

DATED 10 August 2018

- (1) GAMETECH UK LIMITED (IN ADMINISTRATION)
- (2) KIRSTIE JANE PROVAN AND GARY PAUL SHANKLAND AS JOINT ADMINISTRATORS OF GAMETECH UK LIMITED (IN ADMINISTRATION)
- (3) NENX GAMING LIMITED (FORMERLY KNOWN AS SMART TOWER LIMITED)

ASSET SALE AGREEMENT


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THIS AGREEMENT is dated

10 August

2018

PARTIES

- (1) **GAMETECH UK LIMITED** (in administration) incorporated and registered in England and Wales with company number 08783587 whose registered office is at Begbies Traynor (London) LLP, 31st Floor, 40 Bank Street, London E14 5NR acting by the Administrators (**Seller**).
- (2) **KIRSTIE JANE PROVAN** and **GARY PAUL SHANKLAND** as joint administrators of Gametech UK Limited both of Begbies Traynor (London) LLP, 31st Floor, 40 Bank Street, London E14 5NR (**Administrators**).
- (3) **NENX GAMING LIMITED** incorporated and registered in England and Wales with company number 11047028 whose registered office is at 20 Anchor Terrace, 3-13 Southward Bridge Road, London, SE1 9HQ (**Buyer**).

BACKGROUND

- (A) The Seller carried on the Business.
- (B) The Administrators were appointed joint administrators of the Seller on 11 April 2017 by the directors of the Seller under paragraph 22 of Schedule B1 to the Insolvency Act 1986.
- (C) The Seller has agreed to sell and the Buyer has agreed to purchase such right, title and interest (if any) as the Seller has in the Business, the Assets, on the terms and conditions of this agreement, such that the Buyer buys the whole or substantially the whole of the Seller's business.
- (D) Pursuant to the Charge Holders' Security (as defined below), certain of the Seller's assets are subject to fixed charge security in favour of the Charge Holders (as defined below).
- (E) Pursuant to the order of Deputy Insolvency and Companies Judge Jones dated 29 May 2018, the Administrators have the permission of the Court to sell any of the Seller's property that is subject to a fixed charge as if it were not subject to the fixed charge.
- (F) The Administrators have entered into this agreement solely for the purpose of obtaining the benefit of the provisions in their favour and shall incur no personal liability of any kind under or in connection with this agreement.

AGREED TERMS

1 INTERPRETATION

- 1.1 The following definitions and rules of interpretation apply in this agreement.

Administrators' Records: all records produced by or at the direction of the Administrators, their staff, agents or representatives in connection with the administration of the Seller, the statutory books and accounting records of the Seller, any other records which the Administrators are required by law to retain and any records which relate to the Seller's arrangements with its bankers.

Administrators' Solicitors: Michelmores LLP of 12th Floor, 6 New Street Square, London, EC4A 3BF.

Administrators' Solicitor's Account: Bank – Barclays Bank Plc; Name – Michelmores Client Account; Account Number – 00633755; Sort Code – 20-30-54.

Assets: the property, rights and assets set out in clause 2.1.1 to clause 2.1.6 (inclusive).

Book Debts: all trade and other debts and amounts owing to the Seller at the Effective Time (whether or not due and payable) including interest payable on those sums and the benefit of any security or guarantee for their payment.

Buyer Group: the Buyer, its holding company and all companies and undertakings which are now or in the future become Subsidiaries or subsidiary undertakings of the Buyer or any such holding company.

Business: the business of the provision of consumer focused technology, including the development and operation of mobile software and services for the financial, gaming and entertainment sectors carried on by the Seller as at or shortly before the filing of a notice of intention to appoint administrators in respect of the Seller.

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Business Names: Gametech, Nenx, Pro Options, Dito and any other trading names used by the Seller.

Buyer's Solicitors: Fieldfisher of Riverbank House, 2 Swan Lane, London, EC4R 3TT.

