

Appendix 4: Sample Subscription Agreement

Douglas Ltd
[“the Company”]

AND

VCPE FUND I LIMITED PARTNERSHIP

[“the Subscriber”]

AND

THE SEVERAL PERSON(S) WHOSE NAME(S) AND ADDRESS(ES)
are set out in the First Schedule hereto
[“the Existing Shareholder(s)”]

SUBSCRIPTION AGREEMENT
(Redeemable Convertible Preference Shares)

October 18, 2008

Section 1.03 Agreement to Subscribe

The Company has agreed to allot and issue to the Subscriber and the Subscriber has agreed to subscribe for [●] redeemable convertible preference shares of [●] each in the Company at a premium of [●] only per share in accordance with the terms of this Agreement.

NOW IT IS HEREBY AGREED AND DECLARED as follows:

ARTICLE II

Definitions

Section 2.01 Definitions

1 In this Agreement and Schedules except to the extent that the context requires otherwise, the following terms shall have the following respective meanings:-

Words	Meanings
“ Auditors ”	The auditors for the time being of the Company
“ Board ”	The board of directors of the Company.
“ Business Day ”	A day (other than a Saturday, Sunday or public holiday) on which banks are open for business in [●].
“ Company ”	Douglas Ltd a company incorporated in [●] and having its registered office at [●].
“ Existing Shareholders ”	Those persons whose names and addresses are set out in the First Schedule hereto.
“ Key Personnel Service Agreement ”	The agreement referred to in Section 7.02 hereof to be entered into between the Subscriber and such party or parties as may from time to time be identified as the key personnel in the Company upon such terms and conditions acceptable to the Subscriber.
“ Listing Period ”	The period on or before <u>December 31</u> , 2012.

“Maturity Date”	The last day of the period of four (4) years from the date of first issuance of the RCPS.
“Put and Call Option Agreement”	The agreement to be entered into between the Subscriber and the parties more particularly described therein and referred to in Section 7.01 hereof.
“RCPS”	[•] redeemable convertible preference shares of [•] each in the Company to be subscribed progressively by the Subscriber at a premium of [•] only per share upon the terms and subject to the conditions set out in this Agreement.
“Shares”	Ordinary shares of [•] each in the capital of the Company.
“Subscription Date”	The date(s) to be mutually agreed upon between the Company and the Subscriber for each progressive release of the Subscription Price on a quarterly basis after all the conditions precedent set out in Section 5.01 herein have been fulfilled to the satisfaction of the Subscriber.
“Subscription Price”	[•] only per RCPS the aggregate sum of which does not exceed [•] to be released progressively by the Subscriber on each Subscription Date for the RCPS to be then subscribed.
“Subscriber”	VCPE FUND I LIMITED PARTNERSHIP , a fund established in [•] and having its registered office at [•].

2. Words denoting the singular number only shall include the plural number and vice versa.
3. Words denoting the neuter or masculine gender only shall include the feminine gender and vice versa.
4. Words denoting persons only shall include firms and corporations.
5. Unless otherwise indicated, in this Agreement, references to :-

- (a) any provisions of any stature shall be deemed also to refer to any statutory modification or re-enactment thereof or any statutory instrument, order or regulation made thereunder or under such re-enactment;
 - (b) Annexures, Schedules, Clauses and paragraphs shall be construed as references to, respectively, the Annexures and Schedules to and the Clauses and paragraphs of, this Agreement;
 - (c) [\$\$] shall be construed as references to the lawful currency for the time being of [●]; and
 - (d) any action, remedy or method of judicial proceeding for the enforcement of rights of creditors shall be deemed to include, in respect of any jurisdiction other than [●], references to such action, remedy or method of judicial proceeding for the enforcement of rights of creditors available or appropriate in such jurisdiction as shall most nearly approximate to such action, remedy or method of judicial proceeding described or referred to in this Agreement.
- 6 The headings in this Agreement are inserted for convenience only and shall be ignored in construing this Agreement.
7. References to any agreement or document herein shall be a reference to the same as from time to time varied in any manner whatsoever and any other agreements or documents from time to time executed supplemental or in addition thereto or in substitution therefore, unless the context otherwise requires.
8. The agreement covenants stipulations warranties and undertakings expressed to be made by and on the part of the Existing Shareholders shall be binding upon them jointly and severally.

ARTICLE III

Subscription for RCPS

Section 3.01 Agreement to Issue and Subscribe

The Company hereby agrees to allot and issue to the Subscriber and the Subscriber, in reliance on the representations, warranties and undertakings of the Company herein set out, agrees upon the terms and subject to the conditions set out in this Agreement to subscribe and pay for the RCPS at the Subscription Price on the Subscription Date.

Section 3.02 RCPS

The RCPS shall be issued on the following terms:-

- (i) Tenure
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The maturity date shall fall on the last day of the period of four (4) years from the date of first issuance of the RCPS.

(ii) Dividends

The Subscriber shall be entitled to preferential cumulative dividends at the rate of eight (8) % per annum calculated on the basis of the total amount invested by the Subscriber at the relevant date;

(iii) Redemption

The Company agrees that the Subscriber shall have the sole and absolute discretion to require the Company to redeem the RCPS or part thereof on Maturity Date by repayment of the amount paid for the RCPS or part thereof together with a compounded premium of twenty five (25) % per annum less all dividends paid during the tenor of the RCPS, if any, to the Subscriber. The Subscriber shall for purposes of the redemption serve a notice of redemption in the form annexed hereto as Second Schedule (I) on the Company within thirty (30) days from the Maturity Date and the Company shall pay the redemption sum within fourteen (14) days from the date of the said notice failing which the Company shall pay to the Subscriber late payment interest at the rate of eight (8) % per annum on daily rests calculated on all sums due and payable to the Subscriber until the date of actual payment thereof.

(iv) Conversion

(a) The Company agrees that Subscriber shall have the option at any time to require the Company to convert the RCPS or part thereof into fully paid ordinary shares of [•] each at the conversion rate of one (1) ordinary share of [•] for every [\$\$] paid on the RCPS including such premiums paid by the Subscriber, dividends and tax related thereon as may be due and owing by the Company to the Subscriber PROVIDED ALWAYS that in the event the Company shall issue any new ordinary shares prior to conversion of the RCPS or part thereof the conversion rate for the RCPS shall be adjusted in such manner acceptable to the Subscriber. Where the Company issues bonus shares and/or declares a rights issue, the Subscriber's entitlement to such bonus shares or rights issues shall be calculated on the basis as though every [\$\$] paid in respect of the RCPS including premium, dividends and tax related thereon as may then be due and owing by the Company to the Subscriber has been converted into one ordinary share of nominal value of [•] each and which shall be assumed to rank pari passu with all the other ordinary shares in the Company.

