

Shareholders' agreement

<<INSERT COMPANY NAME>>

Company number

THIS AGREEMENT is made on

PARTIES

- (1) <<Insert Company Name>> incorporated in <<Insert Company Details>> under number <<Insert Company Details>> whose registered office is at <<Insert Company Address>>, brief particulars of which are set out in Schedule 1 (**Company**), and
- (2) The several persons whose names and addresses are set out in Schedule 2 (each an **Original Shareholder** and, together, the **Original Shareholders**).

each of the **Company** and the Shareholders (including the Original Shareholders) being a **Party** and together the **Company** and the Shareholders are the **Parties**.

BACKGROUND

The Shareholders are the sole shareholders of the Company and have agreed with the Company and each other to exercise their rights in relation to the Company in accordance with this Agreement.

THE PARTIES AGREE:

1 Definitions and interpretation

- 1.1 In this Agreement, unless the context otherwise requires the following expressions have the following meanings:

Annual Budget	means the annual operating budget adopted under clause 6.2.1;
Articles	means the articles of association of the Company (as amended from time to time);
Board	means the board of Directors from time to time;
Business Day	means a day, other than a Saturday, Sunday or public holiday, on which clearing banks are open for non-automated commercial business in the City of London;
CA 2006	means the Companies Act 2006;
Confidential Information	means all data or information (whether technical, commercial, financial or of any other type) in any form acquired under, pursuant to or in connection with, this Agreement and any information used in or relating to the business of the Company (including information relating to the Company's products (bought, manufactured, produced, distributed or sold), services (bought or supplied), operations, processes, formulae, methods, plans, strategy, product

information, know-how, design rights, trade secrets, market opportunities, customer lists, commercial relationships, marketing, sales materials and general business affairs), and which are for the time being confidential to the Company;

Deed of Adherence

means the deed of adherence to this Agreement in the form of Schedule 3;

Director

means a director of the Company from time to time;

FSMA

means the Financial Services and Markets Act 2000;

Intellectual Property Rights

means copyright, patents, rights in confidential information, Know-How, trade secrets, trade marks, trade names, design right, get-up, database rights, chip topography rights, mask works, utility models, domain names, rights in computer software and all similar rights of whatever nature and, in each case:

- (a) whether registered or not,
- (b) including any applications to protect or register such rights,
- (c) including all renewals and extensions of such rights or applications,
- (d) whether vested, contingent or future, and
- (e) wherever existing;

IP Licences

means any licences or agreements under which the Company uses or exploits Intellectual Property Rights owned by any third party or the Company has licensed or agreed to license Intellectual Property Rights to, or otherwise permit the use of any Intellectual Property Rights by, any third party;

Know-How	means inventions, discoveries, improvements, processes, formulae, techniques, specifications, technical information, methods, tests, reports, component lists, manuals, instructions, drawings and information relating to customers and suppliers (whether written or not or in any other forms and whether confidential or not);
Loan Note Instrument	means the loan note instrument created by the Company and dated [date of completion];
Loan Notes	means the <<Insert amount>> unsecured loan notes 2022 of the Company to be constituted by the Loan Note Instrument and references to a Loan Note shall be construed accordingly;
Registered IPR	means the registered Intellectual Property Rights and applications for such rights owned or used by the Company;
Respective Proportion	means, in relation to a Shareholder, the proportion which the number of Shares held by that Shareholder bears to the total number of issued Shares;
Share	means share in the capital of the Company;
Shareholder	means any holder of any Share from time to time;
Unregistered IPR	means all material unregistered Intellectual Property Rights owned or used by the Company; and
Warranties	means the warranties set out in clause 5.1.

1.2 In this Agreement, unless the context otherwise requires:

- 1.2.1 each gender includes the other genders;
- 1.2.2 the singular includes the plural and vice versa;
- 1.2.3 references to this Agreement include its Schedules;
- 1.2.4 references to clauses, sub-clauses and Schedules are to clauses and/or sub-clauses of and Schedules to this Agreement and references in a Schedule or part of a Schedule are to a paragraph of that Schedule or that part of that Schedule;
- 1.2.5 references to persons include individuals, unincorporated bodies and partnerships (in each case whether or not having a separate legal personality), governments,

government entities, companies and corporations and any of their successors, permitted transferees or permitted assignees;

- 1.2.6 the words 'include', 'includes' and 'including' are deemed to be followed by the words 'without limitation';
- 1.2.7 the words and phrases 'other', 'including' and 'in particular' or similar words shall not restrict the generality of any preceding words or be construed as being limited to the same class, acts, things or matters as the preceding words where a wider construction is possible;
- 1.2.8 the headings to clauses, Schedules and paragraphs in this Agreement are inserted for convenience only, have no legal effect and shall be ignored in the interpretation of this Agreement;
- 1.2.9 references to legislation include any modification or re-enactment of it but exclude any re-enactment or modification after the date of this Agreement to the extent they make any Party's obligations more onerous or otherwise adversely affect the rights of any Party;
- 1.2.10 references to this Agreement, any specified clause in this Agreement, any other document or any specified clause in any other document are to this Agreement, that document or the specified clause as in force for the time being and as amended, varied, novated or supplemented from time to time in accordance with the terms of the relevant document;

