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**This document provides a general overview of the key terms of a Asset Sale Agreement. The document is governed by Irish law and should only be used in Ireland. If any changes are made to the contents of this document, you need to ensure that any cross-referencing is updated.**

**It is not possible to provide comprehensive advice on the matters that may apply in the particular circumstances of your business in this document. Its contents are also by no means exhaustive. You should take legal advice before entering into this or any other legal documents. If you have any queries or concerns in relation to this document, we recommend that you seek legal advice before taking any further action. Adams Law are not responsible whatsoever in respect of any actions taken or not taken by you or any third party on the basis of this document.**

**Dated the • day of • 20[ ]**

1. **• Limited**

**and**

1. **• Limited**

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

**ASSET SALE AGREEMENT**

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

**THIS AGREEMENT** is made on • 20[ ]

**BETWEEN:**

1. **• Limited** (registered no •) having its registered office at •, (hereinafter the “Vendor”);

**AND**

2 **• Limited** (registered no. •) having registered office at •, (hereinafter the “Purchaser”).

**Operative provisions:**

#  Interpretation

##  In this agreement including the Schedules:

### the following words and expressions have the following meanings, unless they are inconsistent with the context:

|  |  |
| --- | --- |
| ‘Accounts Date’ | the date to which the Principal Accounts have been prepared. |
| ‘Assets’ | the property, assets and rights of the Business to be purchased by the Purchaser as described in clause [2.1]. |
| **‘Book Debts’** | the trade debts owed to the Vendor at the Effective Date in connection with the Business. |
| ‘Business’ | the business of Consultancy carried on by the Vendor at the Effective Date. |
| ‘Cash float’ | any cash balances held at the Effective Date for the purpose of reimbursing out‑of‑pocket expenses in connection with the Business |
| ‘Contracts’ | the current contracts and engagements of the Vendor in relation to the Business as listed in Appendix 1, but excluding contracts with employees. |
| ‘Creditors’ | the aggregate amount owed by the Vendor in connection with the Business to or in respect of trade creditors and accrued charges as recorded in the books of account of the Business at the Effective Date but not including liabilities for value added tax or taxation on profits or chargeable gains. |

|  |  |
| --- | --- |
| ‘Disclosures’ | the disclosures set out in a disclosure letter of today’s date from the Vendor to the Purchaser relating to the warranties set out in Schedule 1. |
| ‘Effective Date’ | the close of business on • 20[ ] |
| ‘Employees’ | the persons who, at the Effective Date, were employed by the Vendor for the purposes of the Business. |
| ‘Goodwill’ | the goodwill of the Vendor in relation to the Business, together with the exclusive right for the Purchaser or its assignee to represent itself as carrying on the Business in succession to the Vendor, and all trade names associated with the Business. |
| ‘Intellectual Property Rights’ | all intellectual and intellectual property rights of the Vendor including the patents, trade marks, registered designs and copyrights in any part of the world [as listed in Appendix 3] and the copyright in all drawings, plans, specifications, designs and computer software owned by the Vendor and used in or for the purposes of the Business and all know-how and confidential information so owned and used. |
| ‘Liabilities’ | the liabilities of the Business (other than the Creditors) outstanding at the Effective Date and as set out in Appendix 2. |
| ‘Principal Accounts’ | the audited balance sheet as at • and audited profit and loss account for the year ended • of the Vendor, including the directors’ report and notes. |
| ‘Regulations’ | the European Communities (Safeguarding of Employees Rights on the Transfer of Undertakings) Regulations, 2003. |
| ‘Warranties’ | the warranties and undertakings of the Vendor contained in this agreement. |
| Warranty Claim’ | any claim made by the Purchaser for breach of any of the Warranties; |

### 1.1.2 all references to a statutory provision shall be construed as including references to:

 (a) any statutory modification, consolidation or re-enactment;

 (b) all statutory instruments or orders made pursuant to it;

 (c) any statutory provisions of which it is a modification, consolidation or re-enactment;

