

PMC

DATED 22 November 1999

3615916

BRIAN FREDERICK NASH & DONALD ALAN GILBERT (1)

PROSYNTH LIMITED (2)

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AGREEMENT

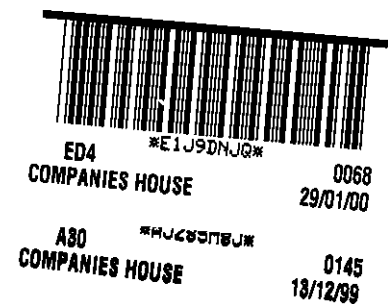
relating to the incorporation  
of Prosynth

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Gotelee & Goldsmith  
35/37 Elm Street, Ipswich  
Suffolk IP1 2AY

Ref: PMC/AH

DOCS/nash.agr



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£ 20690 L 2/12  
DATE: 22 November 1998

**PARTIES:**

1. "The Vendors": **BRIAN FREDERICK NASH and DONALD ALAN GILBERT** both of Unit 2 Bull Lane Industrial Estate Acton Sudbury Suffolk CO10 0BD
2. "The Purchaser": **PROSYNTH LIMITED** (registered number 3915916) whose principal place of business is at Unit 2 Bull Lane Industrial Estate Acton Sudbury aforesaid

**RECITALS**

- (A) The Vendors has up to and including the Transfer Date carried on the Business trading as chemical manufacturers
- (B) The Vendors have promoted the Purchaser as a ready-made Company for the purpose of incorporating the Business.

**OPERATIVE PROVISIONS:**

1. Interpretation

In this agreement including the Recitals and the Schedules:-

- 1.1 The following words and expressions have the following meanings, unless they are inconsistent with the context:-

"ACCOUNTS" means the balance sheet as at 30 September 1998 of the Vendors in the agreed form.

"ASSETS" means all the property, assets (including the Leased Assets) and rights of the Business at the Transfer Date.

"BOOK DEBTS" means the trade debts owed to the Vendors at the Accounts Date in connection with the Business.

"BUSINESS" means the business referred to at recital (A) carried on by the Vendors under the name 'Prosynth ~~Records~~' at the Transfer Date.

"CASH" means all cash balances (negative or positive) held (or deemed to be held) at the Transfer Date in connection with

the Business other than cash on deposit.

"CONSIDERATION SHARES" means the ordinary shares of £1 each in the Purchaser credited as fully paid up and to be allotted to the Vendors in consideration for the sale of the Business.

"CONTRACTS" means the current contracts and engagements of the Vendors in relation to the Business.

"CREDITORS" means the aggregate amount owed by the Vendors in connection with the Business to or in respect of trade creditors and accrued charges as recorded in the Principal Accounts including value added tax but not including liabilities for taxation on profits or chargeable gains.

"EMPLOYEES" means the persons who, at the Transfer Date, were employed by the Vendors for the purposes of the Business.

"EXCLUDED ASSETS" means the Book Debts any amounts recoverable in respect of taxation (other than VAT) attributable to periods ended on or before the Transfer Date.

"FIXED ASSETS" means all plant, machinery, tools, equipment, vehicles and other chattels owned by the Vendors at the Transfer Date for the purpose of the Business.

"GOODWILL" means the goodwill of the Vendors in relation to the Business.

"LEASED ASSETS" means those Assets the subject of leasing hiring or hire purchase agreements which are used by the Vendors in connection with the Business.

"LIABILITIES" means all those debts and other liabilities of the Business at the Transfer Date (excluding any liability to taxation).

"PROPERTY" means first the leasehold property known as Unit 2

Bull Lane Industrial Estate Acton Sudbury comprised in a lease dated 8th September 1995 and made between Morecroft Engineers Limited (1) and the Vendors (2).

secondly the leasehold property known as Unit 3A Bull Lane Industrial Estate Acton Sudbury comprised in a lease dated 22nd May 1998 and made between Rylestor (Contractors) Limited (1) and the Vendors (2).

"STOCKS" means the stock in trade of the Business at the Transfer Date.

"TRANSFER DATE" means close of business on 30 September 1998.

## 2. Agreement for Sale

2.1 Subject to the terms and conditions of this agreement, the Vendors with full title guarantee shall sell to the Purchaser which shall purchase at and with effect from the Transfer Date:

2.1.1 the Business as a going concern; and

2.1.2 all the property, assets and rights of the Vendors used in the conduct of the Business including, but without limitation:-

- (a) the Goodwill;
- (b) the Fixed Assets;
- (c) the Stocks;
- (d) the benefit of the Contracts;
- (e) Cash;
- (f) the Property;
- (g) the Leased Assets

but excluding the Excluded Assets.

## 3. Purchase Consideration

The consideration for the sale by the Vendor of the Business and

the Assets (save for the leased Assets) shall be a sum equal to the aggregate value of the Fixed Assets, the Stocks, Cash, prepayments (as disclosed in the Accounts) and the Goodwill and the Contracts less the aggregate value of the liabilities (as disclosed in the Accounts) and the assumption by the Purchaser of the liabilities which shall be satisfied by the allotment to the Vendors of the number of Consideration Shares set opposite their respective names in the Second Schedule.