2 Shareholdings and financing

- 2.1 At the date of this Agreement each Original Shareholder is the holder, and initial finance for the Company has been provided by the Original Shareholders by means of their subscription for, the number of Shares and Loan Notes set out opposite their name in Schedule 2.
- 2.2 The Shareholders shall each use all reasonable endeavours to procure that additional working capital requirements of the Company shall be satisfied as far as practicable from external sources on the most favourable terms reasonably obtainable but on the basis that, unless each of the Shareholders shall otherwise agree, no guarantee or security shall be given by any Shareholder in respect of such financing.
- 2.3 If the Shareholders do agree to provide any further finance, such finance shall be provided in the Shareholders' respective proportions unless otherwise agreed in writing by the Shareholders.

3 The business

- 3.1 The business of the Company shall, unless the Shareholders otherwise agree, be confined to 68100 - Buying and selling of own real estate and 68209 - Other letting and operating of own or leased real estate and all other reasonably related or incidental activities.
- 3.2 Each of the Shareholders undertakes to the others that it will at all times act in good faith in all dealings with the other Shareholders and with the Company in relation to the matters contained in this Agreement and that it will use all reasonable endeavours to promote and develop the business of the Company and to co-operate with the other Shareholders in the running and operation of the Company.

4 Directors

- 4.1 Subject to a resolution by the Shareholders to the contrary, the maximum number of Directors (excluding alternate directors) at any one time is 4.
- 4.2 The appointment and removal of a Director shall be made by notice in writing served on the Company and shall take effect at the time it is served on the Company.
- 4.3 The Directors shall not be subject to retirement by rotation.
- 4.4 The same person may be appointed a Director by more than one Shareholder, in which case the removal of that person as a Director by one Shareholder does not affect the appointment of that person as a Director by the other Shareholder.
- 4.5 A Director may, with the prior written and continuing consent of the Shareholder which appointed that Director, appoint a person to be an alternate director in its place during any period which the Director thinks fit.

5 Warranties

- 5.1 Each Shareholder warrants to each of the other Shareholders that:
 - 5.1.1 it has the required power and authority to enter into this Agreement;
 - 5.1.2 it has the required power and authority to fully perform its obligations and exercise its rights under this Agreement;
 - 5.1.3 this Agreement is legal, valid and binding on it; and
 - 5.1.4 it will not breach any provision of its constitutional documents, any contract or other agreement by which it is bound, or any law, regulation or judgment of any relevant court or government agency by entering into this Agreement and the transactions contemplated by it.
- 5.2 Each of the Warranties is separate and independent and except as expressly otherwise provided in this Agreement, shall not be limited by reference to any other Warranty or by anything in the Agreement.

6 Accounts and information rights

- 6.1 The Company shall, and the Shareholders shall procure that the Company shall, keep:
 - 6.1.1 proper books of account (which may include computer records) of the Company in accordance with the requirements of all applicable laws and generally accepted accounting principles at its principal office; and
 - 6.1.2 entries made of all such matters, transactions and things which are usually entered in books of accounts kept by entities engaged in concerns of a similar nature and including, without limitation, particulars of all business transactions and of all such names, times and places as may be necessary or useful for the administration of the Company.
- 6.2 The Company shall, and the Shareholders shall procure that the Company shall, produce and distribute to the Shareholders:

- 6.2.1 within three months of the end of the Company's financial year, a detailed draft operating budget for the Company to be adopted by the Company as its annual budget (the **Annual Budget**);
- 6.2.2 within three weeks of the end of each month, a profit and loss account, balance sheet and cash flow statement for the Company on a monthly and year-to-date basis together with a breakdown identifying and explaining variances from the Annual Budget and the prior year figures, together with a rolling cash flow, profit and capital expenditure forecast for the next twelve months; and
- 6.2.3 within two weeks of each Board meeting of the Company or committee, minutes of such meeting.