(b) The conversion may take place at any time within thirty (30) days after the Subscriber issues a notice of conversion in the form and substance annexed hereto as Second Schedule (II) to the Company.

(c) In the event that the Company fails to redeem the RCPS in accordance with Section 3.02(iii) hereof, the Subscriber shall have the right to convert the RCPS into fully paid ordinary shares of [●] each in the Company at the conversion rate of one (1) ordinary share of [●] for every [\$\$] paid on the RCPS, including the Subscriber's compounded holding cost of twenty five (25) % per annum, such premiums payable upon redemption, interest, dividends and tax related thereon as may be due and owing by the Company to the Subscriber PROVIDED ALWAYS that the conversion rate shall be adjusted for any new issue of ordinary shares prior to the conversion.

(v) Tag Along Option

Notwithstanding the aforesaid, if the Existing Shareholders shall at any time dispose of their shareholding to another party the Subscriber shall have the option to require the said party to purchase the RCPS or where any of the RCPS has been converted into ordinary shares of the Company, the Subscriber shall have the option to require the said party to purchase the converted shares at no less favorable terms.

(vi) Return of Capital

The Subscriber shall be entitled to return of capital in preference to ordinary shareholders when the Company is wound-up.

Section 3.03 Subscription Price

The Subscription Price shall be payable progressively and on a quarterly basis by the Subscriber to the Company on the Subscription Date(s) upon receipt of a written notice from the Company requesting for funds PROVIDED ALWAYS THAT all the conditions stipulated in Section 5.01 hereof shall have been complied with prior to each Subscription Date relating to each progressive disbursement of the Subscription Price and PROVIDED FURTHER THAT the Subscriber shall first approve the utilization of such funds.

ARTICLE IV

Subscriber's nominee as Director

Section 4.01 Subscriber's nominee

On or immediately after execution of this Agreement, the Company shall take such steps as shall be within its power to procure the appointment of a nominee of the Subscriber as a director of the Company if the same is required by the Subscriber and in the event that the Articles of

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Association of the Company are required to be amended for this purpose, the Company shall take immediate action to effect the same. Where the Subscriber does not require the appointment of a nominee as a director of the Company for the time being, the Company shall ensure that the representatives of the Subscriber are invited to attend all meetings of the directors of the Company.

ARTICLE V

Conditional Agreement

Section 5.01 Conditions Precedent

1. In addition to Section 3.03, the obligations of the Subscriber under this Agreement are conditional upon the Subscriber first approving on the utilization of funds as requested by the Company and having received the following in form and substance satisfactory to it:
 - (i) the report on the due diligence exercise conducted on the Company and its related companies which shall inter alia include confirmation that all pertinent agreements relating to the business of the Company shall have been duly executed on terms deemed favorable by the Subscriber and that the Company and its related companies have satisfied all the applicable statutory requirements by the respective statutory bodies in connection therewith;
 - (ii) the budget for the operation of the Company for the whole of the first three (3) years financial year ending December 31, 2008, December 31, 2009 and December 31, 2010 which shall inter alia include detailed capital expenditure plans, operating expenses and manpower requirement for the few months towards the current year end and the next financial closing;
 - (iii) all duly executed pertinent agreements relating to the business of the Company including but not limited to Key Personnel Service Agreement in form and substance acceptable to the Subscriber and which are confirmed to be valid and subsisting;
 - (iv) the approval of the shareholders of the Company in general meeting to the allotment and issue of the RCPS to the Subscriber and the written waiver by them of their rights in relation to the RCPS;

- (v) there having been as at each Subscription Date, neither any adverse change in the condition (financial or otherwise) of the Company which is material in the context of the subscription for the RCPS, nor the occurrence of any event making any of the representations and warranties contained in Article IX untrue and incorrect in any respect on each Subscription Date as though they had been given and made on such date with reference to the facts and circumstances then subsisting, nor the occurrence of any breach of the undertakings contained in Article X nor the occurrence of any event of default under this Agreement;
- (vi) evidence that the issued and paid up share capital of the Company has been increased to [●];
- (vii) evidence of the Company's ownership of all intellectual property rights ("IPR") in such form and substance acceptable to the Subscriber;
- (viii) the delivery to the Subscriber of :-
 - a) a copy, certified as a true copy by a duly authorized officer of the Company, of (1) the certificate of incorporation of the Company and (2) the Memorandum and Articles of Association of the Company incorporating the terms of the issuance of the RCPS and (3) the Company's latest [●];
 - b) a copy, certified as a true copy by a duly authorized officer of the Company, of resolutions of the shareholders of the Company in general meeting approving the issue of the RCPS and the amendment to the Memorandum and Articles of Association incorporating the terms of the issuance of the RCPS and the resolutions of the board of directors of the Company approving this Agreement including all other related agreements and the issue of the RCPS and authorising a named person or persons on behalf of the Company to execute this Agreement;
 - c) a certificate by a duly authorized officer of the Company setting out the names and specimen signatures of the persons authorized to execute, on behalf of the Company this Agreement and any documents to be delivered by the Company pursuant hereto or thereto;
 - d) a certificate dated the relevant Subscription Date signed by a duly authorized officer of the Company stating that, to the best of his knowledge and belief, having made all reasonable enquiries, there has been no such change, development or occurrence as is referred to in subparagraph (v) above;
 - e) such reports and confirmations from the Auditors of the Company as the Subscriber may reasonably require;

- f) a copy, certified as a true copy by a duly authorized officer of the Company, of the transfer and allotment of shares forms evidencing the Existing Shareholders' shareholding proportion in the Company; and
 - g) such other documents, confirmations, opinions and approvals as may be required by the Subscriber.
- (ix) the results of the necessary searches of charges on the Company, the Existing Shareholders and or key personnel from time to time identified by the Subscriber [●], as the case may be;
 - (x) there shall have been obtained or there shall have been made provisions satisfactory to the Subscriber for the Company to obtain all governmental, corporate, creditors, shareholders' or other authorizations, licenses, approvals and consents which may be necessary or expedient for the issuance of the RCPS;
 - (xi) no event or circumstances or change of law or other governmental action shall have occurred which shall make it improbable in the opinion of the Subscriber that the Company will be able to issue the RCPS and to observe and perform the covenants and obligations on its part to be observed and performed under the relevant agreements;
 - (xii) the letter of offer in relation to the subscription granted herein has been duly accepted by the Company and this Agreement, the Put and Call Option Agreement, the Key Personnel Service Agreement and all other agreements related to the subscription of the RCPS in the form and substance acceptable to the Subscriber duly executed and stamped; and
 - (xiii) fulfillment by the Company of any other terms and conditions as may from time to time be stipulated and or required by the Subscriber.

