**DATED 2020**

1. **THE INVESTORS**
2. **THE FOUNDERS**

**and**

1. **THE COMPANY**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSCRIPTION AND SHAREHOLDERS’ AGREEMENT**

**RELATING TO**[●]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_



Shoosmiths LLP

2 Colmore Square

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Birmingham

B4 6SH

Ref: AXH

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**DATE \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 2020**

**PARTIES**

(1) The persons whose names and addresses are set out in Part 1 of Schedule 1 (together, the “**Investors**” and each an “**Investor**”);

(2) The persons whose names and addresses are set out in Part 2 of Schedule 1 (together, the “**Founders**” and each a “**Founder**”); and

(3) [●], a company incorporated under the laws of England with registered number [●], whose registered office is at [●] (the “**Company**”).

**INTRODUCTION**

(A) The Company is a company limited by shares, brief particulars of which are set out in Schedule 2.

(B) Details of the legal ownership of the share capital of the Company are set out in Parts 1 and 2 of Schedule 3.

(C) The Investors wish to subscribe for shares in the capital of the Company on and subject to the terms of this agreement.

(D) The parties have entered into this agreement to regulate their relationship with each other and certain aspects of the Company’s affairs and dealings.

**OPERATIVE PROVISIONS**

# DEFINITIONS

In this agreement, except where a different interpretation is necessary in the context, the words and expressions set out below have the following meanings:

“**A Ordinary Shares**”means the A ordinary shares of £[0.01] each in the capital of the Company from time to time having the rights set out in the New Articles; ***[SS Notes: Existing Ordinary Share to be converted to A Shares***]

“**Act**” means the Companies Act 2006;

“**Board**” means the board of directors of the Company as constituted from time to time;

“**B Ordinary Shares**”means the B ordinary shares of £[0.01] each in the capital of the Company from time to time having the rights set out in the New Articles; ***[SS Note: For New Investors]***

“**Business**” means the business of the Company being [●]; [***SS Note: TBC***]

“**Business Day**” means a day on which the English clearing banks are ordinarily open for the transaction of normal banking business in the City of London (other than a Saturday or Sunday);

“**Claim(s)**” means any claim(s) for breach of any Warranty;

“**Completion**” means completion by the parties of their respective obligations in accordance with clause 4;

“**Completion Date**” means the date of this agreement;

“**CTA 2010**” means the Corporation Tax Act 2010;

“**Data Protection Legislation**” means all laws relating to data protection and privacy which are from time to time applicable to the Group (or any part of its business), including (but not limited to): (i) the Data Protection Act 2018 and all other applicable national laws, regulations and secondary legislation implementing European Directive 95/46/EC; (ii) the GDPR and all related national laws, regulations and secondary legislation; and (iii) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426) and all other applicable national laws, regulations and secondary legislation implementing European Directive 2002/58/EC, in each case as amended, replaced or updated from time to time and together with any subordinate or related legislation made under any of the foregoing;

“**Data Protection Principles**” has the same meaning as the term “**Data Protection Principles**” under the Data Protection Legislation;

“**Deed of Adherence**” means a deed of adherence substantially in the form set out in Schedule 8;

“**Disclosed**” means fairly disclosed in the Disclosure Schedule;

“**Disclosure Schedule**” means the schedule set out in Schedule 6;

**“EIS Provisions”** means the provisions of Part 5 of ITA and of sections 150A, B and C of the TCGA (in each case as inserted and/or amended by the FA);

**“EIS Reliefs”** means the reliefs in respect of income tax and capital gains tax available to certain subscribers of Equity Shares pursuant to the EIS Provisions;

“**Employee**” means a Founder who is employed or appointed by, or who provides consultancy services to or is otherwise engaged by, the Company as any member of the Group;

“**Encumbrance**” means any mortgage, charge, security interest, lien, pledge, assignment by way of security, equity, claim, right of pre-emption, option, covenant, restriction, reservation, lease, trust, order, decree, judgment, title defect (including retention of title claim), conflicting claim of ownership or any other encumbrance of any nature whatsoever (whether or not perfected other than liens arising by operation of law);

“**Equity Shares**” has the same meaning as set out in the New Articles;

**“Exit**” has the same meaning as set out in the New Articles;

**“FA”** means the Finance Acts 1994 to 2020 inclusive (including the Finance (No 2) Act 2015 and the Finance (No.2) Act 2017);

“**Group**” means the Company and its parent undertakings and subsidiary undertakings, and those parent undertakings’ subsidiary undertakings (in each case from time to time), and “**Group Company**” means any of them;

“**HMRC**” means HM Revenue & Customs;

“**Intellectual Property**” means copyrights, trade and service marks (including any trade marks or trade names), rights in logos and get-up, inventions, confidential information, trade secrets and know-how, registered designs, design rights, patents, utility models, semiconductor topographies, all rights of whatsoever nature in computer software and data, all rights of privacy and all intangible rights and privileges of a nature similar or allied to any of the foregoing, in every case in any part of the world and whether or not registered; and including all granted registrations and all applications for registration in respect of any of the same;

“**Investor Majority**” means the holders of a majority of the B Ordinary Shares in issue from time to time;

“**Investor Majority Consent**” means the prior written consent of the Investor Majority;

“**Investors**” means the persons whose names and addresses are set out in Part 1 of Schedule 1;

“**ITA**” means the Income Tax Act 2007;

“**ITEPA**” means the Income Tax (Earnings and Pensions) Act 2003;

“**Member of the same Fund Group**” has the meaning given in the New Articles;

“**Member of the same Group**” has the meaning given in the New Articles;

“**New Articles**” means the new articles of association of the Company, in the agreed form, to be adopted on or around Completion as amended or superseded from time to time;

“**New Shares**” means the B Ordinary Shares subscribed by the Investors pursuant to clause 3.1 at the Subscription Price;

“**Period**” means the period of one year immediately preceding the Termination Date;

“**Permitted Transferee**” has the meaning given in the New Articles;

“**Personal Data**” has the same meaning as the term “**personal data**” in section 1 (1) of the Data Protection Act 1998;

“**Relevant Business**” means any business or part of any business howsoever carried on involving the supply of Restricted Goods and/or Services;

“**Relevant Customer**” means any person, firm or company who during the Period was a customer of any Group Company and/or with whom the Founder concerned had dealings at any time during the Period;

“**Relevant Employee**” means any director, senior manager and/ or employee of any Group Company who had dealings with the Founder concerned during the Period;

“**Relevant Supplier**” means any person, firm or company who, during the Period, was a supplier or procurer of goods and/or services to any Group Company as part of the trading activities within a Relevant Business;

“**Resolutions**” means the resolutions in agreed form to be passed by the Company by written resolution as specified in paragraph 1 of Schedule 4;

“**Restricted Goods and/or Services**” means any goods and/or services with the provision and/or supply of which the Founder concerned was materially involved on behalf of any Group Company during the Period;

