial interest in any of the shares in question is for the time being vested in any person other than that Shareholder; and so that for this purpose a person shall be considered to be beneficially interested in a share if such share or the income thereof is or may become liable to be transferred or paid or applied or appointed to or for the benefit of such person or any voting or other rights attaching thereto are or may become liable to be exercisable by or as directed by such person pursuant to the terms of the relevant trusts or in consequence of an exercise of a power or discretion conferred thereby on any person or person;
'Exit Event'	means any of the Flotation, Sale or Winding up of the Shares or the Company;
'Expenses'	means those fees and expenses incurred by FPE during its due diligence and implementation of the transaction, capped at £65,000 plus VAT, which the Company agrees to reimburse to FPE;

'Flotation'	the listing, admission or grant of any recognised public trading facility for the Shares or any of them including, but without limitation, the Alternative Investment Market of London Stock Exchange Limited;
'Founder's Loan'	the interest free shareholder loan of £56,000.00 from CM to Tribology Limited as transferred to the Company;
'FPE'	FF&P Private Equity Limited acting as manager of the Investors;
'FPE Affiliate'	means any parent or subsidiary undertaking and any subsidiary undertaking of any such parent undertaking of FPE or any nominee shareholder of funds managed by or advised by FPE ,and also includes any partner, subsidiary company, holding company, affiliated private equity fund and venture capital fund, limited partnership, member or co-investment fund of FPE or any nominee shareholder of funds managed by or advised by FPE , as appropriate, or any company, affiliated private equity fund, venture capital fund or co-investment fund of which FPE or any nominee shareholder of funds managed by or advised by FPE or an Affiliate of FPE or an Affiliate of any nominee shareholder of funds managed by or advised by FPE , as appropriate, is able to exercise management control and in which FPE or an Affiliate of FPE or any nominee shareholder of funds managed by or advised by FPE (or Affiliate of such), as appropriate, is interested or holds a partnership interest or of which FPE is a member;
"Investor Subscription Price"	means the sum of £1 subscribed with respect to each Preferred Share;
'Kindersley Business Plan'	the business plan given to the Investors by Kindersley a copy of which is annexed hereto and initialled for identification;

'Intellectual Property Rights'	any and all design rights, trade marks and service marks (in each case whether registered or not), patents, patent applications, registered designs, copyright, moral rights, rights in databases, utility models and all similar property rights whether registrable or not, including those subsisting (in any part of the world) in inventions, designs, drawings, performances, computer programs, semiconductor topographies, plant varieties, genetic material, Confidential Information, business or brand names, domain names, metatags, goodwill or the style of presentation of goods or services and including such rights which prior to execution of the Business Transfer Agreement belonged to Tribology and applications for protection of any such rights
'Investors'	FF&P SS and FF&P Investor;
'Investor Consent'	the written approval by or on behalf of the Investors which may be given by FPE;
'Investor Director'	a director nominated and appointed by or on behalf of one of the Investors in accordance with the Articles and clause 5.2 ;
'Investor Director Consent'	the unanimous consent of the Investor Directors;
'Group'	as regards any company its holding company and all companies and undertakings which now or in the future become subsidiaries or subsidiary undertakings of any such holding company. The expression "member of the Group" shall be construed accordingly;
'Holding Company'	the same meaning as in section 736 of the Companies Act 1985;
'Losses'	means all losses, liabilities, damages, cost (including without

limitation, legal costs and experts' and consultants' fees) charges, expenses, actions, proceedings, claims and demands;

'the Manufacture and Supply Agreement'

the agreement entered into or to be entered into between the Company, R.S Clare Limited and Tribology Limited in the Agreed Form;

'Material Contracts'

those contracts brief particulars of which are set out in Schedule 5;

'Ordinary Shares'

Ordinary shares of 1p each in the capital of the Company;

'Performance Milestones'

means the financial and performance targets of the Company as set out in Schedule 4;

'Permitted Transfer'

a transfer of Shares by a Shareholder to an Associated Company, an FPE Affiliate, a Family Trust or a Privileged Relation;

'Person'

includes a firm or other body of persons;

'Preferred Shares'

the 6% cumulative convertible redeemable preferred shares of 1p each in the capital of the Company;

'Privileged Relation'

in relation to any Shareholder or deceased or former Shareholder, the husband or wife or the widower or widow of such Shareholder and all the lineal descendants in direct line of such Shareholder and a husband or wife or widower or widow of any of the above persons and for the purposes aforesaid a step-child or adopted child or illegitimate child of any person shall be deemed to be his or her lineal descendant;

'Sale'	the sale to one or more buyers acting in concert (as defined by the Code) as part of a single transaction or a series of transactions of (i) 50% or more of the Shares from time to time or (ii) the whole of the business, undertaking or assets of the Company;
'Service Agreements'	agreements entered or to be entered into between the Company and CM and Christopher Lowe in Agreed Terms to be entered into at Completion pursuant to the terms of Clause 4.2;
'Shares'	shares in the capital of the Company;
'Shareholders'	the holder of Shares from time to time;
'Subsidiary'	in relation to the Company, the same meaning as in section 736 of the Companies Act 1985;
'Taxes Act'	the Income and Corporation Taxes Act 1988;
'Territory'	means worldwide;
'Tribology'	a limited liability company registered in Scotland under company registration no. SC260723;
'Warranties'	the warranties and representations to be given by the Warrantors at Completion pursuant to clause 10 and Schedules 2A and 2B;
'Warrantors'	CM and Kindersley and 'Warrantor' shall be either one of them.
'Warranty Period'	the period commencing with completion of this agreement in accordance with clause 4 and ending with the date 18 calendar months thereafter;

‘Winding up’ the voluntary or involuntary dissolution or winding up of the Company.