In the event that any of the relevant foregoing conditions specified in Section 3.03 and Section 5.01(1) above, as the case may be, is not satisfied on or before the relevant Subscription Date, the Subscriber may refuse to release the Subscription Price or part thereof and/or by notice to the Company (subject as herein mentioned below) terminate this Agreement and upon such notice being given, the parties shall (except as otherwise specifically provided herein) be released and discharged from their respective obligations under this Agreement, provided that the Subscriber may in its absolute discretion and by notice to the Company waive satisfaction of any of the aforesaid conditions (which are capable of being waived) or of any part of them and any condition or of any part thereof so waived shall be deemed to have been satisfied.

ARTICLE VI

The Proposed Listing

Section 6.01 Listing

The Company undertakes and agrees that it shall take all the necessary steps to comply with all legal and other requirements for submitting the necessary applications to the relevant authorities for their approval for the listing of the Company on [•] or any other recognized exchange. The Company further undertakes and agrees to do all that is necessary to ensure that the Company is listed within the Listing Period.

ARTICLE VII

Put and Call Option Agreement and Key Personnel Service Agreement

Section 7.01 Put and Call Option Agreement

Simultaneously upon the execution of this Agreement, the Subscriber shall enter into a Put and Call Option Agreement with the parties more particularly described therein.

Section 7.02 Key Personnel Service Agreement

Simultaneously, upon the execution of this Agreement, the Subscriber shall enter into a Key Personnel Agreement with such parties or parties in the Company as may be identified by the Subscriber as being the key personnel of the Company and the Company shall furnish a copy of the said Agreement to the Subscriber.

ARTICLE VIII

Expenses

Section 8.01 Costs and expenses

The Company shall bear and pay all costs and expenses including solicitors' cost incurred in or in connection with the preparation of this Agreement and the allotment and issue of the Subscription

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Shares. The Company shall reimburse all expenses incurred by the Subscriber pertaining to the Subscriber's participation in the Company including but not limited to accommodation expenses, travelling expenses, legal and professional fees and other related expenses thereto. The Subscriber shall furnish to the Company a reasonable estimate of expenses to be incurred prior to incurring the same.

Section 8.02 Termination of Agreement

All costs and expenses referred to in this Section shall be payable notwithstanding that this Agreement is terminated pursuant to the terms of this Agreement.

ARTICLE IX

Warranties

Section 9.01 Warranties by the Company and the Existing Shareholders

1. As a condition of the obligation of the Subscriber to subscribe and pay for the RCPS, the Company and each of the Existing Shareholders represent and warrant to the Subscriber as follows:
 - (a) in the context of the issue of the RCPS, (the "issue") all information supplied to the Subscriber is or will be true, fair and accurate as the case may be, in all material respects and nothing has been supplied or omitted from such information which would or might make any of the information misleading or which would or might be expected to affect the willingness of the Subscriber to subscribe for the RCPS all forecasts, expressions of opinion, intention and expectation which have been disclosed or will be disclosed in connection with the issue of the RCPS are or will be fairly and honestly held and have been made or will be made after due and careful enquiries and consideration and represent or will represent reasonable expectations based on facts known to the Company as at the date of such disclosure;
 - (b) that the accounts/audited accounts and the other financial statements and other financial information (both audited and unaudited) of the Company delivered to the Subscriber prior to the date of this Agreement were prepared in accordance with the accounting principles described therein consistently applied, that they present fairly the financial position of the Company, and the results of the operations of the Company and the changes in the financial position of the Company for the periods and as at the dates in respect of which they have been prepared and that there has been no adverse change in the financial position of the Company, which is material in the context of the subscription for the RCPS, since the respective dates of such financial statements;

- (c) that since the accounts date the Company has not entered into any contract or commitment of an unusual or onerous nature (other than in the ordinary course of business), which, in the context of the subscription for the RCPS, may be material for disclosure and the Company has carried on its business in the ordinary and usual course;
- (d) that the Company is a company duly incorporated under the laws of [●] and it has full power and authority to conduct its business and each of the Existing Shareholders and the Company has the power and capacity to execute and deliver and comply with the provisions of this Agreement and has taken all necessary corporate and other action to authorize the execution, delivery and performance of this Agreement;
- (e) that the Company is not insolvent nor in liquidation and no steps have been taken by any person for or with a view to the appointment of a liquidator, receiver and/or manager or judicial manager of the Company, or any of its assets or undertakings;
- (f) that the allotment and issue of the RCPS, and the performance of the terms of this Agreement, by or on behalf of the Company, will be duly authorized by the Company and that the same constitute, or (in the case of this Agreement upon due execution and delivery and in the case of the RCPS upon due allotment and issue), will constitute legal, valid and binding obligations of the Company enforceable in accordance with their respective terms;
- (g) that the execution and delivery by or on behalf of the Company of this Agreement and the issue by the Company of the RCPS do not and will not infringe any applicable law or regulation and are not and will not be contrary to the provisions of the Memorandum and Articles of Association of the Company and will not infringe any terms of, or constitute a default under, any instrument or agreement to which the Company is a party or by which it or its property is bound;
- (h) that neither the Company, the Existing Shareholders nor any key personnel from time to time identified by the Subscriber, is involved in, nor has any of them any knowledge of any threat of, or circumstances likely to lead to, any litigation or arbitration or administrative proceedings;
- (i) that all consents, clearances, approvals, authorizations and orders of any court, government department or other regulatory body in [●] or elsewhere and all corporate consents, approvals and authorizations required by Existing Shareholders and the Company for or in connection with the execution and delivery of this Agreement and the allotment and issue of the RCPS have been obtained and will remain in full force and effect;

- (j) the statements of fact including the recitals contained in this Agreement are true, complete and accurate in all material respects;
 - (k) no circumstances or situations have arisen which is or are likely to materially and adversely affect the financial condition or business of the Company and no information has been withheld from the Subscriber which may in any way affect its decision to enter into this Agreement and/ or to subscribe for the RCPS;
 - (l) that this Agreement constitutes the legal, valid and binding obligations of each of the Existing Shareholders and the Company as the case may be in accordance with its terms;
 - (m) that the execution, delivery and performance of this Agreement will not exceed any power granted to each of the Existing Shareholders or violate the provisions of:-
 - (i) any law or regulation or any order or decree of any governmental authority, agency or Court to which it/he is subject; or
 - (ii) where applicable, the Memorandum and Articles of Association of the Company; or
 - (iii) any mortgage contract or other undertaking or instrument to which they are or any of them is a party or which is binding upon them or any of their properties and assets and will not result in the creation or imposition of or any obligation to create or impose any mortgage, lien, pledge or charge on any of their assets pursuant to the undertaking or instrument;
 - (n) that neither the Company nor any of the Existing Shareholders is and each of them shall be insolvent or entitled to any immunity from suit or other legal process in any proceedings in any jurisdiction;
2. The Company and each of the Existing Shareholders further represent and warrant to the Subscriber in the terms set out in the Third Schedule hereto subject only to any exceptions expressly provided for under the terms of this Agreement.