Charge Holders: the holders of legal and/or beneficial security interests in the Assets as more particularly described in Schedule 2.

Charge Holder's Security: the Charge Holders' security held over the Assets as more particularly described in Schedule 2.

Completion: the completion of the sale and purchase of the Business and Assets pursuant to and in accordance with clause 4.

Completion Date: the date of this agreement.

Customer Database: the data and/or information held by the Seller pertaining to the Seller's customers including contracts, engagements and arrangements entered into by or for the Seller with the customers relating to the Business in the Administrators' possession as at Completion.

Data: any **personal data** as defined in the GDPR which comes into the possession of control of the Buyer in connection with the Transaction.

Data Controller: as defined in article 4(7) of the GDPR.

Data Protection Legislation: the UK data protection legislation and (for so long as and to the extent that the law of the EU has legal effect in the UK, whether by means of the Data Protection Act 1998 or otherwise) the GDPR and any other directly applicable EU regulation relating to data protection and privacy.

Domain Names: the domain names:

gametech.com;

prooption.com;

nenx.com; and

dito.com

and any other domain names owned by the Seller.

Effective Time: 5.00pm on the Completion Date.

Encumbrance: any mortgage, charge (fixed or floating), pledge, lien, hypothecation, guarantee, trust, right of set-off or other third party right or interest (legal or equitable) including any assignment by way of security, reservation of title or other security interest of any kind, however created or arising, or any other agreement or arrangement (including a sale and repurchase agreement) having similar effect.

Employees: anyone employed by the Seller who was assigned to the Business immediately before the Completion Date and anyone who would have been employed by the Seller and assigned to the Business immediately before the Completion Date had their employment not been terminated in circumstances described in Regulation 7(1) of the Regulations.

Employee Database: data and/or information pertaining to the Employees relating to the Business in the possession of the Administrators at Completion.

Excluded Assets: the property, rights and assets set out in clause 2.2 as being excluded from the sale and purchase under this agreement.

GDPR: the General Data Protection Regulation ((EU) 2016/679).

Goodwill: the goodwill, custom and connection of the Seller in relation to the Business, together with the right for the Buyer to use the Business Name and respectively to represent itself as restarting the Business in succession to the Seller.

HMRC: HM Revenue & Customs.

Intellectual Property Rights: software source codes, patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and domain names, or any other distinctive signs, rights in get-up, rights in goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world owned by the Seller in whatsoever form and howsoever arising and in each case for their full term (including any reversions or extensions), including the rights set out in Schedule 3.

Interest Rate: interest at a rate of 4% per annum above the base lending rate from time to time of Barclays Bank Plc.

Plant and Machinery: all of the plant and machinery, fixtures and fittings (other than the landlord's fixtures and fittings), furniture, utensils, templates, tooling, implements, chattels and equipment owned by the Seller as at the Effective Time, including the items listed in Schedule 4, together with the benefit of any manufacturers or suppliers' warranties in respect of such items.

Promotional Literature: all catalogues, price lists, sales information sheets and sales literature of the Seller relating to the Business.

Purchase Price: the consideration payable by the Buyer to the Seller under clause 3.

ROT Assets: all assets in the possession of the Seller at the Effective Time that are or become subject to an ROT Claim.

ROT Claim: a claim made by a supplier of goods (or a person deriving title from such a supplier) delivered into the possession of the Buyer for the return of those goods, or for the payment of damages for wrongful interference with them, on the basis that title to them had not passed to the Seller before such delivery.

Seller Group: the Seller, its holding company and all companies and undertakings which now or in the future become Subsidiaries or subsidiary undertakings of the Seller or of any such holding company.

Seller's Records: the books, accounts, lists of clients, customers and suppliers (including any database containing information concerning customers of the Seller), credit reports, cost records, work tickets, and all the other documents, papers and records (including the Promotional Literature) however stored of the Seller, but excluding the Administrators' Records and the VAT Records.

Shares: any legal or beneficial interest in the shares in Dito Limited and Dito Inc held for the benefit of the Seller.