7 Company covenants

7.1 The Company shall:

- 7.1.1 promote the business of the Company and ensure its growth and development;
- 7.1.2 transact all of its business on commercial arm's length terms in accordance with policies laid down from time to time by the Board and in accordance with the Annual Budget;
- 7.1.3 hold Board meetings at least once every month for the Company with at least 10 Business Days' prior notice being given to all Directors of such meetings with an agenda and meeting papers provided at least two days before such meetings;
- 7.1.4 maintain at all times full and proper insurance against such business risks and liabilities as the Board may require with an insurance company approved by the Board, on such terms and in such amounts as shall accord with good commercial practice and procure the review of such insurances at least once every 12 months by a reputable insurance broker;
- 7.1.5 keep in force life and permanent incapacity insurance policies for *[insert names]* and directors' and officers' liability insurance for *[insert names]* for so long as the relevant person is a Director or employee of the Company and shall not take or omit to take any action or permit any action to be taken which might invalidate any such policies;
- 7.1.6 use all reasonable endeavours to obtain and maintain in full force and effect all permissions, approvals, consents and licences required for the carrying on of the Company's business;
- 7.1.7 in respect of the Company's Intellectual Property Rights:
 - (a) maintain a register of all of the Company's intellectual property setting out ownership details, steps required to be taken to protect it, and all costs associated with its identification and protection; and
 - (b) take all reasonable steps to protect the Company's Intellectual Property Rights including renewing and/or extending any patent, registered design, trademark and other such applications required to keep them valid and in force; and
- 7.1.8 take all reasonable steps to protect Confidential Information.

- 7.2 The Company shall not do, or agree to do, any of the following without the prior written consent of each of the Shareholders:
- 7.2.1 make or permit any material change in the nature or scope of its business;
 - 7.2.2 grant or enter into any licence, agreement or arrangement concerning any part of the name or trading names of the Company or the goodwill attaching to the same or any other part of the Company's intellectual property;
 - 7.2.3 otherwise than in the ordinary course of business, sell, lease, transfer, license or otherwise dispose of or purchase, lease, license or otherwise acquire any assets, businesses or undertakings (or any interest therein) whether by a single transaction or by a series of transactions (related or not);
 - 7.2.4 incorporate or liquidate any subsidiary undertaking or effect any hive-up or hive-down or any group reorganisation;
 - 7.2.5 acquire or dispose of any asset or provide or receive any service otherwise than at market value and on an arm's-length basis;
 - 7.2.6 adopt an Annual Budget;
 - 7.2.7 enter into or make itself liable for any capital commitment (whether by way of purchase, lease, hire purchase or otherwise) which exceeds £[insert amount] (exclusive of VAT) on an individual basis or would, when aggregated with all such other commitments entered into by the Company in that financial year, result in the aggregate of all such commitments exceeding £[insert amount] (exclusive of VAT), except where such capital commitments are provided for in the approved Annual Budget;
 - 7.2.8 form, enter into, terminate or withdraw from any partnership, consortium, joint venture or any other incorporated or unincorporated association;
 - 7.2.9 apply for the listing or trading of any shares or debt securities of the Company on any stock exchange or market;
 - 7.2.10 make, increase or extend any loan or advance or grant any credit to anyone whomsoever (other than trade credit in the ordinary course of business or advances made to employees against expenses properly incurred by them on the Company's behalf);
 - 7.2.11 grant, create or allow to arise any charge, security, lien or encumbrance over any of its assets (other than charges arising by operation of law in the ordinary course of business);
 - 7.2.12 borrow any monies or incur any indebtedness or other liability other than:
 - (a) in accordance with the relevant Annual Budget; or
 - (b) trade credit in the ordinary course of business (up to a maximum £[insert amount] in any financial year unless specifically provided for in the Annual Budget);
 - 7.2.13 pay its employees (including pension contributions and the value of non-cash benefits) more than £<<Insert amount>> in aggregate annually;

- 7.2.14 pay the Directors (including pension contributions and the money value of non-cash benefits) more than £<<Insert amount>> in aggregate annually;
 - 7.2.15 establish any, or vary any existing, bonus, profit sharing, share option or other incentive scheme for Directors and/or employees of the Company or grant any option over or in respect of any Shares pursuant to such a scheme, or grant any options over any Shares to any employee of the Company;
 - 7.2.16 enter into any transaction of whatsoever nature with or for the benefit of, or make any payment (other than bona fide remuneration for services rendered) to, any Shareholder or any person connected with any Shareholder or repay to any Shareholder or any such connected person any loan outstanding from time to time from the Company prior to its due date for repayment;
 - 7.2.17 amend, vary or waive any of the provisions of, or enter into, materially breach, fail to enforce or terminate (or give notice to terminate) any employment arrangements of any person where such person is, or is to be a Director or where that person is remunerated (whether by salary, pension contributions or otherwise) more than £<<Insert amount>> per year;
 - 7.2.18 establish or vary the terms of any pension or life insurance scheme;
 - 7.2.19 acquire or dispose of any freehold or leasehold property, grant or surrender a lease in respect of such property or take or omit to take any action which could prejudice the continuation of any such lease; or
 - 7.2.20 commence, discontinue or settle any litigation or arbitration proceedings where the amount claimed (either by or against it) together with any costs incurred (or likely to be incurred) by it in connection therewith exceeds £<<Insert amount>> (exclusive of VAT).
- 7.3 The Company shall only be obliged to observe and perform its obligations under this Agreement to the extent that it is permitted by law to do so.