Section 9.02 Indemnity

The commitment of the Subscriber to subscribe and pay for the RCPS being made on the basis of the aforesaid representations and warranties and the Undertakings in Articles IX and X hereof and to the intent that the aforesaid representations and warranties shall remain true, fair and accurate as the case may be, in all material respects up to and including each relevant Subscription Date, the Company covenants with the Subscriber to hold the Subscriber fully and effectually indemnified from and against any losses, liabilities, costs, claims, charges, expenses, actions or demands which the Subscriber may incur, or which may be made against the Subscriber, as a result of or in relation to any actual or alleged misrepresentation in or breach of any of the said

representations and warranties made by the Company in Section 9.01 above. Such indemnity shall extend to include all reasonable costs, charges and expenses which the Subscriber may pay or incur in disputing or defending any claim or action or other proceedings in respect of which indemnity may be sought against the Company under this Section 9.02. The Subscriber agrees that it will as soon as practicable inform the Company of all claims, actions or proceedings of which it is aware and in respect of which indemnity may be sought against the Company under this Section 9.02.

Notwithstanding the above, the Existing Shareholders and the Company further indemnify the Subscriber for any losses, liabilities, costs, claims, charges, expenses, actions or demands which the Subscriber may incur as a result of or in relation to or howsoever arising from any legal proceedings taken against any key personnel, management, employees or any shareholders of the Company.

Section 9.03 Notification of Breach

- (1) The Company undertakes with the Subscriber that it will forthwith notify the Subscriber of any change affecting any of the aforesaid representations, warranties and indemnities given by the Company at any time prior to payment being made to the Company on each relevant Subscription Date and take such steps as may reasonably be requested by the Subscriber to remedy and/or publicize the same and/or reimburse the Subscriber in respect of the expense of any such steps taken by it.
- (2) Upon any misrepresentation or breach of any of the said representations and warranties or any change rendering any of the said representation or warranties inaccurate in any respect coming to the notice of the Subscriber prior to payment as aforesaid being made on each relevant Subscription Date, the Subscriber shall in the absolute discretion be entitled (but not bound) by notice to the Company to elect to terminate this Agreement, whereupon the parties hereto shall (except as otherwise specifically provided herein) be released and discharged from their respective obligations under this Agreement, provided always that failure to make any such election as aforesaid shall be without prejudice to the right of the Subscriber, to elect to treat, prior to payment as aforesaid being made on each relevant Subscription Date, any further or other such breach or change as a cause for termination of this Agreement.

Section 9.04 Continuing Effect

The said representations and warranties:

- (i) shall be separate and independent and save as expressly otherwise provided shall not be limited by reference to any other paragraphs hereof or by anything in this Agreement and no other information relating to the Company of which the Subscriber has knowledge (actual or constructive) shall prejudice any claim made by the Subscriber under such warranties or undertakings or operate to reduce any amount recoverable and the Company hereby agrees that such warranties and undertakings are not affected by any investigation into the affairs of the Company made by or for the Subscriber; and

- (ii) shall continue in full force and effect notwithstanding completion of the subscription and issue of the RCPS or any investigation by or on behalf of the Subscriber.

Section 9.05 Legal Action

If any action, proceeding, claim or demand shall be brought or asserted against the Subscriber in respect of which an indemnity may be sought from the Company, the Subscriber shall, as soon as practicable, notify the Company in writing, and (subject to the provision by the Company of such security against the Subscriber's liability in respect of such action, proceeding, claim or demand as the Subscriber may reasonably require) the Company shall have the option to assume the defense thereof, including the employment of legal advisers selected by the Company but approved by the Subscriber, subject to the payment by the Company of all fees and expenses. The Subscriber shall have the right (after consultation with the Company) to select separate legal advisers to assume such legal defenses and otherwise to participate in the defense of such action, proceeding, claim or demand on its behalf and the fees and expenses of such legal adviser shall be borne by it. The Company shall not be liable in respect of any settlement of any such action, proceeding, claim or demand without its consent, which shall not be unreasonably withheld.

ARTICLE X

Undertakings and Covenants

Section 10.01 Undertakings and Covenants

The Company undertakes and covenants with the Subscriber that:-

- (i) it will bear and pay all and any stamp duty and other documentary taxes and duties payable (including any penalties resulting from any delay or omission on the part of the Company) in [•] on or in connection with the allotment, issue and delivery of the RCPS;
- (ii) it will do and execute and procure the doing and execution of all things and documents necessary to ensure the fulfillment of the Conditions Precedent prior to each relevant Subscription Date and in particular without affecting the generality of the foregoing, it will issue the confirmation required by Section 5.01(1)(v) hereof;
- (iii) the Company will use its best endeavour, prior to the expiry of the Listing Period, apply to [•] or any other recognized exchange and obtain permission for the listing and quotation of all the Shares of the Company and the Company shall at all times promptly furnish and deliver all documents, instruments, information, certificates and undertakings as may be necessary or advisable in order to obtain such permission and quotation;
- (iv) within the first fourteen (14) days of each month, the Company shall furnish to the Subscriber for its information all monthly progress reports on the production, product development, management, corporate development, research and development, marketing