“**SEIS Provisions**”the provisions of Part 5A of ITA and of sections 150E, F and G of the TCGA (in case as inserted and/or amended by the FA);

“**SEIS Reliefs**” the reliefs in respect of income tax and capital gains tax available to certain subscribers of Shares pursuant to the SEIS Provisions;

“**Subscription Price**” means £[●] per share [***SS Note: to be confirmed***];

“**Subsidiary**” means any subsidiary undertaking of the Company from time to time;

“**Taxation**” means all forms of taxation, duties, rates, levies, contributions, withholdings, deductions, liabilities to account, charges and imposts whether imposed in the United Kingdom or elsewhere in the world;

“**Taxing Authority**” means HMRC and any other governmental, state, federal, provincial, local governmental or municipal authority, body or official, whether of the United Kingdom or elsewhere in the world, which is competent to impose or collect Taxation;

**“TCGA”** means the Taxation of Chargeable Gains Act 1992;

“**Termination Date**” means the date upon which the Founder concerned ceases to be director or Employee of the Company (whichever if the latest);

“**Treasury Shares**” means shares in the capital of the Company held by the Company as treasury shares within the meaning set out in section 724(5) of the Act;

“**VAT**” means value added tax chargeable under the VATA or under any legislation replacing it or under any legislation which the VATA replaced and further means value added tax at the rate in force when the relevant supply is made and any tax of a similar nature which is introduced in substitution for such value added tax;

“**VATA**” means the Value Added Tax Act 1994;

“**Warranties**” means the warranties given pursuant to clause 5 (references to a particular “**Warranty**” being, unless otherwise specified, to a statement set out in Schedule 5); and

“**Warrantors**” means the Company and each Founder.

# INTERPRETATION

## The clause and paragraph headings and the table of contents used in this agreement are inserted for ease of reference only and shall not affect construction.

## References to a “**clause**” or “**Schedule**” is, unless the context specifically requires otherwise, to the corresponding clause of or schedule to this agreement, and reference to a “**paragraph**” is, unless the context specifically requires otherwise, a reference to the corresponding paragraph of the provision in which that reference occurs.

## References to persons shall include bodies corporate, unincorporated associations and partnerships, in each case whether or not having a separate legal personality.

## The words and expressions defined in sections 1159, 1161 and 1162 of the Act have the same respective meanings in this agreement, save that a company is to be treated as a member of another company for the purposes of sections 1159(1)(b) and (c) of the Act even if its shares are registered in the name of:

### its nominee or any other person acting on its behalf; or

### another person by way of security over those shares.

## Reference to a party or parties is to a party or parties of the agreement.

## References to documents “**in the agreed form**” are to documents in terms agreed on behalf of the Company and the Investor Majority (including by email).

## References to any English statute or other legislation or legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English legal term in that jurisdiction.

## References to those of the parties that are individuals include their respective legal personal representatives.

## References to “**writing**” and “**written**” include any non-transitory form of visible reproduction of words.

## References to the word “**include**” or “**including**” (or any similar term) are not to be construed as implying any limitation and general words introduced by the word “**other**” (or any similar term) shall not be given a restrictive meaning by reason of the fact that they are preceded or followed by words indicating a particular class of acts, matters or things.

## Reference to “**issued shares**” of any class or shares of any class “**in issue**” shall exclude any shares of that class held as Treasury Shares from time to time, unless stated otherwise.

## Reference to the “**holders**” of a class of shares shall exclude the Company holding shares of that class as Treasury Shares from time to time, unless stated otherwise.

## Except where the context specifically requires otherwise, words importing one gender shall be treated as importing any gender, words importing individuals shall be treated as importing corporations and vice versa, words importing the singular shall be treated as importing the plural and vice versa, and words importing the whole shall be treated as including a reference to any part thereof.

## References to statutory provisions, enactments or EC Directives shall include references to any amendment, modification, extension, consolidation, replacement or re-enactment of any such provision, enactment or EC Directive (whether before or after the date of this agreement), to any previous enactment which has been replaced or amended and to any regulation, instrument or order or other subordinate legislation made under such provision, enactment or EC Directive unless any such change imposes upon any party any liabilities or obligations which are more onerous than as at the date of this agreement.

## Section 1122 of the CTA 2010 shall apply to determine whether one person is connected with another for the purposes of this agreement.

## References in clause 1 (in so far as they are used in the clauses and Schedules referred to in this clause), clauses 5 and Schedule 5 to the Company shall include, where appropriate in the context, each Subsidiary.

## Any obligations of the Founders pursuant to this agreement are several unless stated otherwise.

# SUBSCRIPTIONS

## Subject to the provisions of clause 4, the following Investors apply for the allotment and issue to them at Completion of the following B Ordinary Shares as set out in the table below at the Subscription Price and the Company accepts such applications:

|  |  |  |
| --- | --- | --- |
| **(1)** | **(2)** | **(3)** |
| **Investor** | **No. of B Ordinary Shares** | **Total subscription monies (£)** |
| [●] | [●] | [●] |
| [●] | [●] | [●] |
| **Total** | [●] | [●] |

## The Investors shall be entitled to direct that the New Shares be issued and registered in the name of any nominee or custodian holding such shares on its behalf as bare nominee and the provisions of clauses 3.1 and 4 shall be interpreted accordingly.

## The Investment is to be governed by the terms of this agreement and no sums subscribed by the Investors claiming EIS Reliefs and/or SEIS Reliefs will be used for the purpose of the acquisition of any shares, business, trade, intangible assets employed for the purposes of a trade or goodwill employed for the purposes of a trade by the Company and/or any subsidiary, or for repaying any loan, borrowing or other indebtedness.

## Each of the Founders agrees to vote in favour of the Resolutions and hereby irrevocably waives (or confirms that it has procured the waiver of) all and any pre-emption rights he or his nominees may have pursuant to the Company’s articles of association or otherwise so as to enable the issue of any shares in the capital of the Company contemplated by this agreement to proceed free of any such pre-emption rights.

