

STRICTLY CONFIDENTIAL

RELATING TO THE ACQUISITION BY

<<Name of Buyer>> ("THE BUYER")

OF THE ASSETS AND UNDERTAKINGS OF THE BUSINESS (the "BUSINESS") OF  
<<Name of Business being sold>> ("THE SELLER")

**1. SALE AND PURCHASE**

On a date and time to be agreed between the parties ("the Completion Date") <<Name of owner of Business>> ("the Seller") shall sell with full title guarantee, and together with the following assets, which shall be free of all charges, liens and encumbrances:

- 1.1 the goodwill of the Business and the right for the Buyer to use the name <<Name of Business being sold>>
- 1.2 work-in-progress and all materials, components, consumables, finished and unfinished goods
- 1.3 all the plant, machinery, fixtures and fittings, tools, vehicles and spare parts and other equipment required in the Business;
- 1.4 the benefit (subject to the terms and agreements which have not been completed at the date of completion) entered into by the Seller in the ordinary course of the Business
- 1.5 all intellectual property (whether registered) which is owned, used or required by the Seller in the Business
- [1.6 the [freehold] [leasehold] premises at <<Location>>];
- [1.7 all book and other debts due to the Seller at the Completion Date and the benefit of all pre-payments made to the Seller;]
- 1.8 all books and records of the Business
- 1.9 all rights of the Seller against third parties in respect of any of the assets specified in paragraphs 1.1 to 1.8.

**2. EXCLUDED ASSETS**

The following assets of the Business are excluded from the transaction:

- 2.1 Shares or other securities

- 2.2 cash in hand or at the bank;
- 2.3 any right to any credit or receivable;
- 2.4 all intra-group debts;
- 2.5 [<<list any other items>>]

- 2.6 all assets which are subject to hire or hire-purchase agreements ("the Third Party Assets") shall be subject to the provisions of paragraph 12.

### 3. CREDITORS

- 3.1 The Buyer shall only take on the obligations or liabilities of the Seller which it expressly agrees to take on or discharge.

- 3.2 [As part of the consideration for the Business and the Assets, the Buyer shall assume responsibility for the Business at the Completion Date with the exception of the following:

- 3.2.1 amounts owing to the Seller;
- 3.2.2 any liabilities for VAT payable by the Seller;
- 3.2.3 sums owing to other members of the Seller's group.]

### 4. PRICE AND PAYMENT

The [balance of the] consideration for the Business and the Assets shall be the payment by the Buyer to the Seller on the Completion Date by bank transfer to the [Seller's solicitors].

### 5. VAT

- 5.1 The consideration is exclusive of VAT. The Buyer and the Seller shall use reasonable endeavours to ensure that the Business and purchase of the Business and the Assets is deemed to be a business as a going concern for the purposes of the VAT legislation.
- 5.2 If HM Revenue & Customs requires the Buyer to pay VAT on the purchase of the Business and the Assets, the amount of VAT required shall be paid by the Buyer on receipt of a VAT invoice and a copy of such invoice from the Seller.
- 5.3 <<Specify intention regarding VAT on the purchase of the Business and the Assets>>.

### 6. CONTRACTS

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- 6.1 The Buyer and the Seller shall ensure that the Seller does not enter into any contracts which require consent of a third party before they can be entered into.
- 6.2 The Seller shall remain liable for any acts in respect of all goods and services supplied before the Completion Date and shall give an indemnity against any of its acts or omissions from the Completion Date in relation to any of the Contracts.
- 6.3 The Buyer shall satisfy the Seller against the Seller or against the Buyer for the repair, replacement or refund of the price of any defective goods sold by the Seller. The Seller shall reimburse the Buyer the cost to the Buyer of doing so.
7. **EMPLOYEES**
- 7.1 The Transfer of Undertakings (Protection of Employment) Regulations 2006 as subsequently amended and all other applicable laws and regulations ("Regulations") shall apply to the transfer of all the employees of the Business.
- 7.2 The Buyer and the Seller shall agree the terms and conditions of employment of the one may incur as a result of the transfer under the Regulations or otherwise.
- 7.3 The Seller will remain liable for the payment of wages and holiday entitlements etc, in respect of all periods up to the Completion Date.
- 7.4 <<Specify what is agreed in relation to the transfer of obligations with employees>>.
8. **PROPERTY**
- <<Insert any provisions relating to the transfer of leasehold properties>>
9. **WARRANTIES AND TAX**
- 9.1 The Seller shall give to the Buyer a written statement of warranties covering commercial, accounting, tax and legal matters which may affect or affecting the Assets and the Business.
- 9.2 All warranties are to be given in writing and shall be fairly disclosed in a disclosure letter.
- 9.3 The Seller shall give to the Buyer the benefit of the warranties which shall extend to losses and reliefs agreed with the Buyer and shall be an indemnity as to the completeness and adequacy of the warranties and the payment of all tax which has become due.
10. **QUALIFICATIONS TO WARRANTIES AND COVENANTS**