### 1.1.3 except where the context otherwise requires, words denoting the singular include the plural and vice versa; words denoting any gender include all genders; words denoting persons include firms and corporations and vice versa;

### 1.1.4 unless otherwise stated, a reference to a clause, sub-clause or Schedule is a reference to a clause or a sub-clause of, or a Schedule to, this agreement;

### 1.1.5 clause headings are for ease of reference only and do not affect the construction of this agreement.

# 2. Agreement for Sale

## 2.1 Subject to the terms and conditions of this agreement, the Vendor shall sell to the Purchaser with full title guarantee and the Purchaser shall purchase as at the Effective Date:

### 2.1.1 the Business as a going concern; and

### 2.1.2 all the assets and rights owned by, or (although subject to reservation of title by the sellers) under the control of, the Vendor and used in the conduct of the Business including, but without limitation:

 (a) the Goodwill;

 (b) the benefit of the Contracts;

 (c) the Intellectual Property Rights; and

1. the Cash Float;

## 3. **Purchase Consideration**

## The consideration for the sale by the Vendor of the Business and the Assets shall be the assumption by the Purchaser of the Creditors and the Liabilities in accordance with clause 7.

# 4. Completion

## 4.1 The sale and purchase shall be completed immediately upon exchange of this agreement when all the matters set out in this clause 4 shall be effected.

## 4.2 The Vendor shall deliver to the Purchaser, at the principal office of the Business, such of the Assets as are capable of being transferred by delivery.

## 4.3 The Vendor shall cause to be delivered or (if so requested by the Purchaser) made available to the Purchaser:

###  4.3.1 such documents as are required by the Purchaser’s solicitors to complete the sale and purchase of the Assets and vest title to the Assets in the Purchaser, including (but without limitation) assignments of the Goodwill, Contracts and Intellectual Property Rights;

###  4.3.2 all its books of account, payroll records, income records, stock and other records, information relating to customers and suppliers (including a list of all the customers of the Business during the last two years, a list of purchasers to which outstanding quotations have been given and a list of unfulfilled orders as at the Effective Date), relevant computer programmes and other books and documents which relate to the Business (other than minute books relating to directors’ and shareholders’ meetings and statutory books);

###  4.3.3 all its designs and drawings, plans, instructional and promotional material, sales publications, advertising materials, terms and conditions of sale and other technical material and sales matter which relate to the Business, together with any plates, blocks, negatives and similar material relating to them;

###  4.3.4 a list of sales distributors, identifying sales by units and the territory served during the last twelve months, and copies of all the current agreements with the distributors;

###  4.3.5 all records of and PAYE and PRSI relating to all the Employees duly completed and up to date;

###  4.3.6 the value added tax records referred to in clause 10.2;

### 4.4 The Purchaser shall not be obliged to complete the purchase of any of the Assets unless the purchase of all the Assets is completed in accordance with this agreement.

## 4.5 The Purchaser may in its absolute discretion waive any requirement contained in clause 4.2 or 4.3.

## If any or all of the transactions set out in clauses 4.2 and 4.3 do not take place as provided, the Purchaser may promptly rescind this agreement without prejudice to any other remedy it may have.

# [5. Stocks and Cash Float

## 5.1 The parties shall jointly procure that as soon as practicable and in any event within 21 days of today’s date:

###  5.1.1 the value of the Stocks as at the Effective Date is determined upon the same basis as for the purposes of the Principal Accounts, but reduced by the amount of any prepayments or deposits received by the Vendor or payable to it under the Contracts prior to the Effective Date;

### the amount of the Cash Float is determined.

### 5.2 Any dispute with respect to the determination of the value of the Stocks or the amount of the Cash Float shall be referred for final settlement to a firm of chartered accountants nominated jointly by the Vendor and the Purchaser or, failing such nomination within 14 days after request by either the Vendor or the Purchaser, nominated at the request of either of them by the President for the time being of the Institute of Chartered Accountants Ireland. The accountants shall be entitled to call for and inspect the working papers of the Vendor’s auditors and such other documents as they may reasonably consider necessary. In making their determination, the accountants shall act as experts and not as arbitrators, their decision shall (in the absence of manifest error) be final and binding on the parties and their fees shall be borne and paid by the Vendor and the Purchaser in such proportions as the accountants determine.