8 Shareholders' covenants

- 8.1 Each Shareholder, as shareholder, Director or both, shall exercise such Shareholder's rights to procure that the Company does not do, or agree to do, any of the following without the prior written consent of each of the Shareholders:
 - 8.1.1 amend or waive any provision of the Company's memorandum or Articles;
 - 8.1.2 vary the rights attaching to any shares, loan notes or other securities of the Company;
 - 8.1.3 (other than as required by the Articles or as required by the Loan Note Instrument) declare or pay any dividend or make any other distribution in respect of the profits, assets or reserves of the Company or in any other way reduce the reserves of the Company;
 - 8.1.4 make any increase or reduction or other alteration whatsoever (including by way of redemption, purchase, sub-division, consolidation or redesignation) of the Company's issued share capital or grant any option to subscribe for or acquire shares or issue any securities convertible into shares except repayment of any of the Loan Notes from time to time in accordance with the provisions of the Loan Note Instrument;

- 8.1.5 give notice of, or propose, any resolution to wind up the Company, file or make any petition, application or notice for the appointment or intended appointment of an administrator, liquidator or provisional liquidator or invite any person to appoint an administrative receiver;
 - 8.1.6 except as required under clause 4 of this Agreement, appoint or remove any person from the office of Director or chair;
 - 8.1.7 change the Company's accounting reference date or its accounting policies (unless necessary to comply with changes in statements of standard accounting practice); and
 - 8.1.8 appoint or change the Company's auditors or not seek reappointment unless there is a bona fide resignation by the auditor.
- 8.2 Each Shareholder undertakes to the other Shareholders that each such Shareholder will exercise such Shareholder's rights in the Company (whether as a Shareholder or as a Director or both) to procure (so far as such Shareholder is able) that full effect is given to the obligations of the Company under this Agreement and the Articles.

9 Transfers and allotments of shares

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9.1 Transfer of shares

Except as provided in clause 7 below, if any of the Shareholders at any time wishes to transfer any or all of the shares then owned by it or him then, notwithstanding anything to the contrary in the Company's articles of association, the following provisions are to apply:

- 9.1.1 It or he must first make a written offer (a **Seller's Notice**) to the other Shareholders stating:

- 9.1.1.1 its or his desire to make the transfer;
- 9.1.1.2 the name and address of the proposed transferee, if known;
- 9.1.1.3 the number of shares offered (the **Offered Shares**);
- 9.1.1.4 the consideration per share; and
- 9.1.1.5 the terms of payment.

9.1.2 A Seller's Notice is of no effect unless the consideration is given and expressed in cash.

9.1.3 On receipt (or deemed receipt) of a Seller's Notice, the other Shareholders are to have an irrevocable and exclusive option, but not an obligation, to buy some or all of the Offered Shares:

- 9.1.3.1 for the consideration per share and on the terms specified in the Seller's Notice; or
- 9.1.3.2 if the purchaser so chooses, for a price per share determined in accordance with clause 9 payable in cash on the delivery of the executed transfer and related certificates.

9.1.4 If the other Shareholder wishes to exercise the option referred to in clause 9.1.3, it or he must give written notice in accordance with clause 5.5 (the **Buyer's Notice**) to the other Shareholder within 30 days beginning with the date of receipt (or deemed receipt) of the Seller's Notice, otherwise it or he will be deemed to have elected not to exercise the option.

9.1.5 The Buyer's Notice must:

- 9.1.5.1 state that the other Shareholder (the **Purchasing Shareholder**) intends to buy a number or all of the Offered Shares;
- 9.1.5.2 specify whether the price and payment terms are to be in accordance with sub-clause 9.1.3.1 or 9.1.3.2; and
- 9.1.5.3 fix a date and time for completion of the purchase which must be not less than 30 or more than 90 days from the date of the Buyer's Notice.

9.1.6 Where a Buyer's Notice is given in accordance with clauses 9.1.4 and 9.1.5 above, the Purchasing Shareholder is bound to purchase all of the Shares it or he has specified in the Buyer's Notice.