The liability of the Seller under the tax covenant shall be subject to various qualifications to the extent agreed between the Seller and the Buyer.

#### 11. NON-SOLICITATION AND

The [Seller [on behalf of the Business [from time to time]] shall enter into restrictive undertakings for a period of <<Insert number>> months, including undertakings that [it will not] [none of them will] either

11.1 Solicit orders from any customer or services>>;

11.2 Do anything which [it] [the Business] reasonably to know would cause or be reasonably likely to cause the Business to cease or materially reduce its supplies to the

11.3 Solicit or employ or offer employment to any employee of the Business in possession of confidential information of the Business or able to influence its

11.4 Be interested, directly or indirectly, in any business which consists of or is connected with the Business <<Specify geographical area>> in any material extent <<Specify nature of business>> except as the holder of less than 5% of the shares of a company whose securities are listed on any recognised investment exchange.

#### 12. THIRD PARTY ASSETS

The Buyer and Seller shall agree the terms of the assignment of the Third Party Assets to the Buyer of the benefit of the assignment, including the formal sale and purchase price, and the Buyer shall obtain the benefit (subject to the payment of any required third party costs)

#### 13. CONFIDENTIALITY

13.1 Except as provided in the confidentiality agreement, neither party shall make any public announcement concerning the transaction or negotiations relating thereto, prior to signing the formal confidentiality agreement, except as otherwise required by law. Announcements will be made to customers and suppliers and to other announcement concerning the transaction shall be made without prior clearance with the other party.

13.2 [Nothing in these heads of agreement shall affect the operation of the existing confidentiality agreement in full force and effect, pending completion.]

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14. **COSTS**

Each party shall be liable for its own costs whether or not the transaction completes.

15. **DUE DILIGENCE**

15.1 Following the signing of the Purchase Agreement, <<Insert name of Buyer's solicitor or adviser>> will be permitted to conduct due diligence on behalf of the Buyer.

15.2 Neither <<Insert name of Buyer's solicitor or adviser>> nor any of the other professional advisers or agents shall be permitted access to any of the Company's confidential information without the prior approval of the designated representative of the Seller. <<Insert name of Buyer's solicitor or adviser>> shall specify when, to whom and to what extent such access is permitted. The Buyer shall ensure that neither <<Insert name of Buyer's solicitor or adviser>> nor its other professional advisers or agents disclose to any of the Seller's professional advisers or agents the reasons for the due diligence work being carried out.]

16. **COMPLETION**

The parties will use reasonable endeavours to progress the transaction as quickly as possible with the aim of completion on or before <<Date>>.

With the exception of paragraphs 14 and 15, the provisions of the Purchase Agreement and all communications described as "subject to contract", shall be subject to contract, and no contracts shall be exchanged, provided that the provisions of the Purchase Agreement shall remain in full force and effect in respect of any fraudulent misrepresentation.

Signed for and on behalf of the Buyer in the presence of: <<Insert name and address of two witnesses>> <<Insert name of Buyer's solicitor or adviser>> will also sign>>

Signed for and on behalf of the Seller in the presence of: <<Insert name and address of two witnesses>> <<Insert name of Seller's solicitor or adviser>> will also sign>>

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