## 5.3 The amounts agreed or determined under the fore‑going sub‑clauses shall (to the extent agreed) be paid to the Vendor forthwith upon their being agreed and (as to any balance) upon the amount being determined. Interest shall be paid on such sums, computed on a daily basis from the Effective Date to the date of payment, at the rate of • per cent above the base rate from time to time of • Bank.

## 5.4 The Vendor shall be liable for the payment of all sums which were outstanding at the Effective Date in respect of items included in the Stocks.

## If, prior to the Effective Date, the Vendor made a prepayment or paid a deposit under any of the Contracts for the purchase of an asset which is not included in the Assets, the Purchaser shall reimburse to the Vendor the amount of the prepayment or deposit within 28 days of delivery of the asset.

## 6. **Debtors**

## The Vendor shall forthwith supply to the Purchaser full details of the Book Debts and the Purchaser shall:

###  6.1.1 as agent for the Vendor use all reasonable endeavours, but without being required to commence legal proceedings, to collect the Book Debts;

###  6.1.2 account to the Vendor at monthly intervals for the amounts collected by it in respect of the Book Debts.

## 6.2 If it becomes apparent that recovery of any of the Book Debts is not likely to be possible within a reasonable period unless legal proceedings are instituted, the Purchaser will advise the Vendor in writing and furnish the Vendor with full particulars of the steps taken by the Purchaser to effect recovery. Where the debtor in question is a continuing debtor of the Business after the Effective Date, the Vendor shall consult with the Purchaser before instituting any legal proceedings.

## 6.3 Subject to any express intention to the contrary on the part of the debtor, any money received by the Purchaser in the course of collecting any Book Debts from a person who is also indebted to the Purchaser shall be deemed to have been paid in or towards discharge of the oldest debt, regardless of the identity of the creditor.

## The Purchaser shall for a period of [12] months give to the Vendor reasonable access to its books and records in relation to the collection of the Book Debts.

# 7. Creditors and liabilities

## 7.1 The Vendor shall forthwith supply to the Purchaser full details of the Creditors.

## 7.2 The Purchaser shall assume liability for the Creditors and Liabilities and shall be responsible for all debts payable by and claims outstanding against the Business at the Effective Date including all wages, sums payable under taxation statutes, rent and other expenses.

## 7.3 Notwithstanding clause 7.2:

### the Vendor shall remain liable for claims by third parties in respect of any service supplied by the Vendor or any act or omission of the Vendor prior to the Effective Date.

### upon becoming aware of any such claim the Vendor will promptly give notice of it to the Purchaser and shall not take any steps which might reasonably be expected to damage the commercial interests of the Purchaser without prior consultation with the Purchaser;

### the Purchaser shall indemnify the Vendor against claims by third parties which may be brought against the Vendor in respect of sales occurring after the Effective Date which relate to the Business and are not covered by clause 7.3.1.

## The liability of the Vendor under clause 7.3.1 shall extend to any settlement of a claim (including costs) made with the approval of the Vendor.

## If the Purchaser considers that it is desirable to take preventative action with a view to avoiding claims under clause 7.3.1 the Vendor shall bear the cost of that action.

## The Purchaser shall take all reasonable steps to perform, in accordance with its normal business standards, the obligations of the Vendor to provide after‑sales service or to meet warranty claims of customers arising in the normal course of the Business as a result of transactions carried out by the Vendor prior to the Effective Date, insofar as the same are required by the Vendor’s standard conditions of sale, copies of which have been produced to the Purchaser.]