Share Certificates: the share certificates relating to the Shares to the extent they are in the possession of the Administrators on the Completion Date.

Subsidiary: has the meaning given in clause 1.6.

Taxation or Tax: all forms of taxation and statutory, governmental, state, federal, provincial, local, government or municipal charges, duties, imposts, contributions, levies, withholdings or liabilities wherever chargeable and whether of the UK or any other jurisdiction; and any penalty, fine, surcharge, interest, charges or costs relating thereto.

Third Party Assets: all assets in the possession of the Seller in relation to the Business which are on loan, subject to lease, hire purchase, conditional sale, rental, contract hire or other agreements which do not pass title to the Seller, or of which it is for any reason bailee.

Third Party Consent: a consent, licence, approval, authorisation or waiver required from a third party for the conveyance, transfer, assignment or novation in favour of the Buyer of any of the Assets.

Transaction: the transaction contemplated by this agreement or any part of that transaction.

TUPE: the Transfer of Undertakings (Protection of Employment) Regulations 2006.

VAT: value added tax chargeable under the Value Added Tax Act 1994.

VATA 1994: Value Added Tax Act 1994.

VAT Group: two or more bodies corporate registered as a group for VAT purposes under section 43 of VATA 1994.

VAT Records: all records of the Seller referred to in section 49 of VATA1994.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The Schedules form part of this agreement and shall have effect as if set out in full in

the body of this agreement. Any reference to this agreement includes the Schedules.

- 1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 A reference to a holding company or a subsidiary means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in sections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee) by way of security or in connection with the taking of security, or (b) its nominee. In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that: (a) references in sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and (b) the reference in section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.
- 1.7 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.8 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.9 A reference to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.10 Words and expressions defined for the purposes of or in connection with any statutory provisions shall, where the context so requires, be construed as having the same meanings in this agreement.
- 1.11 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this agreement under that statute or statutory provision.
- 1.12 A reference to writing or written includes fax but not e-mail.
- 1.13 Where the words **include(s)**, **including** or **in particular** are used in this agreement, they are deemed to have the words "without limitation" following them.
- 1.14 Any obligation in this agreement on the Buyer not to do something includes an obligation not to agree or allow that thing to be done.
- 1.15 Any obligation in this agreement on the Buyer to do something includes an obligation to do that thing at the Buyer's own cost and expense.
- 1.16 **Other** and **otherwise** are illustrative and shall not limit the sense of the words preceding them.
- 1.17 A reference to the **Seller or the Administrators** includes both of them jointly or either of them individually.
- 1.18 A reference to a **claim** includes any claim, demand, action or proceeding of any kind,

actual or contingent.

- 1.19 A reference to a **loss** includes any loss, damage, cost, charge, penalty, fee or expense.
- 1.20 A reference to **records** includes information held in any form, including paper, electronically stored data, magnetic media, film and microfilm.
- 1.21 A reference to **representatives** includes partners, agents, employees, sub-contractors and any other person acting on behalf and with the authority of a party.
- 1.22 References to any English legal terms, for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any other legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to what most nearly approximates to the English legal term in that jurisdiction.
- 1.23 References to times of the day are, unless the context requires otherwise, to London time and references to a day are to a period of 24 hours running from midnight on the previous day.

2 **AGREEMENT TO SELL AND PURCHASE**

- 2.1 Subject to the terms of this agreement, the Seller shall sell and the Buyer shall purchase such right, title and interest (if any) as the Seller has and can transfer in the following assets at the Effective Time free of the Charge Holder's Security for the Purchase Price on the Completion Date:
 - 2.1.1 the Goodwill;
 - 2.1.2 the Plant and Machinery;
 - 2.1.3 the Seller's Records;
 - 2.1.4 the Shares;
 - 2.1.5 the Domain Names; and
 - 2.1.6 the Intellectual Property Rights.
- 2.2 For the avoidance of doubt and without limitation, the following items are not included in the sale under this agreement:
 - 2.2.1 the Administrators' Records;
 - 2.2.2 the VAT Records;
 - 2.2.3 the Third Party Assets;
 - 2.2.4 the ROT Assets, except as provided in clause 8.5;
 - 2.2.5 the Book Debts;
 - 2.2.6 any cash in hand or at the bank;