9.2 **Deemed transfer in specified circumstances**

This clause applies if:

- 9.2.1 the Parties go into liquidation whether compulsory or voluntary, except for the purposes of a bona fide reconstruction or amalgamation with the consent of the Minority Shareholder whose consent must not be unreasonably withheld;
- 9.2.2 the Parties have an administrator appointed or a receiver, administrative receiver or manager is appointed over any part of its assets or undertaking;
- 9.2.2
- 9.2.3 a stop order is made against the shares in the Company held by the Parties;
- 9.2.4 the Parties commit any material breach of any of their obligations under this Agreement and fails to remedy that breach (if capable of remedy) within 30 days after being given notice by the other Shareholders requiring it or him to do so;
- 9.2.5 the Parties die or are adjudicated bankrupt; or
- 9.2.6 The Shareholder in relation to which any event set out in clause 9.2 occurs is to be deemed to have given and the other Shareholder is to be deemed to have received a Seller's Notice in due form in respect of all but not some only of the shares held by it or him on the day preceding that event.
- 9.2.7 The other Shareholder is to have an irrevocable option but not an obligation to purchase any or all of the Offered Shares for the price per share determined in accordance with clause 9, payable in cash on delivery of the executed transfer and related certificates.

- 9.2.8 The provisions of clauses 9.1.5 to 9.1.6 inclusive are to apply with any changes necessary to take account of the circumstances.

9.3 Failure of pre-emption provisions

This clause applies where one of the Shareholders is in receipt or deemed receipt of a Seller's Notice duly given and either:

- 9.3.1 elects or is deemed to elect not to exercise the option to purchase the Offered Shares or elects to purchase only some of them; or
- 9.3.2 fails to comply with the obligation to purchase the shares specified in a Buyer's Notice duly given.
- 9.3.3 The other Shareholder may transfer all of the Offered Shares subject to the following conditions:

- 9.3.3.1 the consideration and the terms of transfer must be as set out in the Seller's Notice;
- 9.3.3.2 the transfer must be to the transferee named in the Seller's Notice, if any;
- 9.3.3.3 the transfer must be bona fide; and
- 9.3.3.4 the transferee must immediately on completion enter into an agreement with the recipient Shareholder on the same terms as this Agreement, including this provision, or as nearly as may be.
- 9.3.3.5 If the conditions set out in clause 9.3.3 are complied with, the Shareholders must procure, so far as they are then respectively able, that the directors of the Company approve and register the transfer but otherwise the directors of the Company are to be under no obligation to approve or register the transfer.

9.4 Valuation of shares

- 9.4.1 The sale and purchase price for any shares to be transferred under clause 9.1 where the Buyer's Notice specifies that the price and payment terms are to be in accordance with sub-clause 9.1.3.2, clause 9.2 or clause 9.3 is to be the sum the auditors of the Company at that time (the **Auditors**) certify to be the fair value of those shares in their opinion.

The Auditors must certify the value of the shares:

as between a willing buyer and a willing seller contracting on arm's length terms;

having regard to the fair value of the business of the Company as a going concern as at the date of the notice exercising the option; but

without taking into account, if it is the case, that those shares represent a majority or minority interest in the Company.

9.5 Issue of additional shares

- 9.5.1 If the Company wishes to issue any additional shares the Shareholders must procure that the Company gives notice to each of the Shareholders, stating the number of shares to be issued (the **Additional Shares**) and the price per share to be subscribed for (the **Company's Notice**).
- 9.5.2 Each of the Shareholders is to have an option, but not an obligation, to subscribe at the price set out in the Company's Notice for a proportion of the Additional Shares equal to the proportion the number of shares already held by it or him bears to the total number of shares already issued at the time the Company gives its notice.
- 9.5.3 Any option under clause 9.5.2 may be exercised by giving notice to the Company at any time within 30 days beginning with the date of the Company's Notice, together with payment in full for the shares to be subscribed for.
- 9.5.4 The Company may issue any of the Additional Shares in relation to which the Shareholders do not exercise their options:
- 9.5.5 in the manner stated in the Company's Notice; and
- 9.5.6 provided that the sale is completed within 90 days beginning with the date of the Company's Notice.

9.6 Restriction on dealings with shares

- 9.6.1 This clause applies to any shares in the Company owned by either of the Shareholders at the date of this Agreement or acquired by either of them in the future.
- 9.6.2 Except as otherwise expressly provided in this Agreement, during its term, neither of the Shareholders may sell, transfer, charge, encumber, grant options over or otherwise dispose of any of the shares referred to in clause 9.6.1, or any beneficial interest in them, except in compliance with the terms of this Agreement and the provisions of the Company's articles of association.
- 9.6.3 Each of the Shareholders undertakes that, if it or he transfers any of its or his shares in the Company, whether owned at the date of this Agreement or acquired in the future, it or he must impose upon the transferee obligations:
 - 9.6.3.1 to comply pro tanto with the provisions of this Agreement and any other obligations of the transferor in relation to the Company; and
 - 9.6.3.2 to impose similar obligations upon any subsequent transferee of those shares or any additional shares acquired by the transferee,unless the transferee is the other Shareholder.