- 1.2 Reference to a statute or statutory provision includes a reference to it as from time to time amended, extended or re-enacted.
- 1.3 Words denoting the singular number only include the plural and vice versa.
- 1.4 Unless the context otherwise requires, reference to a clause or schedule is to a clause of or schedule to this agreement.
- 1.5 The headings in this Agreement are inserted for convenience only and do not affect its construction.

2. OBJECTS OF THE COMPANY

- 2.1 The primary object of the Company and any Subsidiaries is to carry on the business of the manufacture, distribution, installation, maintenance and sale of dry lubrication systems to the fast moving consumer goods packaging industry;
- 2.2 The Business shall be conducted in the best interests of the Company on sound commercial profit making principles so as to generate the maximum achievable maintainable profits available for distribution.
- 2.3 The central management and control of the Company shall be exercised in the UK.

3. CONDITIONS SUBSEQUENT TO COMPLETION

- 3.1 Within 60 days of Completion of this agreement the following conditions shall be fulfilled (or waived by the Investors), namely:
- (a) the Business Transfer Agreement has been completed to the satisfaction of the Investors;

- (b) the Manufacture and Supply Agreement has been executed and delivered to the satisfaction of FPE;
- (c) the Intellectual Property Rights have been properly assigned by Tribology to the Company to the satisfaction of the Investors whether as part of the Business Transfer Agreement or by separate assignment;
- (d) all of the Material Contracts have been properly assigned or novated by Tribology to the Company to the satisfaction of the Investors;
- (e) FPE has approved the proposed constitution of the first Board.

3.2 Pending fulfilment or waiver of the foregoing conditions any and all subscription monies paid by the Investors with respect to the issue and allotment of Preferred Shares shall be held in the Company's bank account at the sole direction of the Investors. To the extent that the conditions are not fulfilled or waived within the time specified in clause 3.1 the agreement may, at the discretion of the Investors, be deemed to be void ab initio.

4. COMPLETION

4.1 At Completion the Shareholders and the Company shall, so far as they are each able, take or procure that the following steps are taken (to the extent such steps have not already been taken) including the holding of an Extraordinary General Meeting of the Company to approve such steps:

4.1.1 the issue to the Shareholders of that number of Shares as are set out opposite their respective names in Column 2 of Schedule 1 hereto. In this respect:

4.1.1.1 750,000 Ordinary Shares to be issued and allotted to CM shall be issued credited as fully paid as consideration for services previously rendered to the Business;

4.1.1.2 750,000 Ordinary Shares to be issued and allotted to Kindersley shall be issued credited as fully paid in consideration for the procurement of the Investors to subscribe for the Preferred Shares;

- 4.1.1.3 The Investors shall subscribe for 1,500,000 Preferred Shares at an aggregate subscription price of £1,500,000, to be held as set out in Schedule 1;
- 4.1.2 the adoption by the Company of new articles of association in the Agreed Form;
- 4.1.3 the appointment of the following persons (having received their consent to act) as Directors of the Company:
- CM
Christopher Lowe
Anthony Everett
- 4.1.4 confirmation of the appointment of PSLaw Secretaries Limited (having received its consent to act) as Secretary of the Company.
- 4.1.5 the confirmation that Anthony Everett will be Chairman of the Company on an interim basis.

The Shareholders shall then procure that the Secretary of the Company makes the necessary filings with the Registrar of Companies to record the said share issues and appointments.

- 4.2 CM and Christopher Lowe shall enter into the Service Agreements with the Company.
- 4.3 The Company shall acknowledge the Expenses and the Arrangement Fee and agrees that the Investors may deduct and retain such sums from the subscription monies otherwise payable under 4.1.1.3 .

5. DIRECTORS AND MEETINGS OF THE BOARD

- 5.1 The maximum number of Directors who may be appointed to the Board are 8 but after Completion and until otherwise agreed by way of Investor Consent the number so holding office shall be five (5).
- 5.2 It is agreed that, for so long as they remain Shareholders and hold Shares of any class to which are attached not less than 20% of the rights to vote at a general meeting of the

Company, the Investors shall be entitled to appoint two (2) directors at any time, one of whom it shall have the right to designate as chairman of the Company, and to replace such directors or chairman from time to time on giving written notice to the Company to such effect and the Company and the Shareholders agree that they shall forthwith take such actions as are necessary to give effect to any such request from the Investor.

- 5.4 The Investors may determine that any one or more Investor Directors may be authorised to give any consent, approval or agreement on behalf of the Investor to any proposed transaction or matter as their agent. In such case, any such consent, approval or agreement may be given either orally at a duly convened meeting of the Board of Directors, duly minuted, or otherwise in writing. Any authorisation given by the Investor to an Investor Director may be specific or general in nature and shall be communicated in writing to the Company.
- 5.5 Each Investor Director may report to the Investors on the affairs of the Company and any Group Company and to disclose to the Investors and their respective members such information as he or she, in their absolute discretion, think fit.
- 5.6 It is agreed that, for so long as he remains a Shareholder and holds Shares equal to not less than 10% of the issued share capital of the Company, CM shall be entitled to be a director or to appoint one (1) director at any time and to replace such director from time to time on giving written notice to the Company to such effect and the Company and the Shareholders agree that they shall forthwith take such actions as are necessary to give effect to any such request from CM.
- 5.7 It is agreed that, for so long as it remains a Shareholder and holds Shares equal to not less than 20% of the issued share capital of the Company, Kindersley shall be entitled to appoint one (1) director at any time and to replace such director from time to time on giving written notice to the Company to such effect and the Company and the Shareholders agree that they shall forthwith take such actions as are necessary to give effect to any such request from Kindersley. Whilst he remains a director, Christopher Lowe shall be the director appointed by Kindersley.
- 5.8 Meetings of the Board and each of its Subsidiaries shall be convened at least 6 times in each year and at as equal intervals as is practicable. All of the Directors shall be sent notice in writing reasonably in advance of such proposed meeting and in any event at not less than 48