- 2.2.7 any real property owned, leased or used by the Seller;
- 2.2.8 all policies of insurance and assurance and any actual or potential claim under such policies or similar contracts or in damages against any third party;
- 2.2.9 the benefit of any actual or potential claim, or right to make a claim, against any person (other than claims under the manufacturers or suppliers' warranties included in the Assets) including the proceeds of any litigation save for in relation to the Intellectual Property Rights;
- 2.2.10 any shares or other securities owned by the Seller other than the Shares;
- 2.2.11 any motor vehicles owned or used by the Seller; and
- 2.2.12 any other property, rights or assets of the Seller which are not listed in clause 2.1.

3 PURCHASE PRICE

- 3.1 The consideration for the sale and purchase of the Business and the Assets shall be the aggregate of the values attributed to the Assets set out in Schedule 1 plus any applicable VAT (**Purchase Price**).
- 3.2 The Purchase Price shall be paid in cash on or before Completion by the Buyer to the Administrators' Solicitor's Account or in such other manner as the Administrators may direct.
- 3.3 The Seller confirms that the Administrators or the Administrators' Solicitors may give a good receipt for all payments to the Seller.
- 3.4 The Purchase Price shall be apportioned between the Assets in accordance with Schedule 1.

4 PAYMENT AND COMPLETION

- 4.1 Completion of the sale and purchase of the Assets shall take place on the Completion Date immediately after the execution of this agreement:
 - 4.1.1 at the offices of the Administrators' Solicitors; or
 - 4.1.2 at such other place as the Administrators may direct.
- 4.2 At Completion, the Buyer shall:
 - 4.2.1 pay the Purchase Price in accordance with clause 3.1;
 - 4.2.2 execute all documents delivered by the Seller which require execution by the Buyer;
 - 4.2.3 make such arrangements as it sees fit for collecting and taking into its possession the Assets; and
 - 4.2.4 deliver to the Seller a certified copy of the resolution adopted by the board of directors of the Buyer authorising the execution and delivery of this

agreement, and any other documents referred to in this agreement as being required to be delivered by it by the officers specified in the resolution.

- 4.3 At Completion, subject to the Buyer having complied with clause 4.2, the Seller and the Administrators shall deliver, or procure delivery to the Buyer or make available to the Buyer:
- 4.3.1 physical possession of all the Assets to which title is capable of passing by delivery, at their then current locations;
 - 4.3.2 physical possession of the ROT Assets and the Third Party Assets, at their then current locations, subject to the terms of clause 7 and clause 8;
 - 4.3.3 the Seller's Records;
 - 4.3.4 a stock transfer form in relation to the transfer of the Shares in Dito Limited;
 - 4.3.5 the Share Certificates if they are in the possession of the Administrators on the Completion Date;
 - 4.3.6 a duly executed assignment of those Intellectual Property Rights that may be assigned by the Seller without the consent of any third party in the form at schedule 5;
 - 4.3.7 a letter using the appropriate template or e-mail to the relevant domain name registrar consenting to the transfer of the Seller's registrations to the Buyer;
- 4.4 Without limitation of any other provision of this agreement, from Completion, the Buyer shall do all things necessary to ensure compliance with all legal requirements as to possession, ownership or use of any of the Assets, including obtaining all necessary licences, consents, certificates, permits and other authorisations.
- 4.5 The Buyer shall fully indemnify the Seller and the Administrators from and against all claims and losses which may be brought against or incurred by the Seller or the Administrators in respect of the Buyer's failure to comply with clause 4.4.