10 Observance of articles and conflict

- 10.1 Each Party shall comply fully and promptly with the provisions of the Articles and each and every provision of the Articles is enforceable by the Parties between themselves, notwithstanding that any such provision might not have been so enforceable but for this provision.

- 10.2 To the extent of a conflict between the provisions of the Articles and this Agreement, the provisions of this Agreement shall prevail.

11 Restrictive covenants and protection of goodwill

- 11.1 Each Shareholder undertakes to the Company (for the benefit of the Company) and, separately, each other Shareholder that:

- 11.1.1 for so long as the relevant Shareholder is a Shareholder and for a period of *[insert number of months or years]* years/months after the date on which the relevant Shareholder is no longer a Shareholder, that Shareholder shall not be economically or otherwise concerned with, engaged, interested, connected with or employed in, any business, person, undertaking company or firm supplying goods or services of a type supplied by the Company or in competition with the business of the Company (except as the owner of securities dealt on a recognised investment exchange (within the meaning of the FSMA) not exceeding [1]% in nominal value of the securities of that class) in any geographical area in which the Company carries on its business or any part of it;
- 11.1.2 for a period of *[insert number of months or years]* after the date on which the relevant Shareholder is no longer a Shareholder, that Shareholder shall not, acting either alone or jointly with or on behalf of any other person, firm or company whether as principal, partner, manager, employee, contractor, director, consultant, investor or otherwise solicit, entice, employ, seek to employ, conclude any contract for services with, offer or procure or facilitate the making of any such offer by any other person, any person who was an officer or employed *[in a skilled or managerial position]* by the Company at any time during the *[insert number of months or years]* prior to the date on which that Shareholder is no longer a Shareholder;
- 11.1.3 for a period of *[insert number of months or years]* after the date on which the relevant Shareholder is no longer a Shareholder, that Shareholder shall not deal with, seek or solicit the custom of any person who was a client or customer of the Company for the purposes of providing that client or customer with goods or services of a type supplied by the Company which it provided to such client or customer at any time during the *[insert number of months or years]* prior to the date on which the relevant Shareholder is no longer a Shareholder;
- 11.1.4 for a period of *[insert number of months or years]* after the date on which the relevant Shareholder is no longer a Shareholder, that Shareholder shall not entice or solicit any person who was a supplier to the Company at any time during the *[insert number of months or years]* prior to the date on which that Shareholder is no longer a Shareholder[, if such solicitation causes or would cause *[material]* disruption to or the cessation of the supplier's supply of those goods or services to the Company or its business];
- 11.1.5 for so long as the relevant Shareholder is a Shareholder and for a period of *[insert years/months]* after the date on which that Shareholder is no longer a Shareholder, the relevant Shareholder shall not disclose or divulge to any third party any Confidential Information; or
- 11.1.6 the relevant Shareholder shall not use, or permit any third party to use, any trade mark, trade or domain name, design or logo, including the expressions *'[insert the relevant words]'* or *'[insert the relevant words]'* or any email address used by the

Company or any other name which, in the reasonable opinion of the Company, is intended or likely to be confused with any such trade or domain name or email address.

11.2 Each of the restrictions contained in clause 11.1 is separate and independent and has been carefully considered by each Shareholder, each of whom has received independent legal advice in relation to each of them.

11.3 For the purposes of clause 11.1, if a Shareholder makes a permitted transfer in accordance with article **[insert article number]** of the Articles of all of the Shares held by such Shareholder at any one time, that Shareholder shall be deemed to still be a Shareholder until the date on which both:

11.3.1 the relevant transferee (or any other person who acquires any or all of those Shares subsequent to that transferee by way of a permitted transfer in accordance with article **[insert article number]** of the Articles); and

11.3.2 that Shareholder,

no longer beneficially owns any Shares.

11.4 The Shareholders agree and acknowledge that each of the restrictions in clause 11.1 are reasonable and necessary for the protection of the interests of the Company. If any such restriction is considered by a court to be void or unenforceable but would be valid if part of the wording included in such restriction was deleted and/or the duration of such restriction was reduced and/or the geographical remit relating to such restriction was reduced, such restriction will apply with such amendments as may be necessary to make it valid and enforceable.

12 Confidentiality and announcements

12.1 Subject to clause 12.2, each Party shall keep confidential and shall not disclose any Confidential Information, except where the Confidential Information is:

12.1.1 publicly available, other than as a result of a breach by a Party of this Agreement;

12.1.2 lawfully available to a Party from a third party who was not subject to any confidentiality restriction prior to the disclosure of such Confidential Information; or

12.1.3 required to be disclosed by law, regulation or by order or ruling of a court or administrative body of a competent jurisdiction or any regulatory body to which any Party is subject or submits (but in which case to the absolute minimum necessary) provided that the disclosing Party shall use its reasonable endeavours to the extent permitted to do so by law, the court or the authority requiring disclosure, to first consult fully with the other Parties to establish whether and, if so, how far it is possible to prevent or restrict such enforced disclosure and take all steps as it may require to achieve prevention or restriction.