hours prior to a meeting. A written agenda specifying the business to be transacted at a meeting will generally accompany a notice but must in any event be sent to the Directors no less than 48 hours prior to the meeting.

- 5.9 At any meeting of the Board, in addition to any Investor Directors, FPE shall have the right to nominate a representative to attend such meeting as an observer or attendee.
- 5.10 If the Chairman of the Company is unable to attend any meeting of the Board, the Directors present shall be entitled to appoint another Director to act as chairman of the meeting in his place.
- 5.11 In the case of an equality of votes at a meeting of the Board or the Company, the Chairman shall be entitled to a second or casting vote.
- 5.12 Non-executive Directors appointed by any of the Shareholders shall be entitled to receive reasonable remuneration in respect of the provision of their services, such fee or fees to be payable quarterly in arrears. In addition, each such Director shall be entitled to be reimbursed for all expenses reasonably incurred by him or her in connection with his or her office as a Director.
- 5.13 Nothing in this Agreement and no arrangement between any Shareholder and any Director nominated by that shareholder shall entitle that Shareholder to cause the nominated director to prefer the interests of that shareholder over those of the Company or to act otherwise than in the Company's best interest or to modify the duties which that director would otherwise have to the Company.

6. CONDUCT OF THE COMPANY'S AFFAIRS

- 6.1 The Shareholders shall exercise all rights available to them in relation to the Company and the Company shall do everything necessary to procure (so far as they are able to do so) that **except with Investor Consent and the consent of CM** during the term of this agreement:

- 6.1.1 the business of the Company and its Subsidiaries consists exclusively of the Business;

- 6.1.2 no new Subsidiary is formed or acquired and no partnership, joint venture or profit sharing agreement is entered into other than in the ordinary course of business;
- 6.1.3 if any new Subsidiary is formed or acquired or any interest acquired in a partnership or joint venture, the Company's interest in any such Subsidiary, partnership or joint venture shall not be disposed of;
- 6.1.4 the registered office of the Company remains c/o Pettman Smith at 79 Knightsbridge, London SW1X 7RB;
- 6.1.5 the Company complies with the provisions of its Memorandum and new Articles of Association (as adopted in accordance with clause 4);
- 6.1.6 the Memorandum and Articles of Association of the Company are not altered and no further articles or resolutions inconsistent with them are adopted or passed;
- 6.1.7 there is no material departure from the relevant Business Plan or Budget;
- 6.1.8 there is no appointment or replacement of the Auditors;
- 6.1.9 no alternation is made to the composition of the Board nor the senior management team;
- 6.1.10 no change is made to the remuneration of the Directors;
- 6.1.11 no shares are issued nor any new shares created;
- 6.1.12 there is no alteration to the rights attaching to any class of shares of the Company;
- 6.1.13 none of the Company's share capital (of any class) is consolidated, sub-divided or converted;
- 6.1.14 the Company does not issue renounceable allotment letters or permit any Person entitled to receive an allotment of shares to nominate another Person to receive the allotment;

- 6.1.15 there is no merger or Sale, nor any transaction in which all or any substantial part of the assets, including the Intellectual Property Rights, of the Company are sold or exclusively licensed or assigned.
 - 6.1.16 no securities convertible into Shares or debentures are issued, nor share warrants or options in respect of Shares;
 - 6.1.17 the Board determines the general policy of the Company and of each of its Subsidiaries (subject to the express provisions of this agreement), including the scope of their respective activities and operations and that subject to the remainder of this clause and to clause 7 the Board reserves to itself all matters involving major or unusual decisions;
 - 6.1.18 no transaction is undertaken other than on an arm's length basis and in the ordinary course of business;
 - 6.1.19 no declaration or payment of any dividend or declares or makes any other distribution to the Shareholders other than in accordance with the new articles.
- 6.2 Notwithstanding clause 6.1, the requirement to obtain the consent of CM to any of the foregoing actions shall expire at the date being 3 ½ years after the date of execution of this agreement.

7 MATTERS REQUIRING INVESTOR DIRECTOR CONSENT

- 7.1 The Shareholders shall exercise all rights available to them in relation to the Company so as to procure (so far as they are able) that neither the Company nor any of its Subsidiaries **without Investor Director Consent:**
- 7.1.1 forms or acquires a new Subsidiary or enters into of any partnership, joint venture or profit sharing agreement;