#### 4. Completion

4.1 The sale and purchase shall be completed immediately upon exchange of this agreement when all the matters set out in this clause 4 shall be effected.

4.2 The Vendors shall deliver to the Purchaser, at the principal office of the Business, such of the Assets as are capable of being transferred by delivery.

4.3 The Vendors shall cause to be delivered or (if so requested by the Purchaser) made available to the Purchaser:-

4.3.1 such documents as are required by the Purchaser's solicitors to complete the sale and purchase of the Assets and vest title to the Assets in the Purchaser.

4.3.2 all records of National Insurance and PAYE relating to all the Employees duly completed and up to date;

4.3.3 the value added tax records referred to in clause 8.3.

4.4 The Purchaser shall deliver to the Vendors the certificates for the Consideration Shares.

## 5. Property and Leased Assets

- 5.1 Subject to the consent where necessary of the other parties thereto the Purchaser shall assume the obligations of and become entitled to the benefits of the Vendors in respect of the Property and under the hire purchase and leasing agreements for the Leased Assets (if any) with effect from the Transfer Date.
- 5.2 Failing any required consent of such other parties to the assignment or novation of any agreement referred to in clause 1 the Vendors shall remain jointly and severally liable under such agreement as a contracting party but the Purchaser shall at its own cost and expense assume and perform the obligation under such agreement for and on behalf of the Vendors who shall account to the Purchaser for all sums received therefrom or in connection therewith and the Purchaser hereby indemnifies the Vendors against all costs claims and demands in this respect.
- 5.3 The Vendors shall at the Purchaser's request give to the Purchaser all reasonable assistance in the power of the Vendors to enable the Purchaser to enjoy the benefit of and to enforce the agreements referred to in clause 1 against the other contracting party or parties.

## 6. Contracts

- 6.1 The Purchaser shall (at its risk and expense) perform and discharge the outstanding obligations and liabilities of the Vendors under the Contracts and indemnify the Vendors in respect thereof save for losses and claims attributable to acts or omissions of the Vendors prior to the Transfer Date.

6.2 The Contracts shall subject to all necessary consents be assigned to the Purchaser (or novated) at and with effect from the Transfer Date failing which consents the Vendors shall hold the benefit of the Contracts not so transferred absolutely for the Purchaser.

7. Employees

7.1 All salaries and other emoluments, including holiday pay, tax and national insurance payments and contributions to retirement benefit schemes, relating to the Employees shall be borne by the Vendors up to the Transfer Date and all necessary apportionments shall be made.

7.2 The parties acknowledge and agree that pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 1981 (as amended) the contract of employment between the Vendors and each of the employees of the Business will have effect from completion as if originally made between the Purchasers and each such employee.

8. Value Added Tax

8.1 The parties shall use all reasonable endeavours to procure that the sale of the Business is deemed to be a transfer of a business as a going concern for the purposes of the Value Added Tax Act 1994 s49 and Schedule 4 paragraph 8(1)(a).

8.2 The Vendors shall forthwith deliver to the Purchaser all the records of the Business for value added tax purposes which are required by the Value Added Tax Act 1994 s49 (1)(b) to be preserved by the Purchaser.

8.3 The Purchaser shall for a period of not less than 6 years from the Effective Date preserve the records delivered to it by the Vendors and, upon reasonable notice during normal

business hours, make them available to the Vendors or their agents.

#### 9. Title and Apportionments

9.1 The Vendors shall execute such documents and take such other steps (or procure other necessary parties so to do) as are necessary or appropriate for vesting in the Purchaser all their rights and interests in the Assets.

9.2 All outgoings relating to or payable in respect of the Business up to the Transfer Date shall be borne by the Vendors and as from the Transfer Date shall be borne by the Purchaser and all receivables in respect of the Business up to that time shall belong to and be payable to the Vendors and as from that time shall belong to and be payable to the Purchaser.

#### 10. Costs

The Purchaser shall be responsible for the costs of and incidental to the preparation execution and stamping of this agreement.

#### 11. Filing

The Purchaser shall file this agreement duly stamped and Companies Form 88(2) with the Registrar of Companies within one month of the date of allotment of the Consideration Shares

#### 12. Certificate of Value

It is hereby certified that this transaction does not form part of a series of transactions the value of which or the aggregate value of which exceeds the sum of £ (                      thousand pounds).

First Schedule

Existing Shareholdings in the Purchaser

[set out particulars]

Brian Frederick Nash One £1 ordinary share

Donald Alan Gilbert One £1 ordinary share

Second Schedule

Consideration Shares to be allotted to Vendors

Brian Frederick Nash 50,000 £1 ordinary 'A' shares

250,000 £1 ordinary 'B' shares

Donald Alan Gilbert 50,000 £1 ordinary 'A' shares

250,000 £1 ordinary 'B' shares

SIGNED BY BRIAN FREDERICK NASH

in the presence of:

Brian Frederick Nash  
M. Bromley

SIGNED BY DONALD ALAN GILBERT  
in the presence of:

Donald Alan Gilbert  
M. Bromley

SIGNED BY BRIAN FREDERICK NASH  
a director duly authorised for  
and on behalf of **PROSYNTH LIMITED**  
in the presence of:

Brian Frederick Nash  
M. Bromley