5 **PASSING OF RISK**

The Assets shall be at the sole risk of the Buyer from the Effective Time.

6 **INTELLECTUAL PROPERTY**

- 6.1 The Buyer shall obtain any necessary third party licences, consents and permissions (**Permissions**) to use or exploit the Intellectual Property Rights and the Business Names. For the avoidance of doubt, the Seller does not authorise or purport to authorise the Buyer to use or exploit any Intellectual Property Rights or the Business Name before the Buyer obtains any such Permissions.
- 6.2 The Buyer shall be responsible for all registration, maintenance, renewal fees and other expenses in connection with the assignment, licensing or maintenance of the Intellectual Property Rights and the Business Name.

6.3 The Buyer shall fully indemnify the Seller and the Administrators from and against all claims and losses which may be brought against or incurred by the Seller or the Administrators in respect of any or all of the Intellectual Property Rights or the Business Name insofar as such matters relate to the period, or any event occurring, after the Effective Time.

7 THIRD PARTY ASSETS

7.1 The Buyer shall collect and take possession of the Third Party Assets after Completion.

7.2 The Buyer shall:

7.2.1 hold the Third Party Assets as bailee;

7.2.2 have no title to nor further right to possess or use any of the Third Party Assets;

7.2.3 not hold itself out as owner of any of the Third Party Assets;

7.2.4 at its own expense, maintain the Third Party Assets in as good condition as they were in at the time of Completion (subject to normal wear and tear);

7.2.5 not sell, charge or otherwise encumber or dispose of any of the Third Party Assets; and

7.2.6 allow the Administrators, the Seller, the owners of the Third Party Assets and their respective representatives, to have access to the Third Party Assets at any reasonable time, to enable them to inspect, remove or otherwise deal with them.

7.3 The Buyer shall use all reasonable endeavours to obtain the consent of the owners of the Third Party Assets to the Buyer's continued possession, use or purchase of them. Neither the Administrators nor the Seller shall object to or hinder any arrangements which the Buyer may wish to make in this respect. The Seller shall execute such documents as the Buyer may reasonably require subject to the requirements of clause 20.

7.4 If the owner of any Third Party Asset refuses to sell it or otherwise make it available to the Buyer, the Buyer shall forthwith deliver up such item for collection and removal by the owner and notify the Seller of such delivery up.

7.5 The Buyer shall fully indemnify the Seller and the Administrators from and against all claims and losses which may be brought against or incurred by the Seller or the Administrators in respect of any or all of the Third Party Assets insofar as such matters relate to the period, or any event occurring, after the Effective Time.

8 ROT ASSETS

8.1 The Buyer shall collect and take possession of the ROT Assets after Completion.

8.2 The Buyer shall:

8.2.1 hold the ROT Assets as bailee;

- 8.2.2 have no title to nor further right to possess any of the ROT Assets;
 - 8.2.3 not hold itself out as owner of any of the ROT Assets;
 - 8.2.4 not charge or otherwise encumber any of the ROT Assets;
 - 8.2.5 store, maintain and insure the ROT Assets at its own expense;
 - 8.2.6 allow the Administrators, the Seller, the owners of the ROT Assets and their respective representatives, to have access to the ROT Assets at any reasonable time, to enable them to inspect, remove or otherwise deal with them.
- 8.3 From Completion, the Buyer shall promptly inform the Administrators and the Seller of any information received by it in respect of any ROT Claims.
- 8.4 The Buyer shall fully indemnify the Seller and the Administrators from and against all claims and losses which may be brought against or incurred by the Seller or the Administrators in respect of any or all of the ROT Assets insofar as such matters relate to the period, or any event occurring, after the Effective Time.
- 8.5 Where it is established by agreement between the Administrators and the relevant claimant or by court order that an ROT Claim is not valid and enforceable, such right, title and interest (if any) as the Seller has in the ROT Asset, the subject of that ROT Claim, will pass to the Buyer on the date of that agreement or court order.