# COMPLETION

## Completion shall take place on the Completion Date when the events set out in Schedule 4 and clause 4.2 shall occur.

## The following events shall occur on the Completion Date:

### each Investor shall pay the sum set out against its name in column 3 of the table in clause 3.1 (being the aggregate subscription price for the New Shares for which it is subscribing pursuant to clause 3.1) by electronic funds transfer to the bank account of the Company as set out below and payment made in accordance with this clause 4.2 shall constitute a good discharge for each such Investor of its obligations under this clause 4.2:

|  |  |
| --- | --- |
| Account name: | [●] [***SS Note: Company’s bank account details to be inserted***] |
| Bank: | [●] |
| Account number: | [●] |
| Sort code: | [●] |
| IBAN: | [●] |
| Swift Code: | [●] |
| Reference: | [Investor Name] |

### a meeting of the Board shall be held (or director written resolutions shall be passed) pursuant to which the directors shall:

#### issue the New Shares credited as fully paid to the Investors in the amounts set out in clause 3.1 and enter their names in the register of members in respect thereof (subject to receipt of the subscription monies payable by each Investor, as applicable);

#### authorise the execution and delivery to the Investors of certificates for any New Shares issued pursuant to sub-paragraph (i) above;

#### approve and authorise the execution by the Company of this agreement; and

### the Company shall enter into this agreement.

### As soon as reasonably practicable after Completion, the Company will make such applications as may be required to enable the investors seeking EIS Reliefs to obtain the EIS Reliefs and investors seeking SEIS Reliefs to obtain the SEIS Reliefs and will distribute to such holders of EIS Shares and SEIS Shares the certificates confirming such reliefs have been obtained as soon as practicable after their receipt from HMRC.

# WARRANTIES

## The Company and Founders severally warrant to the Investors that each and every Warranty set out in Schedule 5 is true, accurate and not misleading at the date of this agreement, subject only to:

### matters Disclosed; and

### any exceptions expressly provided for under this agreement.

## Each Warranty is a separate and independent warranty, and, save as otherwise expressly provided, no Warranty shall be limited by reference to any other Warranty or by the other terms of this agreement.

## The rights and remedies of the Investors in respect of any breach of any of the Warranties shall not be affected by Completion.

## Where any Warranty is qualified by the expression “so far as the Company is aware”, “the Company believes” or words having similar effect, such Warranty shall be deemed to include a statement that such awareness means the actual knowledge of the Company, having made reasonable enquiry of the Founders.

## The Investors agree among themselves that the following provisions shall apply in relation to the bringing of any Claim:

### no Claim shall be brought by any of the Investors without Investor Majority Consent provided that all Investors have been informed of the breach of Warranty and consulted prior to an Investor Majority decision being made;

### the costs incurred by any Investors in bringing a Claim shall be borne by all of the Investors proportionately to the amounts subscribed by each of them pursuant to this agreement; and

### any damages obtained as a result of any Claim will, after deduction of all costs and expenses, be divided amongst the Investors in such proportions.

Any Investor shall be entitled to waive its right to bring and/or participate in a Claim at any time prior to the issue of proceedings with the consequence that it shall not be liable to bear its proportion of the costs referred to in (b) above (which costs per Investor shall increase rateably for the remaining Investors) nor entitled to any of the damages referred to in (c) above. In such circumstances, the consent of that Investor will not be required under clause 5.5(a).

# LIMITATIONS ON CLAIMS

## The limitations set out in this clause 6 shall not apply to any Claim against a Warrantor which is the consequence of fraud or dishonesty, by or on behalf of that Warrantor.

## No Claim may be made against the Warrantors unless written notice of such Claim is served on the Warrantors giving full and specific details sufficient to enable the Warrantors to identify the subject matter, nature and quantum of the Claim by no later than the date falling 12 months after the date of this agreement.

## The aggregate liability of the Warrantors in respect of all and any Claims shall be limited to:

### in the case of the Company, an amount equal to the aggregate cash amount subscribed by the Investors pursuant to this agreement together with the proper and reasonable costs of recovery in respect of any Claim incurred by or on behalf of the Investors; and

### in the case of each Founder, an amount equal to his or her gross annual salary,

provided always that no Investor shall be entitled to recover an amount greater than the amount paid by it for its New Shares under this agreement.

## The Warrantors shall not be liable in respect of any Claim unless the aggregate liability for all Claims (excluding all claims disregarded pursuant to clause 6.5) exceeds £25,000, in which case the Warrantors shall be liable for the entire amount and not merely the excess.

## In calculating liability for Claims for the purposes of clause 6.4, any Claim which is less than £5,000 (excluding interest, costs and expenses) shall be disregarded. For these purposes, a number of Claims arising out of the same or similar subject matter, facts, events or circumstances shall be aggregated and form a single Claim.

## No liability of the Warrantors in respect of any breach of any Warranty shall arise:

### to the extent that any Claim or the subject matter of any Claim has been or is made good or otherwise compensated for; or

### if such breach occurs by reason of any matter which would not have arisen but for the coming into force of any legislation not in force at the Completion Date or by reason of any change to HMRC’s practice occurring after the Completion Date.

## The Investors shall be entitled to make a Claim in respect of liability which is contingent or unascertained provided that written notice of the Claim (giving as far as practical the amount and details of the Claim) is given to the Warrantors before the expiry of the relevant periods specified in clause 6.2.

## The Warrantors shall not be liable for any Claim if the alleged breach which is the subject of the Claim is capable of remedy and is remedied by the Warrantors to the reasonable satisfaction of an Investor Majority within 30 days of the date on which the notice in clause 6.2 is received by the Warrantors.

## The liability of the Warrantors for any Claim notified under clause 6.2 shall, if it has not been previously satisfied, settled or withdrawn, cease six months after the date on which the Claim was notified unless court proceedings have been both issued and validly served on the Warrantors in respect of it or it has been submitted to arbitration and the proceedings have not, or submission to arbitration has not, been withdrawn or terminated.

## The liability of the Warrantors for any Claim shall be reduced if any Group Company recovers any amount from any third party (including a Taxing Authority or insurer) in respect of the matter or circumstance giving rise to the Claim. The proportion by which that liability shall be reduced is the proportion that the amount recovered bears to the loss suffered by the Group Company.

## Nothing in this agreement shall prejudice each Investor’s duty under common law to mitigate any loss or liability which is the subject of a Claim.