- 7.1.2 creates any fixed or floating charge, lien (other than a lien arising by operation of law) or other encumbrance over the whole or any part of its undertaking, property or assets (in excess of £20,000 in value);
- 7.1.3 borrows in excess of a maximum aggregate sum outstanding at any time of £150,000;
- 7.1.4 makes a loan or advance or gives credit (other than normal trade credit) to any Person in excess (in terms of the aggregate amount outstanding) of £10,000, apart from deposits with bankers;
- 7.1.5 gives a guarantee or indemnity to secure the liabilities or obligations of any Person (other than a wholly-owned Subsidiary of the Company);
- 7.1.6 sells, transfers, leases, assigns, or otherwise disposes of a material part of its undertaking, property or assets (or any interest in them), or contracts to do so otherwise than in the ordinary and proper course of the Business;
- 7.1.7 enters into a contract, arrangement or commitment (other than a contract relating to the *installation of a system on behalf of a customer*) *involving expenditure on capital account or the realisation of capital assets* if the amount or the aggregate amount of the expenditure or realisation by the Company and all of its Subsidiaries would exceed £50,000 in any one year or in relation to any one project; for the purpose of this paragraph the aggregate amount payable under an agreement for hire, hire purchase or purchase on credit sale or conditional sale terms is to be treated as capital expenditure incurred in the year in which the agreement is entered into;
- 7.1.8 engages an employee at remuneration (including the amount of any guaranteed bonus or commission) which is likely to exceed a rate of £40,000 per annum;
- 7.1.9 increases the remuneration of an employee by more than 5% per cent in any year;
- 7.1.10 terminates the employment of any employee whose remuneration is £40,000 or over;
- 7.1.11 creates any corporate pension scheme for any employee or group of employees;

- 7.1.12 appoints a committee of the Directors or a local board or delegates any of the powers of the Directors to a committee or local board;
- 7.1.13 takes or agrees to take a leasehold interest in or licence over land;
- 7.1.14 acquires, purchases or subscribes for shares, debentures, mortgages or securities (or any interest in any of them) in any Person;
- 7.1.15 creates a contract or obligation or renews or varies the terms of an existing contract or obligation, to pay money or money's worth to any member of the Company or to the Holding Company of a member or to any other Subsidiary of a Holding Company or to any Person as a nominee of a member or a relevant Holding Company or Subsidiary or to any Connected Person;
- 7.1.16 commences any litigation or similar proceeding or compromises or settles (or agrees to compromise or settle) any outstanding proceedings.
- 7.1.17 allows any bank account to be operated otherwise than on terms requiring signature of two directors.

8 STAFF

Subject to Clause 7.1.7 the Company shall recruit and employ such staff as the Board considers necessary for the proper conduct of the Business.

9 COVENANTS IN RESPECT OF THE MANAGEMENT OF THE COMPANY AND ANY SUBSIDIARY

- 9.1 The Company agrees and undertakes (and, where relevant, agrees and undertakes to procure,) and the Shareholders agree and undertake to procure (so far as they are able) that the Company and any subsidiary is conducted in such manner to:

- 9.1.1. Keep the Investor fully informed of the progress of its business and that of any Subsidiary;

- 9.1.2. The Shareholders and FPE are given full opportunity to examine the books and accounts kept by the Company and its Subsidiaries, if any, and are supplied with all relative information, including monthly management accounts and operating statistics and such other trading and financial information in such form as they reasonably require to keep each of them properly informed about the business of the Company and its Subsidiaries and generally to protect their interests;
- 9.1.3. Notify the Investors in advance of, and obtain Investor Consent to, any announcement or other information which relates to matters likely to affect materially the general character or nature of the business of the Group or which involves an acquisition or disposal which, if any of the Company's share capital had been listed with the UK Listing Authority would (under any test relevant thereto except by reference to market capitalisation) require the approval of a Shareholder;
- 9.1.4. Use all reasonable efforts to recruit, with FPE approval, a suitably qualified chief executive officer or similar executive of the Company within 6 months of Completion or such longer period as FPE may agree;
- 9.1.5. Use all reasonable efforts to recruit, with FPE approval, a suitably qualified finance director or similar executive of the Company within 6 months of Completion or such longer period as FPE may agree;
- 9.1.6. Maintain in full force and effect such insurance policies as are normally maintained by prudent companies carrying on business similar to that of the Group (including directors and officers insurance) and supply the Investor Directors (annually or on request) with a schedule of such insurances;
- 9.1.7. Procure that proper books and records are prepared in accordance with good accounting practice and are kept up-to-date at all times and show a true and accurate record of all the dealings and transactions of each member of the Group;
- 9.1.8. Adopt and implement, in respect of each financial year, the Budget and the Business Plan;
- 9.1.9. Provide to the Investors and FPE a monthly management report within 25 days of the conclusion of each calendar month which report shall contain a profit and loss

account, a balance sheet and cash flow statement, financial commentary and such other information as may be agreed with FPE;

9.1.10. Take all such action as may be reasonably required of it by the Investors to protect the property or assets of the Company and any Subsidiary;

9.1.11. Takes all reasonable action to protect the confidential information of each member of the Group;

9.1.12. To use up to £56,000 of the subscription monies paid in clause 4.1 to repay the Founder's Loan as soon as practicable after Completion;

9.1.13. to monitor and review on an on-going basis an exit strategy for the Shareholders and, in particular, the opportunities for a Sale to a third party, whether in a similar trade or otherwise, or a Flotation;

9.1.14. after a period of 3 ½ years from the Completion Date or such longer period as FPE may agree to permit the Investors to appoint, at the expense of the Company, a financial advisor to be instructed to actively pursue opportunities for a Sale of 100% of the Shares or the entirety of the business and assets of the Company.

10 WARRANTIES AND UNDERTAKINGS

10.1 CM, with respect to the warranties and representations contained in Schedule 2A and Kindersley, with respect to the warranties and representations contained in Schedule 2B warrant and represent to the Investors, that such warranties and representations are accurate in all respects and not misleading at the date of this agreement.