12.2 Upon a Shareholder ceasing to be an employee of the Company, all Confidential Information (in whatever form they may exist) in the possession, custody or control of, or kept or made by or on behalf of, the Shareholder relating to the business or affairs of the Company will be returned by the Shareholder or (at the Company's option) destroyed and certified as destroyed.

- 12.3 Notwithstanding any other provision of this Agreement, except with the consent of each other Shareholder or as otherwise required by law or by any court, governmental or administrative authority or regulatory body of competent jurisdiction to which any Party is subject or submits), no Party shall issue any announcement relating to or in connection with this Agreement or any matters contained in it without the written consent of the other Parties (such consent not to be unreasonably withheld or delayed).

13 Termination

Save in respect of the provisions of this clause and clauses 1 (Definitions and interpretation), 11 (Restrictive covenants and protection of goodwill), 12 (Confidentiality and announcements), 14 (Miscellaneous), 15 (Notices) and 16 (Governing law and jurisdiction), this Agreement shall cease and determine, with respect to the rights and obligations of a Party, when such Party ceases to hold Shares or ceases to be the beneficial owner of Shares, provided that such Party has first complied with its obligations under clause 9 (and the transferee has, if appropriate, entered into a Deed of Adherence) and (in the case of a Shareholder) the Party is no longer an employee of the Company or a Director.

14 Miscellaneous

14.1 Variation

No amendment or variation of this Agreement shall be effective unless made in writing and signed by or on behalf of all Parties or by their authorised representatives.

14.2 Severability

14.2.1 Each provision of this Agreement is severable and distinct from the others. If any provision of this Agreement is or becomes illegal, invalid or unenforceable, that shall not affect the legality, validity or enforceability of any other provision of this Agreement.

14.2.2 If any provision of this Agreement is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of the provision was deleted or modified, the provision in question shall apply with such deletions and modifications as may be necessary to make it legal, valid and enforceable.

14.2.3 The Parties agree, in the circumstances referred to in clause 14.2.1 and if clause 14.2.2 does not apply, they shall attempt in good faith to substitute for any such illegal, invalid or unenforceable provision (within [20] Business Days of such provision being so determined by a court or relevant body or jointly by each Party's legal advisers) a legal, valid and enforceable provision which achieves to the greatest extent possible the same effect as would have been achieved by the relevant illegal, invalid or unenforceable provision.

14.3 Waiver

14.3.1 No failure, delay, indulgence, act or omission by a Party in exercising any claim, remedy, right, power or privilege under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any claim, right, remedy, power or privilege prevent any future exercise of it or the exercise of any other claim, right, remedy, power or privilege.

14.3.2 Any rights or remedies conferred upon a Party by this Agreement, shall be in addition to and without prejudice to all other rights and remedies available to it.

14.4 Rights of third parties

A person who is not a Party to this Agreement shall not be entitled to enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.

14.5 Assignment

No Shareholder shall be entitled to assign the benefit or burden of any provision of this Agreement (or any of the documents referred to herein) without the consent of the other Shareholders.

14.6 Entire agreement

14.6.1 This Agreement sets out the entire agreement and understanding between the Parties relating to the matters contemplated by this Agreement and supersedes all previous agreements (if any and whether in writing or not) between the Parties in relation to such matters.

14.6.2 This Agreement shall not be construed as creating any partnership or agency relationship between any of the Parties.

14.7 Succession

This Agreement shall be binding upon, and enure to the benefit of, each Party and their respective successors and assigns. Subject to and upon any succession and assignment permitted by this Agreement, any successor and/or assignee shall in its own right be able to enforce any term of this Agreement in accordance with its terms as if it were in all respects a party to this Agreement, but until such time, any such successor or assignee shall have no rights whether as a third party or otherwise.

14.8 Time of the essence

Each time, date or period referred to in this Agreement (including any time, date or period varied by the Parties) is of the essence.

14.9 Counterparts

This Agreement may be signed in any number of separate counterparts. Each, when executed and delivered by a Party, will be an original; all counterparts will together constitute one instrument.

14.10 Costs

Each Party shall pay its own costs and expenses incurred in connection with the negotiation and preparation of this Agreement and each of the Shareholders represents to, and agrees with, one another that none of such costs and expenses have been or will be borne by the Company.

14.11 Power of attorney

14.11.1 Each Shareholder hereby irrevocably appoints the Company as its attorney (with the power to appoint any member of the Board as a substitute and to delegate to that

substitute all or any powers hereby conferred, other than this power of substitution, as if the relevant substitute had been originally appointed by this power of attorney) to give effect to the provisions of this Agreement and/or the Articles.