1. **THE BOARD**
   1. The Board shall be comprised of a minimum of two Directors and a maximum of five.
   2. For so long as a Founder (or his Permitted Transferees) holds Equity Shares and is an Employee he shall have the right to appoint and maintain in office one natural person (including himself) as he may from time to time nominate to act as a director of the Company (and as a member of each and any committee of the Board) and to remove any such director appointed and, upon removal whether by the relevant Founder or otherwise, to appoint another director in his place, and the other holders of Shares shall not vote their Shares so as to remove that Director from office.
   3. The Board and/or the holders of at least 10% of the B Shares (acting together) may from time to time appoint up to one independent director (the “**Independent Director**”).  In order to make such appointment the Board and/or the holders of at least 10% of the B Shares (acting together) must circulate a bio for the Independent Director to the holders of the B Shares who shall have 5 business days to veto such appointment by the holders of a majority of the B Shares notifying the Company that they do not support the proposed appointment.
2. **INFORMATION RIGHTS**
   1. The Company shall for each quarter prepare quarterly management accounts (in a form approved by the Board) and shall deliver them to the Investors within 40 days after the end of each quarter.
   2. The accounts of the Company in respect of each accounting period shall be completed and approved by the Board and delivered to the Investors within six months after the end of the accounting period to which such accounts relate.
   3. Notwithstanding any other provision of this agreement, the Company shall not be required to disclose any information to any Investor where the Board is of the opinion on reasonable grounds that the disclosure of that information could reasonably be expected to:
      1. give rise to a conflict of interest between the Company and the Investor; or
      2. not be in the Company’s best commercial interests; or
      3. the Investor is a competitor (or connected to a competitor) of the business of the Company or any other Group Company.
3. **CONSENT MATTERS**
   1. Each of the shareholders shall exercise all voting rights and powers of control available to him in relation to the Company to procure (so far as he is able) that save with Investor Majority Consent, the Company shall not effect any of the matters referred to in Schedule 7.
   2. As a separate obligation, severable from the obligations in clause 6.1, the Company agrees that, to the extent permitted by law save with Investor Majority Consent, it shall not effect any of the matters referred to in Schedule 7.
4. **FOUNDER COVENANTS**
   1. For the purpose of assuring to the Investors the value of the Business in order to safeguard the legitimate business interests of each Group Company, particularly the goodwill of each Group Company in connection with its customers, suppliers and employees, each Founder hereby undertakes and covenants with the Investors and the Company (for itself and as trustee for each other Group Company) that (save by virtue of holding an interest of up to 5% of the shares in the capital of any company) he shall not:
      1. while he is an Employee carry on or be concerned, engaged or interested directly or indirectly (in any capacity whatsoever) in any trade or business competing with the trade or business of the Company as carried on at the time or, in relation to any trade or business of the Company that he has been engaged or involved in, at any time during the Period;
      2. directly or indirectly for the period of 12 months after the Termination Date:
         1. within the United Kingdom and/or any other jurisdiction in which the Company then operates the Business, carry on or be concerned, engaged or interested (in any capacity whatsoever) in any Relevant Business competing with the business of any Group Company;
         2. to the detriment of any Group Company, persuade or endeavour to persuade any Relevant Customer and/or any Relevant Supplier to cease doing business or materially reduce its business with any Group Company;
         3. in competition with any Group Company, endeavour to supply or solicit the custom of any Relevant Customer in respect of Restricted Goods and/or Services;
         4. in competition with any Group Company supply Restricted Goods and/or Services to any Relevant Customer;
         5. entice or solicit, or endeavour to entice or solicit, any Relevant Employee away from any Group Company;
         6. employ or otherwise engage any Relevant Employee or offer to do so (other than by way of placing an advertisement or a post available to members of the public generally); or
      3. at any time after the Termination Date:
         1. represent himself as being in any way currently connected with or interested in the business of any Group Company (other than as a director and/or shareholder if that be the case); or
         2. use the name of any Group Company, or any name capable of being confused with the name of any Group Company, in any Relevant Business.
   2. Each of the restrictions contained in each paragraph of clause 10.1 is separate and distinct and is to be construed separately from the other such restrictions.  Each of the Founders hereby acknowledges that he considers such restrictions to be reasonable both individually and in the aggregate and that the duration extent and application of each of such restrictions are no greater than is necessary for the protection of the legitimate business interests of each Group Company and that the consideration paid by the Investors for the New Shares applied for in this agreement takes into account and adequately compensates him for any restriction or restraint imposed thereby.  However, if any such restriction shall be found to be void or unenforceable but would be valid or enforceable if some part or parts thereof were deleted or the period or area of application reduced, each of the Founders hereby agrees that such restriction shall apply with such modification as may be necessary to make it valid.
   3. Each Founder shall disclose all discoveries, inventions, secret processes and improvements in procedure made or discovered by him while in the service of any Group Company relating to the Business as soon as reasonably practicable.  Those discoveries, inventions, secret processes and improvements shall belong to and be the absolute property of the Group Company for which or in connection with whose business they were made or discovered, or, if there is no such single Group Company, such Group Company as the Company nominates for the purpose.  For the avoidance of doubt, this agreement shall not operate as a transfer instrument and any transfer of Intellectual Property rights shall be effected under a separate agreement.
   4. Each of the Founders (whether before or after his ceasing to be a shareholder in the Company or his ceasing to be an Employee of any Group Company) shall, if requested by the Company, at the expense of the Company or its nominee apply or join in applying for protection in the United Kingdom, Ireland or any other part of the world for any such discovery, invention, process or improvement as referred to in clause 10.3 and shall execute all instruments and do all things necessary for vesting that protection (when obtained), and all right and title to and interest in that intellectual property, in the Company (or its nominee) absolutely and as sole beneficial owner.
5. **CONFIDENTIALITY**
   1. Subject to clause 11.2, each of the parties agrees to keep secret and confidential and not to use, disclose or divulge to any third party, or to enable or cause any person to become aware of any Confidential Information.
   2. Subject to clause 11.4, each Investor and the Company shall be at liberty from time to time to disclose Confidential Information relating to the business affairs and financial position of any Group Company:
      1. to its partners, trustees, shareholders, unitholders and other participants and/or to any Member of the same Fund Group as an Investor for the purposes of reviewing its investments in the Company, provided that no Confidential Information shall be shared by an Investor with any of its portfolio companies;
      2. to any actual or *bona fide* prospective lender to any Group Company;
      3. as required by law or by any regulatory authority to which the Investor or any Group Company is subject or by the rules of any stock exchange upon which an Investor’s or any Group Company’s securities are listed or traded;
      4. to any Group Company’s auditors and/or any other professional advisers of any Group Company; or
      5. to its professional advisers and to the professional advisers of any person to whom it is entitled to disclose information pursuant to this clause 11.2.
   3. Subject to clause 11.4, each Founder shall be at liberty to from time to time to disclose Confidential Information:
      1. in the proper performance of his duties to any Group Company;
      2. where the disclosure is a “protected disclosure” pursuant to the Public Interest Disclosure Act 1998 or equivalent legislation elsewhere;
      3. as required by law or by any regulatory authority to which the Founder is subject;
      4. to his professional advisers and to the professional advisers of any person to whom he is entitled to disclose information pursuant to this clause 11.3; or
      5. to any person who is considering making a *bona fide* purchase of Equity Shares for the purposes of evaluating that purchase.
   4. No disclosure may be made pursuant to clause 11.2 or clause 11.3 unless the proposed recipient of the Confidential Information in question:
      1. first enters into and undertakes a binding obligation in favour of and enforceable by the Company to keep the Confidential Information so disclosed confidential on the same basis as is required of the Investor; or
      2. is already bound by a duty of professional confidentiality that is enforceable by the Company pursuant to the rules or codes of practice of any supervisory or regulatory authority.
   5. For the purposes of this clause, “**Confidential Information**”means any information or know-how of a secret or confidential nature relating to any Group Company or of any Investor, including:
      1. any information regarding this agreement and the investment by the Investors in any Group Company;
      2. any financial information or trading information relating to any Group Company or of any Investor which a party may receive or obtain as a result of entering into this agreement;
      3. in the case of each Group Company, information concerning:
         1. its finances and financial data, business transactions, dealings and affairs and prospective business transactions;
         2. any operational model, its business plans and sales and marketing information, plans and strategies;
         3. its customers, including customer lists, customer identities and contact details and customer requirements;
         4. any existing and planned product lines, services, price lists and pricing structures (including discounts, special prices or special contract terms offered to or agreed with customers);
         5. its technology or methodology associated with concepts, products and services including research activities and the techniques and processes used for development of concepts, products and services;
         6. its computer systems, source codes and software, including software and technical information necessary for the development, maintenance or operation of websites;
         7. its current and prospective Intellectual Property;
         8. its directors, officers, employees and shareholders (including salaries, bonuses, commissions and the terms on which such individuals are employed or engaged and decisions or contents of board meetings);
         9. its suppliers, licensors, licensees, agents, distributors or contractors including the identity of such parties and the terms on which they do business, or participate in any form of commercial co-operation with the Company;
         10. information concerning or provided to third parties, in respect of which the Company owes a duty of confidence (including the content of discussions or communications with any prospective customers or prospective business partner); and
         11. any other information which it may reasonably be expected would be regarded by a company as confidential or commercially sensitive,