10.2 The Warrantors acknowledge that the Investors have entered into this agreement in reliance upon, amongst other things, the Warranties.

10.3 Save as expressly otherwise provided, each of the Warranties shall be separate and independent and no other warranty shall govern the extent or application of any other Warranty.

- 10.4 The Warranties are qualified by any matter which is fairly and fully disclosed in the CM Disclosure Letter or the Kindersley Disclosure Letter, respectively. No letter, document or other communications shall be deemed to constitute a disclosure for the purpose of the Warranties unless the same is attached and annexed to the Disclosure Letter.
- 10.5 At any time prior to the end of the Warranty Period, the Warrantors, with respect to their respective Warranties, undertake to disclose in writing to the Investors anything which is or may constitute a breach of or be inconsistent with any of the said Warranties immediately it comes to the notice of such Warrantor both before, at the time of and after Completion.
- 10.6 The liability of each of the Warrantors under or pursuant to any of the provisions of this agreement shall be joint and several but only to the extent that they give identical warranties to the Investors.
- 10.7 Any liability to the Investors under this agreement may in whole or in part be released, compounded or compromised or time or indulgence given by the Investors in their absolute discretion as regards any of the Warrantors under such liability without in any way prejudicing or affecting their rights against any other of the Warrantors under the same or a like liability whether joint and several or otherwise.
- 10.8 The Investors confirm that they do not have actual knowledge, as at the date hereof, of any claim under the Warranties and nor do the Investors based on that knowledge intend to make any such claim but this is without prejudice to the Investors' entitlement to make such claim.
- 10.9 The Warranties and all other provisions of this agreement insofar as the same shall not have been performed at Completion shall not be extinguished or affected by Completion, or by any other event or matter whatsoever, except by a specific and duly authorised written waiver or release by the Investors.
- 10.10 The benefit of the Warranties may not be assigned in whole or in part without the prior written consent of the Warrantors.

11 **LIMITATION OF LIABILITY AND CLAIMS**

- 11.1 The Warrantors shall not be liable for breach of Warranty:

- (a) in respect of any claim unless within the Warranty period, written notice of the claim is given by any of the Investors to either or both of the Warrantors, specifying such details of the specific matter or circumstances in respect of which the claim is made together with an estimate of the amount of Losses which are, or are to be, the subject of the claim, including any Losses which are contingent on the occurrence of any future event;
- (b) in respect of any claim unless the aggregate amount of all claims for which the Warrantors would otherwise be liable for breach of Warranty exceeds £50,000 but if the aggregate liability in respect of all such claims exceeds £50,000 then, all claims, including claims previously notified, shall accrue against and be recoverable from the Warrantors; and
- (c) in respect of any claim to the extent that the aggregate amount of the liability of the Warrantors for all claims made for breach of Warranty would exceed the aggregate of the subscription monies paid by the Investors under this agreement.

11.2 None of the limitations contained in clause 11.1 shall apply to any claim which arises or is affected, or to the extent to which it arises or is affected, as the consequence of, or which is delayed as a result of, wilful misconduct, wilful concealment or fraud by a Warrantor.

11.3 Any claim in respect of which notice shall have been given in accordance with clause 11.3 above shall be deemed to have been irrevocably withdrawn and lapsed (not having been previously satisfied, settled or withdrawn) if action in respect of such claim have not been issued and served on the Warrantors not later than the expiry of 6 months after the date of the notice.

11.4 The Investors shall not be entitled to recover from the Warrantors under this agreement more than once in respect of the same Losses suffered.

11.5 The amount of any claim for breach of the Warranties shall be reduced by the amount of any relief from taxation arising by virtue of the loss or damage in respect of which the claim is made.

12. TRANSFER OF SHARES

- 12.1 Save as specifically agreed elsewhere in this agreement no Shareholder shall be permitted to sell transfer or assign any of Shares for a period of 3 ½ years from the date of Completion and, subject thereto, none of the Shares may be transferred save in accordance with the provisions of the Articles;
- 12.2 For the avoidance of doubt, but subject to all the other provisions of the Articles it is the intention of the parties to permit at all times that a Shareholder may transfer his or its Shares to a Permitted Transferee.
- 12.3 In the event of the issue or transfer of Shares to any person who is not a party to this agreement (whether the same be a Permitted Transfer or otherwise) it shall be a condition of such issue or transfer (in the absence of which the Shareholders shall procure that the Directors refuse to register the same) that prior to the same being effected the prospective allottee or transferee and the Company shall have entered into a Deed of Adherence in the form set out in Schedule 3 or in such other form as the then existing shareholders of the Company shall reasonably require for the purpose of putting the prospective allottee or transferee in the same position in relation to any continuing rights and obligations as if he had been a signatory hereto.

13. **NON-COMPETITION RESTRICTIONS**

- 13.1 No Shareholder whilst he is beneficially interested in any Ordinary Shares or for a period of two years from the date on which he or it ceases to be beneficially interested in any such shares, shall do or permit any of the following without prior written Investor Consent:
- 13.1.1 either solely or jointly with or on behalf of any other Person directly or indirectly carry on or be engaged or interested (except as the holder, for investment, of securities dealt in on a recognised stock exchange) in any business competing in the Territory with the Business;
- 13.1.2 solicit in the Territory the custom of any Person who is or has been a customer of the Business for the purpose of offering to that Person goods or services similar to or competing with those of the Business;

- 13.1.3 solicit or entice away, or endeavour to solicit or entice away, any Director or employee of the Company or of any Subsidiary of the Company, but without prejudice to the right of the Shareholder to terminate arrangements under which any of its employees is seconded to the Company or a Subsidiary;
- 13.1.4 cause or permit any Person directly or indirectly under its Control to do any of the acts or things specified above.
- 13.2 Each undertaking in clause 13.1.1 to 13.1.4 (inclusive) shall be treated as independent of the other undertakings so that, if one or more is held to be invalid as an unreasonable restraint of trade or for any other reason, the remaining undertakings shall be valid to the extent that they are not affected.
- 13.5 Whilst the undertakings in clause 13.1 are considered by the parties to be reasonable in all the circumstances, if one or more is held invalid as an unreasonable restraint of trade or for any other reason but would have been held valid if part of the wording had been deleted, the period reduced or the range of activities or area dealt with reduced in scope, the undertakings shall apply with such modifications as may be necessary to make them valid.