- and financial aspects of the Company including any other issues that are material to the Company's Said Business and shall further submit to the Subscriber the audited accounts of the Company within ninety (90) days from the close of the financial year of the Company;
- (v) the Company allows the Subscriber and or such other parties appointed by it to have access to all records, financial and accounting information at any time and from time to time as may be requested by the Subscriber for purposes of conducting post disbursement due diligence or special audit on the operations as well as financial statements of the Company;
 - (vi) the Company shall submit its annual budget for approval by the Subscriber two (2) months before the beginning of each financial year;
 - (vii) upon the Subscriber exercising its conversion rights in the manner set out in Section 3.02(iv) hereof, the Company shall do all that is necessary to facilitate the said conversion of the RCPS;
 - (viii) the Company shall carry out and operate its business and affairs with due diligence and efficiency and in accordance with its Memorandum and Articles of Association;
 - (ix) the Company shall utilize the proceeds of the Subscription Price strictly for purposes approved by the Subscriber;
 - (x) the Company shall at all times consult the Subscriber on management, operational and financial matters of the Company more particularly set out in Section 11.03(ii) hereof and in particular on such matters which would or could affect the financial position of the Company PROVIDED ALWAYS that prior to the appointment of the nominee or nominees of the Subscriber to the Board of the Company, the Company shall consult the Fund Manager on all matters relating to the same;
 - (xi) that the Company shall take all steps necessary to ensure the listing and quotation of the shares of the Company on [●] or any recognized exchange before the expiry of the Listing Period;
 - (xii) the Company shall furnish to the Subscriber copies of all:-
 - forms or documents filed with [●], resolutions and any other documents, whether past, present or future within thirty (30) days from the date of such filing; and

- all notices of demand, writs or other documents threatening, giving notice of or commencing or instituting litigation or other court proceedings against the Company within seven (7) days of receipt of the same.
- (xiii) the Company shall pay all its indebtedness as and when they fall due; and
- (xiv) the Company shall comply with all the terms and conditions of this Agreement or such other terms and conditions as may from time to time be required by the Subscriber.

Section 10.02 Covenants by Existing Shareholders

The Existing Shareholder(s) hereby agree and undertake with the Subscriber that they shall cause the Company to comply with the undertakings and covenants set out in Section 10.01 above.

ARTICLE XI

Directorate of the Company and Board Meetings and Directors' Working Committee

Section 11.01 Directorate and Board Meetings

- (i) The Board of the Company shall consist of not more than [●] members. The Subscriber shall be entitled, at all times, to appoint one (1) person to be a director of the Company and to remove from office any such director so appointed and to appoint another in his place. The director so appointed by the Subscriber shall also be entitled to appoint any person to be an alternate director of the Company. The Existing Shareholder(s) shall procure its/their respective nominees on the Board to approve any persons appointed by the Subscriber under this Section as a director and an alternate director of the Company. In the event the Subscriber shall decide not to appoint any person on to the Board, the Company shall invite representatives from the Subscriber to attend its Board meetings.
- (ii) In the event of any equality of votes in a meeting of the Board, the Chairman of the Board shall not have a second or casting vote.
- (iii) The quorum necessary for a meeting of the Board shall be two (2) directors present in person. Where the requisite notice of such meeting has been given and the meeting is duly convened but cannot be held for lack of quorum, the meeting shall be automatically adjourned to the same time on the next Business Day and notice of such adjournment shall be dispatched by facsimile transmission or by hand to all directors.

- (iv) The Board shall meet at least four (4) times per annum and shall give or send to all directors and representatives of the Subscriber as the case may be:-
 - a) not less than seven (7) days clear written notice of each meeting of the Board such written notice to be accompanied by an agenda of the business to be transacted at the meeting (Together with all papers to be circulated or presented to the same) unless such requirement is waived by all the Directors; and
 - b) as soon as practicable, but in any event not later than fourteen (14) days, following each meeting of the Board a copy of the minutes signed by the Chairman.
- (v) Subject to Section 11.03 hereof, any questions arising at any meeting of the Board shall be decided by a majority vote of the Directors present.

Section 11.02 Directors' Working Committee

- (i) The Board shall establish a Directors' Working Committee ("Committee") and shall appoint not more than three (3) persons to the Committee of which at least one (1) representative shall be from the Subscriber.
- (ii) The Committee shall meet at least once in every month or at such frequency as the Committee may from time to time decide and all the Committee members shall be given not less than three (3) Business Days clear notice of each Committee Meeting such written notice to be accompanied by an agenda of the business to be transacted at the meeting.
- (iii) The parties agree that the terms of reference of the Committee shall be to broadly govern the strategic direction of the Company and to approve all operational issues.
- (iv) The quorum for the Committee meetings shall be two (2) persons one of whom shall be a representative from the Subscriber or its nominee PROVIDED THAT where requisite notice of such meeting has been given and the meeting is duly convened but cannot be held for lack of quorum, the meeting shall be adjourned to the same day (or if that day is not a Business Day, on the Business Day falling immediately after that day) in the next week at the same time and place. If at such adjourned meeting such quorum is not present within half (1/2) an hour from the time appointed for holding the meeting, the parties hereto agree that notwithstanding such lack of quorum, the meeting shall proceed to take place as though a quorum is in place provided always at least two (2) persons are present. The chairman shall be appointed by the Board and in the absence of such chairman, the members present shall elect from among them, a chairman for the meeting.
- (v) Subject to Section 11.03 hereof, any decision of the Committee shall be by a majority vote of the committee members present. The chairman of the Committee shall confirm the minutes of all meetings of the Committee.

- (vi) The Committee shall at all times act within the powers granted to it and in accordance with any guidelines and policies established by the Board from time to time.

Section 11.03 Management of the Company

- (i) The management of the Company shall be vested in the Board who shall manage the Company as they deem proper, subject to the terms of this Agreement.
- (ii) Except as may be otherwise agreed by all the parties hereto, as long as the Subscriber shall hold the RCPS or part thereof or shall be a shareholder of the Company a resolution in respect of any of the following matters (“Reserved Matters”) shall not be passed by the Board unless such matters shall have been approved by the Subscriber’s director or in the absence of the appointment of such director, the Fund Manager:
 - a) any change in the general nature of the Company’s Said Business;
 - b) any change (increase or decrease) in the authorized capital and issued capital of the Company;
 - c) amendments to the Company’s Memorandum and Articles of Association;
 - d) a merger, consolidation, liquidation, dissolution of the Company;
 - e) any change in the Company’s fiscal year or auditors;
 - f) sell, lease, transfer, encumber or dispose of the Company’s property or fixed assets exceeding [●] only in one transaction or a series of transaction of a similar nature or for a similar purpose which is not included in the Company’s annual or approved revised budget;
 - g) incur or agree to incur any obligation or capital expenditure or approve any expenses in excess of [●] only or such sum equivalent to five (5) % of the Company’s net tangible asset whichever is lower which is not included in the annual or approved revised budget;
 - h) provide any loans whatsoever to its directors, shareholders, subsidiaries or any related companies thereof and or enter into any contract with any of its directors or the shareholders;
 - i) purchase, lease, acquire any property or fixed assets exceeding [●] or such sum equivalent to five (5) % of the Company’s net tangible asset whichever is lower which is not included in the annual or approved revised budget;

- j) acquire or dispose of any shares or securities in any other company;
- k) declare or make any distribution of profits among shareholders by way of dividend, capitalization of reserves or otherwise;
- l) obtain a loan or financing for any amount in excess of [●] which is not included in the annual or approved revised budget and or charge, pledge or offer any of the assets or properties now existing or hereafter acquired as security for any loans or indebtedness;
- m) approve the Company's annual or revised budget for each financial year;
- n) allow any change in its existing composition of directors or shareholders;
- o) make any investment of any nature or of any amount save and except for those which have been included in the annual or approved revised budget;
- p) declare or make any rights issue in respect of its shares and or issue any preference, bonus or other shares;
- q) issue of any guarantee or giving of any security by the Company; and
- r) any variation to the terms of reference of the Committee as set out in Section 11.02 (iii) hereof.