9 **EMPLOYEES**

- 9.1 Neither the Seller nor the Administrators shall have any liability to the Buyer for any claims or losses which may be brought against or incurred by the Buyer whether relating to the period after the Effective Time in respect of any persons whose employment is transferred to the Buyer (if any), whether under TUPE or otherwise.

10 **VALUE ADDED TAX**

- 10.1 All amounts payable by the Buyer pursuant to this agreement are expressed exclusive of any VAT that may be chargeable thereon and the Buyer shall pay all applicable VAT to the Seller at the time of payment of any amount pursuant to this agreement.

11 **PROMOTIONAL LITERATURE**

The Buyer shall not use any of the Promotional Literature nor send any of it to any customers or potential customers without first affixing stickers to it to ensure that such recipients are aware that they will be dealing and contracting with the Buyer and not the Seller or the Administrators.

12 **SELLER'S RECORDS**

- 12.1 From Completion, the Buyer shall make the Seller's Records available for inspection by the Seller, the Administrators and their representatives and provide to them reasonable facilities during normal business hours to inspect and copy (at the Buyer's expense) the Seller's Records.

12.2 The Buyer shall:

12.2.1 keep the Seller's Records in good order and in good and safe condition, and insured for their full value; and

12.2.2 whilst they remain in office, give the Administrators not less than one month's prior notice of any intended disposal or destruction of all or any of them.

12.3 For the avoidance of doubt, the Administrator's Records shall not be available to the Buyer for inspection or otherwise and if any of them come into the possession of the Buyer, at Completion or otherwise, it shall immediately notify the Administrators and deliver them to the Administrators within 5 working days of a demand being received by the Buyer.

13 **VAT RECORDS**

13.1 The Seller shall preserve and permit the Buyer reasonable access to the VAT Records for such period as may be required by law.

13.2 If any of the VAT Records come into the possession of the Buyer, at Completion or otherwise, it shall immediately notify the Administrators and deliver them to the Administrators on demand.

14 **DATA PROTECTION**

14.1 Notwithstanding any other provision of this agreement, the Buyer undertakes that, on receipt of the Customer Database and Employee Database on the Completion Date, it shall:

14.1.1 duly observe all of its obligations as a Data Controller under the Data Protection Legislation which arise in connection with processing Data;

14.1.2 comply with the seven principles relating to processing of personal data set out in article 5(1) of the GDPR and, in particular, it shall process Data fairly and lawfully in accordance with the "lawfulness, fairness and transparency" principle in accordance with the terms and conditions set out in this agreement;

14.1.3 send a privacy notice to each individual subject of any Data within 5 Business Days of the Completion Date;

14.1.4 respond to any request in relation to the provision of details of the product(s) and services in accordance with the **rights of data subjects** (as defined in article 4(1) of the GDPR); and

14.1.5 obtain, and at all times maintain, a notification under the Data Protection Legislation appropriate to the performance of its obligations under this agreement.

14.2 The Buyer shall fully indemnify the Seller and the Administrators from and against all claims and losses incurred by the Seller or the Administrators which may be brought against or incurred by the Seller or the Administrators in respect of the processing of the Data by the Buyer or any breach of contract, negligence, fraud, wilful misconduct,

breach of statutory duty or non-compliance with the data protection obligations set out in this clause 14 or any part of the Data Protection Legislation by the Buyer or its representatives from the Effective Time.

15 BUSINESS NAME

The Seller undertakes to the Buyer that it shall not use the Business Name(s) or any combination of it with any other word or any other name closely resembling it after Completion for the purposes of carrying on trade or business.

16 CORRESPONDENCE

After Completion, the Buyer shall promptly deliver to the Administrators all correspondence received by the Buyer but addressed to the Seller or the Administrators.

17 ADMINISTRATORS' LIABILITY

17.1 The Administrators act as agents for the Seller and neither they nor their representatives shall incur any personal liability in any circumstances whatever by virtue of this agreement, nor in relation to any related matter or claim nor in respect of any transfer, assignment or other documents made pursuant to this agreement.