14 EXIT

- 14.1 It is the parties' intention that on or as soon as practicable after the third anniversary of Completion and thereafter no later than on each following anniversary, the parties shall consider whether either an application for Listing should be made or a Sale effected (each an 'Exit Event'). No undertaking is given by any party that an Exit will occur. The parties agree that no Exit will take place without Investor Consent.
- 14.2 If the Shareholders agree to seek an Exit Event, they shall co-operate fully with each other and the Company and their respective financial and other advisers to achieve such an Exit Event in accordance with the rules and regulations of the recognised investment exchange to which the application for Listing is made (if relevant) and other applicable laws.
- 14.3 No Listing shall be obtained unless all of the Preferred Shares held by the Investors have been converted into Shares of the class to be Listed.

- 14.4 The Investors will not give any warranty or indemnity to any person (other than a warranty as to title to any Shares of the Company to be sold by them at that time) whether in connection with a Listing or otherwise nor will the Investors give any undertakings in respect of the disposal of any of their Shares.
- 14.5 Upon the happening of any Exit Event the return to the respective Shareholders shall be as follows:
- 14.5.1 First, in repayment to the Investors of an amount equal to the aggregate Investor Subscription Price paid by the Investors with respect to the Preferred Shares together with any outstanding coupon payable thereon;
- 14.5.2 Second, to each of the Shareholders pro rata to their respective holding of Shares (treating the Preferred Shares as though they had been converted in accordance with the terms contained in the Articles).
- 14.6 For the avoidance of doubt, it is the intention of the parties that in the event of a Sale, Flotation or Winding up (Exit Events) the subscription by the Investors for the Preferred Shares and the payment of the aggregate Investor Subscription Price be treated in the same way as though the Subscription Price had been a loan, repayable upon the happening of an Exit Event, and that simultaneously with the deemed repayment or redemption (or, with the consent of the Investors, the deferred repayment or redemption) the Preferred Shares had converted into Ordinary Shares.

15 CONFIDENTIALITY

- 15.1 Subject to the right of the Investor Directors at all times to report to the Investors (and their respective members) and to FPE, each Shareholder, Director and the Company shall keep confidential and shall use all reasonable endeavours to ensure that its respective officers, employees, agents and professional and other advisers keep confidential any Confidential Information):
- (a) relating to the business, customers, assets or affairs of the Company and any Group Company which they may have or acquire through ownership of an interest in the Company;
- (b) relating to the business, customers, assets or affairs of the other parties or any member of their group which they may have or acquire through being a Shareholder or making

appointments to the Board or through the exercise of its rights or performance of its obligations under this agreement; or

- (c) which relates to the negotiation and contents of this agreement (or any agreement or arrangement entered into pursuant to this agreement).

15.2 No party may use for its own business purposes or disclose to any third party any Confidential Information without the consent of the other parties.

15.3 This clause 15 does not apply to:

- (a) information which is or becomes publicly available (otherwise than as a result of a breach of this clause 15);
- (b) information which is independently developed by the relevant party or acquired from a third party, to the extent that it is acquired with the right to disclose it;
- (c) the disclosure of information to any third party in contemplation of a Listing or Sale provided that the discussions with the third party has been approved by Investor Director Consent;
- (d) information which was lawfully in the possession of the relevant party free of any restriction on disclosure;
- (e) the disclosure by a party of Confidential Information to its directors or employees or to those of its Associated Companies who need to know that confidential information for purposes relating to this agreement but those directors and employees shall not use that Confidential Information for any other purpose;
- (f) the disclosure of information to the extent required to be disclosed by law, any stock exchange regulation or any binding judgment, order or requirement of any court or other competent authority;
- (g) the disclosure of information to any tax authority to the extent reasonably required for the purposes of the tax affairs of the party concerned or any member of its group;
- (h) the disclosure to a party's professional advisers of information reasonably required to be disclosed for purposes relating to this agreement; or

- 15.4 Each party shall inform any officer, employee or agent or any professional or other adviser advising it in relation to matters relating to this agreement, or to whom it provides Confidential Information, that such information is confidential and shall instruct them to keep it confidential and not to disclose it to any third party (other than those persons to whom it has already been or may be disclosed in accordance with the terms of this clause 15).
- 15.5 The disclosing party shall remain responsible for any breach of this clause 15 by the person to whom that confidential information is disclosed.
- 15.6 The provisions of this clause 15 shall survive the termination of this agreement without limit in time.

16. DURATION AND TERMINATION

- 16.1 Subject to the other provisions of this agreement, this agreement shall continue in full force and effect without limit in point of time until the earlier of:

- (a) the parties hereto (from time to time) agree in writing to terminate this agreement;
- (b) an effective resolution is passed or a binding order is made for the winding-up of the Company; and
- (c) an Exit is completed in accordance with clause 14;

provided that this agreement shall cease to have effect as regards any party who ceases to hold any Shares save for any of its provisions which are expressed to continue in force after termination.