but shall not include any information which:

* + - * 1. is, or which becomes (other than through a breach of this agreement) available in the public domain or otherwise available to the public generally without requiring a significant expenditure of labour, skill or money;
        2. is, at the time of disclosure, already known to the receiving party without restriction on disclosure;
        3. is, or subsequently comes, into the possession of the receiving party without violation of any obligation of confidentiality;
        4. is independently developed by the receiving party without breach of this agreement;
        5. is explicitly approved for release by the written consent of an authorised representative of the disclosing party; or
        6. a party is required to disclose by law, by any securities exchange on which such party’s securities are listed or traded, by any regulatory or governmental or other authority with relevant powers to which such party is subject or submits, whether or not the requirement has the force of law, or by any court order.

# ANNOUNCEMENTS

## Except in accordance with clause 12.2, the parties shall not make any public announcement or issue a press release or respond to any enquiry from the press or other media concerning or relating to this agreement or its subject matter (including but not limited to the Investors’ investment in the Company) or any ancillary matter, provided always that Chorus Network Advisors Limited (company number 12771556) shall be entitled to make an announcement concerning the investment into the Company with the prior consent of the Board.

## Notwithstanding clause 12.1, any party may make or permit to be made an announcement concerning or relating to this agreement or its subject matter or any ancillary matter with the prior written approval of an Investor Majority and the Board or if and to the extent required by:

### law;

### any securities exchange on which such party’s securities are listed or traded;

### any regulatory or governmental or other authority with relevant powers to which such party is subject or submits, whether or not the requirement has the force of law; or

### any court order.

# COSTS AND EXPENSES

## Each party to this agreement shall bear their own costs and disbursements incurred in the negotiations leading up to and in the preparation of this agreement and of matters incidental to this agreement.

# SURVIVAL AND CESSATION OF OBLIGATIONS OF THE FOUNDERS

The obligations on a Founder under clause 5 and Schedule 5 shall survive any transfer by him or her of all or any A Ordinary Shares and shall survive him or her ceasing to be a director or employee of or consultant to the Company but otherwise upon a Founder ceasing to hold A Ordinary Shares and ceasing to be a director or employee of or consultant to the Company s/he shall have no further obligation or liability hereunder but without prejudice to the due performance by him or her of all obligations up to the date of such cessation.

1. **EFFECT OF CEASING TO HOLD SHARES**

A party shall cease to be a party to this agreement for the purpose of receiving benefits and enforcing his rights with effect from the date he ceases to hold or beneficially own any shares in the capital of the Company (but without prejudice to any benefits and rights accrued prior to such cessation).

# CUMULATIVE REMEDIES

The rights, powers, privileges and remedies conferred upon the Investors in this agreement are cumulative and are not exclusive of any other rights, powers, privileges or remedies provided by law.

# WAIVER

The express or implied waiver by any party to this agreement of any of its rights or remedies arising under this agreement or by law shall not constitute a continuing waiver of the right or remedy waived or a waiver of any other right or remedy.

# ENTIRE AGREEMENT

## This agreement and the documents referred to or incorporated in it constitute the entire agreement between the parties relating to the subject matter of this agreement and supersede and extinguish any prior drafts, agreements, undertakings, representations, warranties and arrangements of any nature whatsoever, whether or not in writing, between the parties in relation to the subject matter of this agreement.

## Each of the parties acknowledges and agrees that it has not entered into this agreement in reliance on any statement or representation of any person (whether a party to this agreement or not) other than as expressly incorporated in this agreement and the documents referred to or incorporated in this agreement.

## Without limiting the generality of the foregoing, each of the parties irrevocably and unconditionally waives any right or remedy it may have to claim damages and/or to rescind this agreement by reason of any misrepresentation (other than a fraudulent misrepresentation) having been made to it by any person (whether a party to this agreement or not) and upon which it has relied in entering into this agreement.

## Each of the parties acknowledges and agrees that the only cause of action available to it under the terms of this agreement and the documents referred to or incorporated in this agreement in respect of a Claim shall be for breach of contract.

## Nothing contained in this agreement or in any other document referred to or incorporated in it shall be read or construed as excluding any liability or remedy as a result of fraud.

# VARIATION AND TERMINATION

## All and any of the provisions of this agreement may be deleted, varied, supplemented, restated or otherwise changed in any way at any time with the prior written consent of the holders of 75% of the Equity Shares (including Investor Majority Consent), in which event such change shall be binding against all of the parties hereto, provided that if such change would impose any new obligations on a party or increase any existing obligation, the consent of the affected party to such change shall be specifically required.

## This agreement may be terminated with the prior written consent of the holders of 75% of the Equity Shares (including Investor Majority Consent), in which event such termination shall be binding against all of the parties hereto, save that nothing in this clause shall release any party from liability for breaches of this agreement which occurred prior to its termination.

## The consideration under this agreement consists of the obligations of the parties to each other.  The Founders and the Investors further agree that payment by the Investors to each Founder of £1.00 (receipt of which is hereby acknowledged), and the investment by the Investors in the Company pursuant to this agreement, alone and together amount to good consideration in respect of the obligations of the Founders under this agreement.

# NO PARTNERSHIP

Nothing in this agreement is intended to or shall be construed as establishing or implying any partnership of any kind between the parties.

# ASSIGNMENT AND TRANSFER

## Subject to clause 21.3, this agreement is personal to the parties and no party shall:

### assign any of its rights under this agreement;

### transfer any of its obligations under this agreement;

### sub-contract or delegate any of its obligations under this agreement; or

### charge or deal in any other manner with this agreement or any of its rights or obligations.

## Any purported assignment, transfer, sub-contracting, delegation, charging or dealing in contravention of clause 21.1 shall be ineffective.