PROVIDED ALWAYS THAT for the purposes of this Section, all sums hereinabove mentioned shall mean the aggregate sum permitted for each financial year.

ARTICLE XII

General Meetings

Section 12.01 General Meetings

The Subscriber shall have the same rights as ordinary shareholders of the Company as regards receiving notices, reports and audited accounts, and attending general meetings of the Company.

Section 12.02 Voting

The Subscriber shall have the right to vote at all general meetings of the Company under the following circumstances:

- (a) on proposal to reduce capital;
- (b) on proposal to wind up the Company;
- (c) on proposal for the disposal of the whole of the Company's property, business and undertaking;
- (d) on a proposal that affects the rights attached to the RCPS;
- (e) when the dividend or part of the dividend on the RCPS is in arrears for more than 6 months; and
- (f) during the winding up of the Company.

ARTICLE XIII

Termination

Section 13.01 Subscriber's ability to Terminate

Notwithstanding anything herein contained the Subscriber may, by notice to the Company given at any time prior to payment of the Subscription Price in full to the Company, terminate this Agreement in any of the following circumstances:-

- (i) if there shall have come to the notice of the Subscriber any breach of the warranties contained in Article IX or of the undertakings contained in Article X; or
- (ii) if any of the conditions specified in Article V has not been satisfied or waived by the Subscriber; or
- (iii) if at any time on or prior to the relevant Subscription Date there shall develop, occur or come into effect any change or prospective change in or any introduction or prospective introduction of any legislation, regulation, policy, directive, guideline, request or interpretation or application thereof, by any government body, [●], the Securities Commission or [●], whether or not having the force of law, or other occurrence of any nature whatsoever, which, in the opinion of the Subscriber, reasonably held and exercised in good faith, materially and adversely affects or is likely to materially and adversely affect the Proposed Listing or the business or prospects of the Company.

PROVIDED THAT any failure by the Subscriber to terminate its obligations pursuant to Section 13.01 shall be without prejudice to the right of the Subscriber to treat any further or other breach, failure or change as releasing and discharging the Subscriber from its obligations as aforesaid.

ARTICLE XIV

Miscellaneous

Section 14.01 Notices

All communications hereunder shall be in writing and shall be delivered by hand at or mailed to telefaxed or telexed to the following addresses and numbers :-

The Company :

The Subscriber :

The Existing Shareholders: As per the First schedule

Any communication so sent shall be deemed to have been duly given on (i) the date of receipt if delivered personally or if transmitted by registered mail or (ii) the date of transmission with answerback indicated if transmitted by facsimile, telex, whichever shall first occur. Each party may change its address, facsimile or telex numbers for purposes hereof by notice to the other parties herein.

Section 14.02 Time

Time shall be of the essence of this Agreement.

Section 14.03 Governing Law and Jurisdiction

1. The Agreement shall be governed by, and construed in accordance with, the laws of [●].
2. In relation to any legal action or proceedings arising out of or in connection with this Agreement (“Proceedings”), the parties irrevocably agree to submit to the non-exclusive jurisdiction of the courts of [●], and waive any objection to Proceedings in any such court on the ground of venue or on the grounds that the Proceedings have been brought in an inconvenient forum.
3. For purposes of any writ of legal process, the Existing Shareholders hereby irrevocably and unconditionally appoint the Company to accept service of such writ of process in [●] on their behalf.

Section 14.04 Assignability

The Subscriber may assign its rights herein by giving notice to the other parties of this Agreement without first having to obtain their concurrence.

Section 14.05 Binding on Successors

Douglas Cumming and Sofia
Johan, Venture Capital and
Private Equity Contracting,
Appendix 4 (Elsevier, 2009)

This Agreement shall be binding on the assignees of the Subscriber and the successors in title of the parties hereto.

Section 14.06 Amicable consultation and arbitration

The parties hereto agree to use their best efforts promptly and adequately to resolve any dispute or difference which shall arise between the parties hereto touching any matter or thing herein contained or the operation or construction thereof or any matter or thing in any way connected with this Agreement or the rights, duties or liabilities of any party under or in connection with this Agreement, through amicable consultations, conciliations or other agreed upon means.

Section 14.07 Mutual Agreements

The parties hereto recognise that it is impracticable to make provisions for every contingency that may arise in the course of performance of the provisions hereof and accordingly declare their intention that this Agreement shall operate between them with fairness and without detriment to the interest of any party and covenant and agree with each other that they shall use their best endeavours to ensure that full effect be given to the terms of this Agreement in the spirit in which it was agreed and each party shall co-operate with the other(s) and execute and deliver to the other(s) such other instruments and documents and take such other actions as may be reasonably requested from time to time in order to carry out the intended purpose of this Agreement.

Section 14.08 Severance

If any provision of this Agreement or part thereof is rendered void, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 14.09 Remedies

No remedy conferred by any of the provisions of this Agreement is intended to be exclusive of any other remedy which is otherwise available at law, in equity, by statute or otherwise, and each and every other remedy shall be cumulative and shall be in addition to every other remedy given hereunder or that may be now or hereafter existing at law, in equity, by statute or otherwise. The election of any one or more of such remedies by any of the parties hereto shall not constitute a waiver by such party of the right to pursue any other available remedy.

Section 14.10 Waiver, forbearance and variation

1. The rights which each of the parties hereto has under this Agreement shall not be prejudiced or restricted by any indulgence or forbearance extended to another party. No waiver by any party in respect of a breach shall operate as a waiver in respect of any subsequent breach.
2. Any variation, amendment or revision of the terms herein contained may be effected by mutual agreement as evidenced by exchange of letters to that effect.

FIRST SCHEDULE

The Existing Shareholders

<u>Name</u>	<u>Address</u>	<u>Number of Ordinary Shares</u>	<u>%</u>

SECOND SCHEDULE (I)

(Redemption Notice)

To: The Company

Re: Redemption Notice Pursuant to Section 3.02(iii) of the Subscription Agreement dated [●] entered into between the Company, the Subscriber and the Existing Shareholders

We hereby give you notice to redeem [●] Redeemable Convertible Preference Shares at the sum of [●] each amounting to a total of [●].