- 16.2 Termination of this agreement shall be without prejudice to any liability or obligation in respect of any matters, undertakings or conditions which shall not have been observed or performed by the relevant party prior to such termination.
- 16.3 When an Investor ceases to hold Shares, the Investor shall cease to be party to this agreement except that clause 11.1 (a) shall continue to bind it and its accrued rights and obligations shall not be affected.
- 16.4 Termination of this agreement for any cause shall not release a party from any liability which at the time of termination has already accrued to another party or which thereafter may accrue in respect of any act or omission prior to such termination.

17 ALTERNATIVE DISPUTE RESOLUTION

Any dispute arising out of or in connection with this agreement shall be referred first to mediation in accordance with the model procedure of the Centre for Alternative Dispute Resolution in the UK.

18 NOTICES

18.1 Any notice, claim or demand in connection with this agreement shall be in writing (each a "Notice") shall be sufficiently given if delivered or sent to the recipient at its fax number or address set out in Schedule 1 or any other fax number or address notified to the sender by the recipient for the purposes of this agreement.

18.2 Any Notice shall be in writing and may be sent by hand, fax or post (first class in the case of service in the United Kingdom and airmail in the case of international service). Any Notice shall be deemed to have been received 12 hours after the time of despatch, if sent by fax, or 10am on the second Business Day from the date of posting, if sent by post.

19 ENTIRE AGREEMENT ETC.

19.1 This agreement, the Summary of Proposed Terms dated 3 February 2005, and those agreements referred to herein contain the whole agreement between the parties relating to the subject matter of this agreement at the date hereof to the exclusion of any terms implied by law which may be excluded by contract and supersedes any previous written or oral agreement between the parties in relation to the matters dealt with in this agreement.

19.2 Each of the parties acknowledges that it has not been induced to enter into this Agreement by any representation, warranty or undertaking not expressly incorporated into it.

19.3 Except in the case of fraud, each party agrees and acknowledges that its only right and remedy in relation to any representation, warranty or undertaking made or given in connection with this agreement shall be for breach of the terms of this agreement to the exclusion of all other rights and remedies (including those in tort or arising under statute).

20 REMEDIES, WAIVERS AND RELEASE

20.1. The rights, powers and remedies provided in this agreement are cumulative and not exclusive of any rights, powers and remedies provided by law.

- 20.2 Notwithstanding any express remedies provided under this agreement and without prejudice to any other right or remedy which any party may have, each party acknowledges and agrees that damages alone may not be an adequate remedy for any breach by it of the provisions of this agreement, so that in the event of a breach or anticipated breach of such provisions, the remedies of injunction and/or an order for specific performance would in appropriate circumstances be available.
- 20.3 No delay or omission by any party to this agreement in exercising any right, power or remedy provided by law or under this agreement shall affect that right, power or remedy or operate as a waiver of it.
- 20.4 The single or partial exercise of any right, power or remedy provided by law or under this agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.
- 20.5 Any liability to any party under this agreement may in whole or in part be released, compounded or compromised or time or indulgence given by that party in its absolute discretion as regards any party under such liability without in any way prejudicing or affecting its rights against any other party under the same or a like liability, whether joint and several or otherwise.

21 NO PARTNERSHIP

Nothing in this agreement and no action taken by the parties under this agreement shall be deemed to constitute a partnership between the parties nor constitute any party the agent of any other party for any purpose.

22 CONFLICT WITH THE ARTICLES

In the event of any ambiguity or discrepancy between the provisions of this agreement and the Articles, the provisions of this agreement shall prevail and accordingly the Shareholders shall exercise all voting and other rights and powers available to them so as to give effect to the provisions of this agreement and shall further if necessary procure any required amendment to the Articles. The Company is excluded from any obligation contained in this agreement to the extent that such obligation would constitute an unlawful fetter on the Company's statutory powers.

23 VARIATION

No variation of this agreement shall be effective unless in writing and signed by each of the parties.

24 FURTHER ASSURANCE

At any time after the date of this agreement the parties shall, and shall use all reasonable endeavours to procure that any necessary third party shall execute such documents and do such acts and things required for the purpose of giving full effect to the Business Transfer Agreement and at the cost of the relevant party execute such documents and do such acts and things as that party may reasonable require for the purpose of giving to it the full benefit of all the provisions of this agreement.

25 INVALIDITY

If any provision in this agreement shall be held to be illegal, invalid or unenforceable, in whole or in part, the legality, validity and enforceability of the remainder of this agreement shall not be affected.

26 COUNTERPARTS

This agreement may be entered into in any number of counterparts, all of which taken together shall constitute one and the same instrument. Any party may enter into this agreement by signing any such counterpart.

27 ASSIGNMENT

27.1 Subject to clause 27.2, this agreement is personal to the parties to it. Accordingly, no party may, without the prior written consent of the others, assign the benefit of all or any of the other's obligations under this agreement, nor any benefit arising under or out of this agreement.

27.2 Except as otherwise expressly provided in this agreement, either the Investors or Kindersley may, without the consent of the other parties, assign to an Associated Company or an FPE Affiliate the benefit of all or any of that party's interest under this agreement provided however that when such assignment shall not be absolute but shall be expressed to have effect only for so long as the assignee remains an Associated Company or, in the case of an assignment by the Investors, an Associated Company or an FPE Affiliate.