## Nothing in this agreement shall make the Purchaser liable in respect of anything done or omitted to be done prior to the Effective Date by the Vendor and the Vendor shall indemnify the Purchaser in respect of any liability (which liability shall include, without limitation, all losses, costs, claims, expenses, damages, legal and other professional fees and expenses on a party and party basis) which it may incur as a result of anything so done or omitted to be done.

# 8. Contracts

##  The Purchaser shall perform and discharge the outstanding obligations and liabilities of the Vendor under the Contracts, except for any obligations or liabilities attributable to a breach on the part of the Vendor.

# 9. Employees

## 9.1 The Vendor warrants that it has complied with the provisions of the Regulations.

## The Vendor shall indemnify the Purchaser against any order to pay compensation made pursuant to the Regulations provided that the order is not made as a result of any act or omission of the Purchaser.

## All salaries and other emoluments, including holiday pay, tax and national insurance payments and contributions to retirement benefit schemes, relating to the Employees shall be borne by the Vendor up to the Effective Date and all necessary apportionments shall be made.

# 10. Value Added Tax

##  The parties shall use all reasonable endeavours to procure that the sale of the Business is deemed to be a transfer of a business as a going concern for the purposes of the Value Added Tax Act 1972 as amended.

##  The Vendor shall forthwith deliver to the Purchaser all the records of the Business for value added tax purposes which are required by the Value Added Tax Act 1972 to be preserved by the Purchaser.

##  The Purchaser shall for a period of not less than 6 years from the Effective Date preserve the records delivered to it by the Vendor and, upon reasonable notice, make them available to the Vendor or its agents during normal business hours.

# Insurance

##  The Vendor undertakes to the Purchaser that it will notify the interest of the Purchaser to the relevant insurers and keep in force its existing insurance policies, in respect of the Assets for a period of 30 days from today’s date, the Purchaser paying the proportion of the insurance premiums from the Effective Date until the cancellation of the relevant policies.

# 12. Title and Apportionments

## 12.1 The Vendor shall take all necessary steps and co‑operate fully with the Purchaser to ensure that it obtains the full benefit of the Business and Assets and shall execute such documents and take such other steps (or procure other necessary parties so to do) as are necessary or appropriate for vesting in the Purchaser all its rights and interests in the Assets.

##  Insofar as the Assets comprise the benefit of contracts which cannot effectively be assigned to the Purchaser without the consent of a third party or except by an agreement of novation:

### the Vendor and the Purchaser shall use all reasonable endeavours to obtain consent or to procure a novation;

### unless and until consent is obtained or the contracts are novated the Purchaser shall, for its own benefit and to the extent that the contracts permit, perform on behalf of the Vendor (but at the Purchaser’s expense) all the obligations of the Vendor which falls to be performed after the Effective Date (insofar as they have been disclosed to the Purchaser) and indemnify the Vendor against all costs, proceedings, claims, demands and expenses which may be incurred by the Vendor as a result of any act, neglect, default or omission on the part of the Purchaser to perform or comply with any such obligation.

##  All rents, rates, gas, water, electricity and telephone charges and other outgoings relating to or payable in respect of the Business up to the Effective Date shall be borne by the Vendor and as from the Effective Date shall be borne by the Purchaser and all rents, royalties and other periodical payments receivable in respect of the Business up to that time shall belong to and be payable to the Vendor and as from that time shall belong to and be payable to the Purchaser. Such outgoings and payments receivable shall if necessary be apportioned accordingly, provided that any such outgoings or payments receivable which are referable to the extent of the use of any property or right shall be apportioned according to the extent of such use.

##  Where any amounts fall to be apportioned under this agreement, the Vendor shall provide the Purchaser with full details of the apportionments, together with supporting vouchers or similar documentation, and in the absence of dispute the appropriate payment shall be made by or to the Vendor forthwith. If the amount of any apportionment is in dispute, the provisions of clause [5.2] shall apply for resolving the dispute and the amount determined in accordance with that clause shall be paid within 14 days of the determination, together with interest calculated on a daily basis (as well after as before judgment), from the Effective Date until the date of actual payment, at the rate of • per cent per annum above the base rate from time to time of • Bank PLC.