Kindly make the necessary arrangements for the aforesaid sum to be paid to us on or before the expiry of fourteen (14) days from the date hereof.

Dated this day of 20

Authorised signatory of Company

Douglas Cumming and Sofia
Johan, Venture Capital and
Private Equity Contracting,
Appendix 4 (Elsevier, 2009)

THIRD SCHEDULE

THE SCHEDULE HEREINABOVE REFERRED TO

Company's Warranties and Undertakings

(Section 9.01)

1. **Copies of Accounts, Memorandum and Articles of Association etc.**

The copies of the accounts/audited accounts and of the Memorandum and Articles of Association of the Company delivered to the Subscriber are true copies and in the case of the Memorandum and Articles of Association have attached thereto copies of all such resolutions and agreements as are required by law to be delivered to [•] for registration.

2. **Accounts**

- (a) As at the balance sheet date:-
 - (i) full provision for all actual liabilities;
 - (ii) proper provision (or notes in accordance with good accountancy practice) for all contingent liabilities; and
 - (iii) provision reasonably regarded as adequate for all bad and doubtful debts;have been made in the accounts/audited accounts
- (b) full provision or reserve has been made in the accounts/audited accounts for all taxation liable to be assessed on the Company or for which it is or may become accountable in respect of:-
 - (i) profits, gains or income (as computed for taxation purposes) arising or accruing or deemed to arise or accrue on or before the balance sheet date;
 - (ii) any transactions effected or deemed to be effected on or before the balance sheet date or provided for in the accounts/audited accounts; and
 - (iii) distributions or payments made or deemed to be made on or before the balance sheet date or provided for in the accounts/audited accounts.
- (c) proper provision or reserve for deferred taxation in accordance with accounting principles and standards generally accepted at the date thereof has been made in the accounts/audited accounts;

3. **Changes since balance sheet date**

Since the balance sheet date as regards the Company:-

- (a) its business has been carried on in the ordinary course and so as to maintain the same as a going concern;
- (b) it has not disposed of any assets or assumed or incurred any material liabilities (including contingent liabilities) otherwise than in the ordinary course of carrying on its business;
- (c) its business has not been materially and adversely affected by the loss of any important asset or customer or by any abnormal factor not affecting similar businesses to a like extent and after making due and careful enquiries the Company is not aware of any facts which are likely to give rise to any such effects;
- (d) no exceptional change has been made in the basis of the emoluments or other terms of employment of its directors or any of its employees.

4. **Taxation**

- (a) There is no liability to taxation in respect of which a claim could be made in respect of the Company (other than as specifically provided for in the accounts/audited accounts and other than income tax on ordinary trading income arising from transactions entered into in the ordinary course of business after the balance sheet date) and there are no circumstances likely to give rise to such a liability and in particular (but without limitation) there exist no grounds for:
 - (i) assessment on the Company of additional liability to tax in respect of any transaction between or involving the Company on the one hand and on the other hand any company deemed to be related to the Company or any person in which the Company and/or any person connected with the Company has during the period preceding the date of the agreement been interested;
 - (ii) any claim for tax against the Company under the provision of any taxation statutes in connection with the transfer of assets to or for the provision of any benefit to any person or whereby, arising from any circumstances, the Company may be held liable for any taxation primarily chargeable against some other person or company.
- (b) The Company has not received any tax concession, relief or other special tax treatment, whether in relation to its assets or the business to be carried on by it or

otherwise, which, if revoked or otherwise removed, will or may give rise to any additional liability to taxation.

- (c) All documents in the possession or under the control of the Company or the production of which the Company is entitled which are necessary to establish the title, interest or benefit of the Company to any asset or in any transaction and which attract stamp duty in [●] have been properly stamped.
- (d) No relief or exemption has been obtained from stamp duty which has become liable for forfeiture or which has been obtained in respect of a transaction carried out within the period in which it may become liable to forfeiture.
- (e) All taxation or other sums charged, assessed, levied or payable under the provision of any taxation statute for which the Company is liable as a result of any act or omission by the Company will, if and insofar as such taxation or other sums ought to have been paid prior to the date of this Agreement have been paid.
- (f) The Company is not involved in any dispute with any revenue authorities concerning any matter likely to affect in any way the liability (whether accrued, contingent or future) of the Company to taxation or the sums imposed, charged, levied or payable under the provision of any taxation statute.

5. **Tax returns**

The Company has duly made all returns and given or delivered all notices, accounts and information which on or before the date hereof ought to have been made, given or delivered for the purposes of taxation and all such returns, notices, accounts and information (and all other information supplied to the relevant revenue or other fiscal authority concerned for any such purpose) have to the best of the knowledge and belief of the Company after making due and careful enquiries been correct and made on a proper basis and none of such returns, notices, accounts or information is disputed in any material respect by the fiscal authority concerned and there is no fact known to the Company after making due and careful enquiries which might be the occasion of any such dispute or of any claim for taxation in respect of any financial period down to and including the balance sheet date not provided for in the accounts/audited accounts.

6. **Employees**

- (a) Save to the extent (if any) to which provision or allowance has been made in the accounts/audited accounts:-
 - (i) no liability has been incurred by the Company for breach of any contract of service or for services, or for compensation for wrongful dismissal or unfair dismissal; and

- (ii) no gratuitous payment has been made or promised by the Company in connection with the actual or proposed termination or suspension of employment or variation of any contract of employment of any present or former director or employee.
- (b) The Company has in relation to each of its employees (and so far as relevant to each of its former employees) complied in all material respect with all obligation imposed on it by all statutes, regulation and codes of conduct and practice relevant to the relations between it and its employees and has maintained current adequate and suitable records regarding the service of each of its employees.
- (c) Save and except for the Employees Incentive Scheme and Employees Share Option Scheme which have been disclosed to the Subscriber, the Company neither has in existence nor is proposing to introduce any other share incentive scheme, share option scheme or profit sharing scheme for all or any part of its directors or employees.
- (d) All contributions due and payable by the Company to any scheme or fund established by law contribution to which by the Company is compulsory in respect of the employment of its employees have been paid.

7. Pensions

There are not in existence nor has any proposal been announced to establish any retirement, death or disability benefit schemes for Directors or employees nor are there any obligations to or in respect of present or former Directors or employees with regard to retirement, death or disability pursuant to which the Company is or may become liable to make payments and no pension or retirement or sickness gratuity is currently being paid or has been promised by the Company to or in respect of any former Director or former employee.