## An Investor may assign the whole or part of any of its rights in this agreement to a Permitted Transferee or to any person who has received a transfer of shares in the capital of the Company from such Investor in accordance with the New Articles and provided such assignee has executed a Deed of Adherence.

# RIGHTS OF THIRD PARTIES

## Subject to clause 22.2, this agreement does not confer any rights on any person or party (other than the parties to this agreement) pursuant to the Contracts (Rights of Third Parties) Act 1999.

## The general partner of an Investor or the management company authorised from time to time to act on behalf of that Investor may enforce all of the rights and benefits under this agreement at all times as if party to this agreement.

# COUNTERPARTS

This agreement may be executed (either by autographic signature or by the parties applying their signature by some electronic, mechanical or other means) in any number of counterparts, each of which shall constitute an original, and all the counterparts shall together constitute one and the same agreement. The exchange of a fully executed (either by autographic signature or by the parties applying their signature by some mechanical or other means) version of this agreement (in counterparts or otherwise) by electronic transmission in PDF format shall be sufficient to bind the parties to the terms and conditions of this agreement and no exchange of originals is necessary.

# NOTICES

## To be valid, any communication and/or information to be given in connection with this agreement must be in writing in English and either be delivered by hand or sent by first class post, email or other electronic form:

### to any body corporate which is a party, at its registered office;

### to any individual who is a party, at the address of that individual shown in Schedule 1;

or, in each such case, such other address as the recipient may notify to the other parties for such purpose in accordance with this clause 24.

## A communication sent according to clause 24.1 shall be deemed to have been received:

### if delivered by hand, at the time of delivery;

### if sent by pre-paid first class post, on the second day after posting; or

### if sent by email or other electronic form, at the time of completion of transmission by the sender,

except that if a communication is received between 5.30 pm on a Business Day and 9.30 am on the next Business Day, it shall be deemed to have been received at 9:30 am on the second of such Business Days.

# SEVERANCE

## If any provision of this agreement is held to be invalid or unenforceable by any judicial or other competent authority, all other provisions of this agreement will remain in full force and effect and will not in any way be impaired.

## If any provision of this agreement is held to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question will apply with the minimum modifications necessary to make it valid and enforceable.

# GOVERNING LAW

This agreement (and any dispute or claim relating to it or its subject matter (including non-contractual claims)) is governed by and is to be construed in accordance with English law.

# JURISDICTION

The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any claim, dispute or issue (including non-contractual claims) which may arise out of or in connection with this agreement.

# REGULATORY MATTERS

No Investor or general partner of any Investor or management company authorised from time to time to act on behalf of any Investor is acting for or advising any other party to the transaction that is the subject of this agreement or undertaking any other activity in relation to that other party that implies in any way that the other party is a client and accordingly no such Investor, general partner of any Investor and/or management company of any Investor shall be responsible to any other party for providing any protection afforded to any client (as defined in the Glossary to the FCA Handbook of rules and guidance) for any Investor.

1. **THE INVESTORS AND THE FOUNDERS**

Part 1  
  
The Investors

|  |  |
| --- | --- |
| **Name** | **Address** |
| [●] | [●] |
| [●] | [●] |

Part 2  
  
The Founders

|  |  |
| --- | --- |
| **Name** | **Address** |
| [●] | [●] |
| [●] | [●] |

1. **PARTICULARS OF THE COMPANY**

|  |  |
| --- | --- |
| **Registered number:** | [●] |
| **Registered office:** | [●] |
| **Directors:** | [●] |
| **Secretary:** | [●] |
| **Accounting reference date:** | [●] |
| **Charges:** | [●] |
| **Auditors:** | [●] |
| **Issued share capital (including Treasury Shares) pre-Completion:** | [●] |

1. **MEMBERS OF THE COMPANY**

Part 1  
  
Members of the Company - pre-Completion

|  |  |  |
| --- | --- | --- |
| **Member** | **Number of A Ordinary Shares held** | **As Issued%** |
| [●] | [●] | [●] |
| [●] | [●] | [●] |
| [●] | [●] | [●] |
| **Total** | [●] | **0%** |

Part 2   
  
Members of the Company - post-Completion

[***SS Note: to be inserted***]

1. **COMPLETION ACTIONS**
   1. The passing of directors’ and shareholders’ resolutions in the agreed form at a duly convened meeting or by written resolutions, as applicable, to:
      * 1. authorise the allotment and issue of the New Shares;
        2. waive pre-emption rights in respect of the allotment and issue of the New Shares; and
        3. adopt the New Articles.
2. **WARRANTIES**
   1. **SHARE CAPITAL, AUTHORITY AND THE COMPANY**
      1. The Company is incorporated in the United Kingdom and is validly existing under the laws of England and Wales.
      2. Each Warrantor has the power to enter into and to perform its obligations under this agreement and each document referred to in this agreement to which it is a party and each such document will, when executed, constitute binding obligations on that Warrantor in accordance with its terms.
      3. The execution and delivery of, and the performance by each Warrantor of their respective obligations under this agreement and each document referred to in this agreement to which it is a party:
         1. does not require the consent of any third party;
         2. will not result in a breach of or entitle any third party to terminate or avoid any agreement, arrangement, order, judgment or decree of any court or any governmental agency to which it is a party or by which it or any of its assets is bound or from which it benefits; and
         3. will not violate the provisions of any law or any order or decree of any governmental authority, agency or court to which any Warrantor is subject.
      4. All of the shares set out in Part 1 of Schedule 3 are fully paid, comprise the entire issued share capital of the Company and have been validly issued in accordance with the articles of association in force at the date of issue and applicable laws. None of the issued share capital of the Company is under option or subject to any Encumbrance, no options, warrants or other rights to subscribe for new shares in the capital of the Company have been granted or agreed to and no dividends or other rights (including conversion or preemptive rights, anti-dilution protection and rights of first refusal) or agreements of any kind for the purchase or acquisition of any of such securities or benefits have been declared, made or paid or agreed to be declared, made or paid thereon.
      5. Neither the Company nor any of its subsidiaries is or has been the subject of any HMRC investigation and, to the best of the knowledge, information and belief of the Warrantors, no such investigation is threatened or pending against the Company.
      6. The statutory registers and minute books of the Company are complete and up to date in all respects.
      7. The Company has complied in all material respects with all relevant tax and social security legislation and all returns and payments thereunder required by the Company have been properly and accurately made.
      8. Save as set out in this agreement, no unissued shares of the Company are under option or agreed conditionally or unconditionally to be placed under option.
   2. **GROUP STRUCTURE**

The Company does not have any subsidiary companies nor has it at any time been the holding company of any company or a member of or the beneficial owner of any shares, securities or other interest in any company or other person.