28 COSTS

Subject to the payment of the Fees and Expenses to FPE, each party shall pay its own costs and expenses in relation to the negotiations leading up to the subscription of Shares by the Investors and the preparation, execution and carrying into effect of this agreement and all documents referred to in it.

29 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

A person who is not a party to this agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

30 GOVERNING LAW AND JURISDICTION

30.1 This agreement shall be governed by and construed in accordance with English law.

30.2 All the parties irrevocably agree that the courts of England are to have exclusive jurisdiction to settle any dispute which may arise out of or in connection with this agreement.

IN WITNESS WHEREOF the parties hereto or their duly authorised representatives have executed this agreement the date and year first above appearing.

SCHEDULE 1

Shareholders

<u>Name</u>	<u>Class of Shares</u>	<u>Number of Shares</u>
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Colin McArthur	Ordinary Shares	750,000
Kindersley Holdings Limited	Ordinary Shares	750,000
Rose Nominees Limited a/c 20642	Preferred Shares	750,000
Rose Nominees Limited a/c 20819	Preferred Shares	750,000

SCHEDULE 2 (A)

THE CM WARRANTIES

CM warrants and represents to the other parties to this agreement in identical terms to those warranties given to the Company under and pursuant to the Business Transfer Agreement each of which shall be deemed to be repeated herein and given on the same terms and subject to the same conditions as the Warranties are given under the Business Transfer Agreement

SCHEDULE 2 (B)

THE KINDERSLEY WARRANTIES

- 1.1 To the best of Kindersley's knowledge and belief, the information contained in the Kindersley Business Plan (a copy of which is attached hereto and initialled by way of identification) is true, complete and accurate in all material respects at the date hereof.
- 1.2 The statements of fact in the Business Plan, including the schedules thereto, have been prepared carefully and diligently and after reasonable enquiry.
- 1.3 The following assumptions which appear in the 'Dry Lube's Assumption Worksheet' attached to the Kindersley Business Plan (described by reference to the relevant Excel cell reference) have been arrived at carefully and diligently and after reasonable enquiry:
 - 1.3.1 Consumable: cells C37 – C45
 - 1.3.2 Staff Costs: cells C48 – C53
 - 1.3.3 Per Line Costs: cells C56- C62 and B70 – B76
 - 1.3.4 Initial Patent Application: D85
 - 1.3.5 Fixed Assets: B99

SCHEDULE 3

Deed of Adherence

- 1 The Covenantor confirms that it has been supplied with and has read a copy of the Agreement and covenants with each of the persons named in the Schedule to this Deed to observe, perform and be bound by all the terms of the Agreement which are capable of applying to the Covenantor as Shareholder and which have not been performed at the date of this Deed to the intent and effect that the Covenantor shall be deemed with effect from the date on which the Covenantor is registered as a member of the Company to be a party to the Agreement (as if named as a party to that Agreement as Shareholder).
- 2 This Deed shall be governed by and construed in accordance with English law and the Covenantor hereby submits irrevocably to the non-exclusive jurisdiction of the English Courts (but accepts that this Deed may be enforced in any court of competent jurisdiction) and hereby appoints [insert name] as its agent for service of all process in any proceedings in respect of the Agreement.

EXECUTED as a deed on the date written above.

Schedule
[Parties to Agreement including those who have
executed earlier Deeds of Adherence.]

SCHEDULE 4

Performance Milestones

1. The total number of lines installed by 30 April 2006 is at least 160. For the avoidance of doubt this number is to:
 - 1.1 include lines installed at a the date of completion of the Subscription and Shareholders' Agreement; and
 - 1.2 exclude lines which, as at 30 April 2006, the Company is no longer servicing
2. The mean monthly charge per new line installed by the Company between 1 March 2005 and 30 April 2006 is at least £800.
3. As at 30 April 2006, the monthly turnover of the Company is at least £150,000

SCHEDULE 5

MATERIAL CONTRACTS

1. Agreement between Tribology Limited and Bank of Scotland pursuant to which Tribology is the borrower under the Small Firm Loan Guarantee Scheme for an amount of £100,000 for a term of 5 years. The loan reference no. is 102168
2. Licences granted by UK Steel Enterprise Limited to Tribology Limited dated 1 January 2005 to Unit 1 and Unit 2 Grovewood Business Centre, Wren Court, Strathclyde Business Park, Bellshill.
3. Insurance Policies with Norwich Union with respect to Employer Liability Insurance and with Allianz Cornhill with respect to the motor vehicles.
4. All customer contracts entered into by Tribology Limited with its customers.

EXECUTED AND DELIVERED by
COLIN McARTHUR

in the presence of:

Witness Name: *JOHN IRWIN*

Signature: *[Signature]*

Address: *36 WESPER MEWS, London*

) *[Signature]*

EXECUTED AND DELIVERED by
KINDERSLEY HOLDINGS LIMITED
acting by:

)
)
)

Director

[Signature]
Director/Secretary

[Signature]

EXECUTED AND DELIVERED by
FF&P SPECIAL SITUATIONS II LLP
acting by:

)
)
)

Partner

[Signature]

Partner

[Signature]

EXECUTED AND DELIVERED by
FF&P INVESTSOR I LP
acting by:

)
)
)

Partner

Partner

EXECUTED AND DELIVERED by
FF&P PRIVATE EQUITY LIMITED
acting by:

)
)
)

Director

Director/ Secretary

EXECUTED AND DELIVERED by
DRY LUBE LIMITED
acting by:

)
)
)

Director

Director/ ~~Secretary~~