8. No Commission or Additional Remuneration Scheme

Save and except as disclosed, there is not in existence any other scheme, agreement or arrangement whereby a Director or employee of the Company is remunerated or additionally remunerated by way of commission or additional remuneration payable based on sales or turnover of the Company.

9. Debts to, contracts with, etc. connected persons

- (a) With the exception of the loans, debts and securities particulars of which have been disclosed in writing to the Subscriber and or which will have been discharged prior to subscription, there are:-

- (i) no loans made by the Company to any director of the Company and/or any person connected with any of them or to any member of the Company;
 - (ii) no debts owing to the Company by the Director of the Company and/or any such person as aforesaid or by any member of the Company;
 - (iii) no debts owing by the Company other than debts which have arisen in the ordinary course of business; and
 - (iv) no securities for any such loans or debts as aforesaid.
- (b) There are no existing contracts or engagements to which the Company is a party and in which any Director of the Company and/or any person connected with any of them as mentioned in sub-paragraph (a) above are interested.

10. Capital commitments, unusual contracts, guarantees etc.

The Company:

- (a) is not a party to any contract entered into otherwise than in the ordinary and usual course of business or any contract of an onerous or long-term nature;
- (b) has not delegated any powers under a power of attorney which remains in effect;
- (c) has not by reason of any default by it in any of its obligations become bound or liable to be called upon to repay prematurely any loan capital or borrowed moneys;
- (d) 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
- (e) has not entered into or is bound by any guarantee or indemnity under which any liability or contingent liability is outstanding.

11. Book debts

- (a) None of the book debts which are included in the accounts/audited accounts has been released in terms that any debtor pays less than the book value of his debt or has been written off.
- (b) Further, none of the book debts which are included in the accounts/audited accounts or which have subsequently arisen have been outstanding for more than nine (9) months from their due dates for payment and all such debts have realized or will realize in the normal course of collection their full value as included in the accounts/audited accounts or in the books of the Company after taking into

account the provision for bad and doubtful debts made in the accounts/audited accounts.

12. Insurance

All the assets of the Company which are of an insurable nature have at all material times been and are at the date hereof insured in amounts reasonably regarded as adequate against fire and other risk normally insured against by companies carrying on similar business or owning property of a similar nature and the Company has at all material times been and is at the date hereof adequately covered against accident, third party and other risk normally covered by such companies. The particulars of the insurances of the Company which have been supplied to the Subscriber are true and correct. In respect of all such insurances:-

- (a) all premiums have been duly paid to date; and
- (b) all the policies are in force and are not voidable on account of any act, omission or non-disclosure on the part of the insured party.

13. Assets

- (a) All assets of the Company and all debts due to it which are included in the accounts/audited accounts or have otherwise been represented as being the property of or due to the Company or at the balance sheet date used or held for the purpose of its business were at the balance sheet date the absolute property of the Company and (save for those subsequently disposed of or realized in the ordinary course of trading) all such assets and all assets and debts which have subsequently been acquired or arisen are now the absolute property of the Company and none is the subject of any assignment, option, right or preemption, covenant or restriction, mortgage, charge, lien or hypothecation or other encumbrance whatsoever (excepting only liens arising in the normal course of trading) or the subject of any factoring arrangement, hire-purchase, conditional sale or credit sale agreement and there are no circumstances under which by operation of law or otherwise the Company's title, right or interest in and to such asset may be adversely affected in any way whatsoever.
- (b) There are no outstanding notices served on the Company in respect of any of its assets and in particular and without limitation the Company's land is not subject to any acquisition proceedings or notice of intended acquisition.
- (c) Those of the properties which are occupied or otherwise used by the Company in connection with its businesses are so occupied or used by right of ownership or under lease or tenancy, and the terms of any such lease or tenancy permit such occupation or use.

- (d) All quit rent and assessment due and payable on the Company's land has been duly paid and all conditions affecting such land whether express or implied, have been duly complied with by the Company and the Company has not done or suffered to be done or omitted any act, matter or thing in or respecting its land which may render the same liable to forfeiture or which shall contravene the provision of any legislation now or hereafter in force affecting such land.

14. Compliance with leases and other agreements

- (a) The terms of all leases, tenancies, licenses, concessions and agreements of whatsoever nature to which the Company is a party have been duly complied with by all the parties thereto and the Company is not aware of any breaches of the terms thereof by the Company or any other party; and
- (b) no such lease, tenancy, license, concession or agreement will become subject to avoidance, revocation or be otherwise affected upon or in consequence of the making or implementation of this Agreement.

15. Statutory, municipal and other requirements, consents and licenses

All statutory, municipal, regulatory and other requirements applicable to the carrying on of the business of the Company as now carried on, and all conditions applicable to the ownership of its assets and any licenses and consents involved in the ownership of its assets and the carrying on of such business have been complied with and the Company is not aware of any breach thereof or of any intended or contemplated refusal or revocation of any such license or consent and none of such licenses pioneer status or consents or any term thereof upon which it is held will or may become subject to avoidance, revocation or be otherwise affected upon or in consequence of the making or implementation of this Agreement.

16. Books and records

The records, statutory books and books of account of the Company are duly entered up and maintained in accordance with all legal requirements applicable thereto and contain true, full and accurate records of all matters required to be dealt with therein and all such books and all records and documents (including documents of title) which are its property are in its possession or under its control and all accounts, documents and returns required to be delivered or made to [•] have been duly and correctly delivered or made.

17. Share capital

- (a) The Company has not since the balance sheet date issued or agreed to issue any shares.
- (b) No unissued shares of the Company are under option or agreed conditionally or unconditionally to be placed under option.

18. **Continuation of facilities**

In relation to all debentures, acceptance credits, overdrafts, loans or other financial facilities outstanding or available to the Company (referred to in this clause as “**facilities**”):

- (a) there has been no contravention of or non-compliance with any provision of any of the documents relating to the facilities;
- (b) no steps for the early repayment of any indebtedness have been taken or threatened;
- (c) there have not been nor are there any circumstances known to the Company whereby the continuation of any of the facilities might be prejudiced, or which might give rise to any alteration in the terms and conditions of any of the facilities;
- (d) none of the facilities is dependent on the guarantee or indemnity of or any security provided by a third party.

19. **Investigations**

There are not pending or in existence, any investigations or enquiries by, or on behalf of, any governmental or other body in respect of the affairs of the Company.

20. **Dividends**

All dividends or distributions declared, made or paid by the Company has been declared, made or paid in accordance with its Articles of Association and the applicable provision.