* 1. **INFORMATION**

The information contained to in Schedule 2 and Schedule 3 is true, and accurate and not misleading.

* 1. **AGREEMENTS, COMMITMENTS AND LIABILITIES**
     1. The Company:
        1. has no material capital commitments, liabilities (whether contingent or otherwise), loans or borrowings;
        2. is not a party to any agreement which is or may become terminable as a result of the entry into or completion of this agreement; or
        3. is not in material default of any agreement or arrangement to which it is a party.
  2. **INTELLECTUAL PROPERTY**
     1. In respect of all Intellectual Property of the Company other than standard, off-the-shelf, packaged office software (“**Company Intellectual Property**”):
        1. the Company is the sole legal and beneficial owner, free of licence, royalty, restriction or other adverse interests; or
        2. the Company has licences from third parties which are adequate to enable it to conduct its Business as currently carried on; or
        3. (in respect of any Company Intellectual Property not within (a) or (b) above) third party licences are freely available on the open market on usual commercial terms and have been obtained by the Company.
     2. The Company has taken all steps necessary for the protection of all Intellectual Property owned by it and the Company has not itself granted any rights to third parties in relation to any of its Intellectual Property.
     3. No actions, claims or allegations with respect to any Intellectual Property owned by the Company have been made, or are pending or threatened, by any third party:
        1. alleging breach, infringement, misuse or misappropriation by the Company or on the Company’s behalf of any Intellectual Property;
        2. otherwise challenging the use by the Company or any third party of any technology, know-how or computer software;
        3. challenging the ownership by the Company, validity or effectiveness of any Intellectual Property; or
        4. alleging that the activities or proposed activities of any employee of the Company in relation to the Company’s business is in breach of any contact or covenant with a third party, and, so far as the Company is aware, there are not any facts, matters or circumstances which could give rise to any such action, claim or allegation.
     4. The licences, agreements and arrangements entered into by the Company in relation to Company Intellectual Property in respect of which the Company is a licensor, a licensee or otherwise a party, have been entered into in the ordinary course of business, are in full force and effect and no notice has been given on either side to terminate any of them and no amendment has been made or accepted to their terms since they were first entered into; and no disputes exist or are anticipated in respect of any of them.
  3. **EMPLOYMENT AND CONSULTANCY ARRANGEMENTS**
     1. The Company has entered into contracts of service or for services for all directors, employees and consultants of the Company and such contracts and arrangements have been entered into in the ordinary course of business, are in full force and effect and no notice has been given on either side to terminate any of them, and so far as the Company is aware no disputes exist or are anticipated in respect of any of them.
     2. There are no agreements or arrangements (whether legally enforceable or not) for the payment of any pensions, allowances, lump sums or other like benefits on redundancy, retirement or on death or during periods of sickness or disablement for the benefit of any director or former director or employee or former employee of the Company or for the benefit of the dependents of any such person.
     3. There are no outstanding claims or, so far as the Company is aware, anticipated claims from any employee, consultant, ex-employee or ex-consultant and no grievances have been made or, so far as the Company is aware, are anticipated, whether formal or informal nor are there any employees with any disciplinary or anticipated disciplinary warnings. No employees are on any leave except in relation to their holiday entitlement.
     4. Each employee and consultant of each Group Company has entered into agreements with the Group Company which require the employee or consultant to assign to the Group Company the ownership of any and all inventions or Intellectual Property created by the employee or consultant in the course of and during the term of the employee’s employment or the consultant’s engagement with the Group Company in so far as ownership of such inventions or Intellectual Property is not already vested in the Group Company.
  4. **CONTRACTS WITH CONNECTED PERSONS**
     1. There are no loans made by the Company to any of its directors or shareholders and/or any person connected with any of them and no debts or liabilities owing by the Company to any of its directors or shareholders and/or any person connected with them as aforesaid.
     2. There are no existing contracts or arrangements to which the Company is a party and in which any of its directors or shareholders and/or any person connected with any of them is interested.
  5. **ASSETS AND DEBTS**

All assets used by and all debts due to the Company or which have otherwise been represented as being its property or due to it or used or held for the purposes of its business are at the date of Completion its absolute property and none is the subject of any Encumbrance (save in respect of liens arising in the normal course of trading) or the subject of any factoring arrangement, hire-purchase, retention of title, conditional sale or credit sale agreement.

* 1. **LITIGATION**

Neither the Company nor, so far as the Company is aware, any person for whose acts and defaults it may be vicariously liable, is engaged whether as claimant, defendant or otherwise in any legal action, proceeding or arbitration which is either in progress or is threatened or so far as the Company is aware is pending or is being prosecuted for any criminal offence and no governmental or official investigation or inquiry concerning the Company is in progress or, so far as the Company is aware, pending.

* 1. **TAXATION**

The Company has duly paid or fully provided for all Taxation for which it is liable and there are no circumstances in which interest or penalties in respect of Taxation not duly paid could be charged against it in respect of any period prior to Completion.

* 1. **STATUTORY AND LEGAL REQUIREMENTS**

All statutory, municipal, governmental, court and other requirements applicable to the carrying on of the business of the Company, the formation, continuance in existence, creation and issue of securities, management, property or operation of the Company have been complied with in all material respects in all jurisdictions in which the Company operates, and all permits, authorities, licences and consents have been obtained and all material conditions applicable thereto complied with in all jurisdictions in which the Company operates and so far as the Company is aware there are no circumstances which might lead to the suspension, alteration or cancellation of any such permits, authorities, licences or consents, nor is there any agreement which materially restricts the fields or jurisdictions within which the Company may carry on its business.

* 1. **EIS AND SEIS RELIEFS**
     1. The Company knows of no reason why the Company should not be a qualifying company and will, following Completion, carry on a qualifying trade for the purposes of and otherwise comply with the requirements of the EIS Provisions and SEIS Provisions.
     2. The Company has not made any application to enable its Shareholders to obtain any EIS Reliefs or SEIS Reliefs.

1. **DISCLOSURE SCHEDULE**

[***SS Note: to be updated***]

References in this Schedule to paragraph headings and numbers shall, unless the context otherwise requires, be to those headings and numbered paragraphs in Schedule 5. Such headings and numbering are for convenience only and shall not alter the construction of this Schedule 6 nor in anyway limit the effect of any of the disclosures, all of which are made against the Warranties as a whole.

A disclosure or qualification made by reference to any particular paragraph shall be deemed to be made also in respect of any other paragraph to which the disclosure or qualification may be applicable.

The disclosure of any matter or document shall not imply any representation, warranty or undertaking not expressly given in this agreement nor shall such disclosure be taken as extending the scope of any of the Warranties.