17.2 The Administrators have entered into this agreement in their personal capacities solely for the purpose of obtaining the benefit of the provisions in their favour.

18 EXCLUSIONS

18.1 Subject to clause 18.5, all representations, warranties, conditions, guarantees and stipulations, express or implied, statutory, customary or otherwise in respect of the Assets or any of the rights, title and interests transferred or agreed to be transferred pursuant to this agreement are expressly excluded (including warranties and conditions as to title, quiet possession, merchantable quality, fitness for purpose and description). Except as expressly set out in this agreement, any lists contained in any schedule or annexe are for guidance only and are not exhaustive or complete lists of the items in question and shall not constitute any warranty in respect of the Seller's ownership of the listed items or otherwise.

18.2 The Assets or any of them are sold in their condition and locations at the Effective Time and subject to all faults, liens, executions, distraints, encumbrances and claims of third parties; the expense of discharging which shall be met by the Buyer. Unless otherwise required by law (and then only to that extent), the Seller and the Administrators and each of them shall not be liable for any loss arising out of, or due to, or caused by any defect or deficiencies in any or all of the Assets.

18.3 The Buyer agrees that the terms and conditions of this agreement and the exclusions and limitations contained in it are fair and reasonable having regard to the following:

18.3.1 that this is a sale by an insolvent company in circumstances where the Administrators' knowledge of the Business and Assets is limited and it is usual that no representations and warranties are given by or on behalf of the Seller or the Administrators;

18.3.2 that the Buyer has relied solely on the opinions of itself and its professional

advisors concerning the Assets or any of them, their quality, condition, description, fitness and for suitability for any purpose, the possibility that some or all of them may have defects not apparent on inspection and examination, and the use it intends or proposes to put them to;

18.3.3 that the Buyer has agreed to purchase the Assets or any of them "as seen" in their present state and condition for a consideration which takes into account the risk to the Buyer represented by the parties' belief that the said exclusions and limitations are or would be recognised by the Courts;

18.3.4 that the Buyer, its representatives and advisers have been given every opportunity if or they may wish to have to examine and inspect all or any of the Assets or any of them and all relevant documents relating to them.

18.4 The Buyer acknowledges that it has not entered into this agreement in reliance upon any representations, agreements, statements or replies to specific enquiries (whether oral or written) made or alleged to have been made by the Seller, the Administrators or its or their representatives at any time.

18.5 Nothing in this agreement operates to limit or exclude any liability for fraud or fraudulent misrepresentation.

18.6 The Buyer acknowledges that if the Seller does not have title or unencumbered title to any or all of the Assets, or if the Buyer cannot exercise any right conferred or purported to be conferred on it by this agreement, this shall not be a ground or grounds for rescinding, avoiding or varying any or all of the provisions of this agreement, or for any reduction or repayment of any part of the consideration.

19 CONFIDENTIALITY AND ANNOUNCEMENTS

19.1 The Seller and the Administrators undertake to the Buyer to keep confidential all the information that they have acquired about the Buyer and the Buyer Group and to use such information only for the purposes contemplated by this agreement.

19.2 The Buyer undertakes to the Seller and the Administrators to keep confidential the terms of this agreement and all information that it has acquired about the Seller and the Seller Group and to use the information only for the purposes contemplated by this agreement.

19.3 Either party may disclose any information that it is otherwise required to keep confidential under this clause 19:

19.3.1 to such professional advisers, consultants and employees or officers of its group and, in the case of the Seller and the Administrators, the Administrators' firm, employees and agents, as are reasonably necessary to advise on this agreement, or to facilitate the Transaction, provided that the disclosing party procures that the people to whom the information is disclosed keep it confidential as if they were that party;

19.3.2 with the written consent of the Administrators and the Buyer; or

19.3.3 to the extent that the disclosure is required:

19.3.3.1 for the purposes of the administration or any subsequent