14.11.2 The power of attorney granted by each Shareholder under clause 14.11.1 of this Agreement is given by way of security for the performance of each Shareholder's respective obligations under this Agreement and the Articles and is irrevocable as long as those obligations remain undischarged.

15 Notices

15.1 Notices under this Agreement will be in writing and sent to the person and address in clause 15.2. They may be given, and will be deemed received:

15.1.1 by first-class post: two Business Days after posting;

15.1.2 by airmail: seven Business Days after posting;

15.1.3 by hand: on delivery;

15.2 Notices will be sent:

15.2.1 to the Company at: <<Insert company address>> and

15.2.2 to the Shareholders at the address set out next to each of their names *in* Schedule 2

15.3 A Party may change the address or facsimile number to which such notices to it are to be delivered by giving not less than [*five*] Business Days' notice to the other Parties.

15.4 No notice given under this Agreement shall be validly served if sent by email.

16 Governing law and jurisdiction

16.1 This Agreement and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.

16.2 The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, this Agreement, its subject matter or formation (including non-contractual disputes or claims).

EXECUTED AS A DEED by the Parties on the date first set out above.

SCHEDULE 1
THE COMPANY

Name:	<<Insert details>>
Date of incorporation:	<<Insert the date>>
Registered number:	<<Insert details>>
Registered office:	<<Insert company address>>
Issued share capital:	<<Insert details>>
Directors:	<<Insert company shareholders name>>
Accounting reference date:	<<Insert details>>

SCHEDULE 2
THE ORIGINAL SHAREHOLDERS

Name	Address, Fax Number and Email Address	Number of <i>[insert class]</i> shares held	Number of Loan Notes held
<<Insert details>>	<<Insert company address>>	<<Insert number of shares>>	<<Insert details>>
<<Insert details>>	<<Insert company address>>	<<Insert number of shares>>	<<Insert details>>
<<Insert details>>	<<Insert company address>>	<<Insert number of shares>>	<<Insert details>>

SCHEDULE 3
DEED OF ADHERENCE

THIS DEED is made on **[insert date]**

PARTIES

- (1) **[insert name of company in which the shares are held]**, incorporated in England and Wales under number **[insert number]** whose registered office is at **[insert address]** (**Company**), and
- (2) **[insert name of acquiror]** **[insert address of acquiror/subscriber]** (Acquiror).

BACKGROUND

- A This Deed is supplemental to a Shareholders' Agreement dated **[insert date]** and made between (1) the Original Shareholders and (2) the Company, as from time to time amended, varied, novated or supplemented (**Shareholders' Agreement**).
- B **[insert name]** (**Transferor**) intends to transfer to the Acquiror OR The Acquiror intends to subscribe and the Company intends to allot and issue to the Acquiror **[insert number]** **[insert class]** Shares of **[insert value]** each in the capital of the Company (**Relevant Shares**) subject to the Acquiror entering into this Deed in favour of the Company and the persons who for the time being and from time to time are parties to the Shareholders' Agreement (**Continuing Shareholders**).

THIS DEED provides:

- 1 The Acquiror undertakes to the Company and the Continuing Shareholders to comply with the provisions of, and to perform all the obligations in, the Shareholders' Agreement of a Shareholder so far as they may remain to be observed and performed and the Acquiror shall become a party to the Shareholders' Agreement as if the Acquiror were named in the Shareholders' Agreement as a Shareholder holding the Relevant Shares [in place of the Transferor OR in addition to the Continuing Shareholders].
- 2 All the provisions of the Shareholders' Agreement shall remain in full force and effect.
- 3 Unless the context requires otherwise, words and expressions defined in the Shareholders' Agreement shall have the same meaning when used in this Deed.
- 4 This Deed may be signed in any number of separate counterparts. Each, when executed and delivered by a party, will be an original; all counterparts will together constitute one instrument.
- 5 This Deed is governed by and shall be interpreted in accordance with English law. The parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales to settle any disputes and claims which may arise out of or in connection with this Deed.

EXECUTED AS A DEED by the parties on the date first set out above.

Executed as a deed by <<Insert company name>> Ltd acting by <<Insert name>>, director, in the presence of: Director
[signature of witness]	
[insert name of witness]	
[insert witness's address]	
[insert witness's occupation]	
Executed as a deed by <<Insert company> acting by <<Insert name>>, director, in the presence of: Director
[signature of witness]	
[insert name of witness]	
[insert witness's address]	
[insert witness's occupation]	
Executed as a deed by <<Insert name>> in the presence of: Witness
[signature of witness]	
[insert name of witness]	
[insert witness's address]	
[insert witness's occupation]	
Executed as a deed by <<Insert name>> in the presence of: Witness
[signature of witness]	
[insert name of witness]	
[insert witness's address]	
[insert witness's occupation]	