By way of general disclosure, the following matters are disclosed or deemed disclosed to the Investors:

* + - 1. the contents of this agreement and all transactions referred to in it, together with the contents of the agreed form documents referred to in this agreement;
      2. the contents of the articles of association of the Company;
      3. all matters which would be revealed by an online search of the file of the Company at Companies House on the Business Day prior to the date of this agreement; and
      4. all matters which would be revealed by an online search of the file of the Central Registry of Winding-up Petitions on the Business Day prior to the date of this agreement.

The following specific disclosures are made and, for convenience only, refer to specific paragraphs in Schedule 5 of this agreement. Each item disclosed shall, however, be deemed to be a disclosure in respect of all of the Warranties to which it reasonably relates and shall not be limited to the paragraph which is referred to below:

|  |  |
| --- | --- |
| **Warranty** | **Disclosure** |
| [●] | [●] |
| [●] | [●] |



**CONSENTS MATTERS**

* 1. Permit or cause to be proposed any alteration to the rights attaching to the Equity Shares.
  2. Subject to the drag along provisions (as set out in the New Articles) not applying, negotiate or permit the disposal or transfer of shares in the capital of the Company amounting to a Sale.
  3. Enter into any guarantee of or indemnity or otherwise commit to the due payment of money exceeding £30,000.
  4. Make any material change to the nature of the Business of the Company.
  5. Create or permit the creation of or suffer to subsist any security over property or assets of the Company, save in the ordinary course of business.
  6. Adopt any share option plan (or make any variation to a share option plan once adopted).
  7. Acquire the whole or part of the undertaking of any other person or dispose of the whole or part of the undertaking of the Company or merge the Company or any part of its business with any other person or acquire any business, shares, or other securities of any other business.
  8. Instigate a merger, acquisition, administration, winding up or liquidation of the Company.
  9. Factor its debts, borrow monies or incur indebtedness in excess of £[•].
  10. Mortgage or charge or permit the creation of or suffer to subsist any mortgage or 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.
  11. Take or agree to take any freehold interest, leasehold interest (longer than 3 years) in or licence (longer than 3 years) over any real property.
  12. Engage any employee or consultant on terms that either his contract cannot be terminated by three months' notice or less or his emoluments and/or commissions or bonuses are or are likely to be at the rate of £75,000 per annum or more or increase the emoluments and/or commissions or bonuses of any employee or consultant to more than £75,000 per annum or vary the terms of employment of any employee earning (or so that after such variation he will, or is likely to earn) more than £75,000 per annum.
  13. Dispose of any asset of a capital nature having a book or market value greater than £30,000.



**DEED OF ADHERENCE**

**THIS DEED** is made on                                                                                    20[●]

**BY** [●]

**INTRODUCTION**

(A) By a [transfer]/[subscription for shares] dated [of even date herewith] [●] [(the “**Transferor**”) transferred to [●] [(the “**Transferee**”)]*I*[(the “**Subscriber**”) subscribed for] B Ordinary Shares of £[0.01] each in the capital of [●] (the “**Company**”) (together the [“**Transferred Shares**”]/[“**Subscribed Shares**”).

(B) This deed is entered into in compliance with the terms of clause 9.2 of an agreement dated [●] 2020 made between (1) the Investors; (2) the Founders and (3) the Company (all such terms as are therein defined) (which agreement is herein referred to as the “**Shareholders’ Agreement**”).

**AGREED TERMS**

* 1. Words and expressions used in this deed have the same meaning as is given to them in the Shareholders’ Agreement unless the context otherwise expressly requires.
  2. The [Transferee]/[Subscriber] hereby agrees:
     + 1. to assume the benefit of the rights [of the Transferor] under the Shareholders’ Agreement in respect of the [Transferred]/[Subscribed] Shares); and
       2. to assume and assumes the burden of the [Transferor’s] obligations under the Shareholders’ Agreement to be performed after the date hereof] in respect of the [Transferred]/[Subscribed] Shares.
  3. The [Transferee]/[Subscriber] hereby agrees to be bound by the Shareholders’ Agreement in all respects as if the [Transferee]/[Subscriber] were a party to the Shareholders’ Agreement as one of the [Investors and/or Founders] and to perform [:
     + 1. all the obligations of the Transferor in that capacity thereunder; and
       2. ]all the obligations expressed to be imposed on such a party to the Shareholders’ Agreement[;]

[in both cases,] to be performed or on or after [the date hereof].

* 1. This deed is made for the benefit of:
     + 1. the parties to the Shareholders’ Agreement; and
       2. any other person or persons who may after the date of the Shareholders’ Agreement (and whether or not prior to or after the date hereof) assume any rights or obligations under the Shareholders’ Agreement,

and this deed shall be irrevocable without the consent of the Company.

* 1. [For the avoidance of doubt:
     + 1. no transferee who acquires shares from a Founder shall be liable under any of the Warranties, liability for which shall remain with the relevant Founder; and
       2. nothing in this deed shall release the Transferor from any liability in respect of any obligations under the Shareholders’ Agreement due to be performed prior to [the date of this deed].]
  2. None of the Investors nor any of the Founders:
     + 1. makes any representation or warranty or assumes any responsibility with respect to the legality, validity, effectiveness, adequacy or enforceability of any of the Shareholders’ Agreement (or any agreement entered into pursuant thereto);
       2. makes any representation or warranty or assumes any responsibility with respect to the content of any information regarding the Company [or any other Group Company] or otherwise relating to the [acquisition]/[subscription] of shares in the Company; or
       3. assumes any responsibility for the financial condition of the Company [or any other Group Company] or any other party to the Shareholders’ Agreement or any other document or for the performance and observance by the Company or any other party to the Shareholders’ Agreement or any other document (save as expressly provided therein),

and any and all conditions and warranties, whether express or implied by law or otherwise, are excluded save for the representations, warranties and undertakings contained in the Warranties.

* 1. This deed (and any dispute or claim relating to its subject matter (including non-contractual claims) shall be governed by and construed in accordance with the laws of England and Wales.

This deed of adherence has been executed and delivered as a deed on the date shown on the first page.

**EXECUTED** as **DEED** by                               )  
**[*Transferee/Subscriber*]**

This agreement has been executed on the date shown on the first page.

**THE INVESTORS**

|  |  |
| --- | --- |
| Signed for and on behalf of  [●] |  |
|  | ……………………………………………………….  Authorised signatory |
|  |  |

|  |  |
| --- | --- |
| Signed for and on behalf of  [●] |  |
|  | ……………………………………………………….  Authorised signatory |
|  |  |

**THE COMPANY**

|  |  |
| --- | --- |
| Signed for and on behalf of  [●] |  |
|  | ……………………………………………………….  Director |
|  |  |

**THE FOUNDERS**

|  |  |
| --- | --- |
| Signed by  [●] | ………………………………………………………... |
|  |  |
| Signed by  [●] | ………………………………………………………... |
|  |  |