# 13. Warranties by the Vendor

## The Vendor warrants to the Purchaser that:

### save as set out in the Disclosures, the warranties set out in Schedule 1 are true and accurate in all respects;

### the Disclosures are true and accurate in all respects and fully, clearly and accurately disclose every matter to which they relate.

##  The rights and remedies of the Purchaser in respect of any breach of the Warranties shall not be affected by completion of the purchase of the Business, by any investigation made by or on behalf of the Purchaser into the affairs of the Vendor, by the Purchaser failing to exercise or delaying the exercise of any of its rights or remedies or by any other event or matter whatsoever except a specific and duly authorised written waiver or release.

##  Where any Warranty refers to the knowledge, information or belief of the Vendor, it undertakes that it has made full enquiry into the subject matter of the Warranty.

## 14. **Future activities**

## 14.1 For the purpose of assuring to the Purchaser the full benefit of the Business the Vendor shall not:

### at any time disclose to any person or use for any purpose and shall use all reasonable endeavours to prevent the publication or disclosure of any information concerning the Business;

### for a period of 2 years after today’s date either on its own account or through any other person directly or indirectly solicit, interfere with or endeavour to entice away from the Purchaser any person who is now or has, during the two years preceding today’s date, been a client, customer or employee of, or in the habit of dealing with, the Vendor in relation to the Business;

### it shall not for a period of 2 years after today’s date without the Purchaser’s prior written consent directly or indirectly engage in Ireland in any activity which is substantially the same as the Business or any material part thereof as it is now carried on.

##  The Vendor shall promptly refer to the Purchaser all enquiries relating to the Business and assign to the Purchaser all orders relating to the Business, including enquiries or orders for any stocks, spares, parts, accessories and other equipment manufactured or sold in connection with the Business, which the Vendor may in future receive.

15. **General Provisions**

15.1 Survival of obligations

The representations, undertakings and warranties contained in this Agreement together with any of the provisions of this Agreement which shall not have been performed on Completion shall remain in full force and effect notwithstanding Completion.

15.2 Binding on successors

This Agreement shall ensure to the benefit of and be binding upon the respective parties hereto and their respective personal representatives, successors and permitted transferees.

15.3 Business Days

If any action or duty to be taken or performed under any of the provisions of this Agreement would, apart from the provisions of this clause, fall to be taken or performed on a day which is not a business day such action or duty shall be taken or performed on the business day next following such date.

15.4 Waiver

A waiver by any party of any breach of any of the terms provisions or conditions of this Agreement or the acquiescence of such party in any act (whether commission or omission) which but for such acquiescence would be a breach as aforesaid shall not constitute a general waiver of such term provision or condition or of any subsequent act contrary thereto. Any liability of any party under the provisions of this Agreement may in whole or in part be released compounded or compromised by such party in its absolute discretion as regards any other party under such liability without in any way prejudicing or affecting its rights against the remaining parties under the same or a like liability whether joint and several or otherwise.

15.5 Counterparts

This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts each of which when executed and delivered shall constitute an original and all such counterparts together constituting but one and the same instrument.

15.6 Assignments

The rights of the parties hereto shall be deemed to be personal and shall not be assignable.

15.7 Notices

Any notice or other communication whether required or permitted to be given hereunder shall be given in writing and shall be deemed to have been duly given if delivered against receipt of the addressee or his or its duly authorised agent or if sent by pre-paid post addressed to the party to whom such notice is to be given at the address set out for such party herein or if sent by fax to the party to whom such notice is to be given at the following numbers:-

|  |  |  |
| --- | --- | --- |
| **Party** | **Email** | **Telephone** |
| Vendor |  |  |
| Purchaser |  |  |

(or such other address or email address as he/she or it may from time to time designate to all other parties hereto in accordance with the provisions of this Section) and any such notice or other communication shall be deemed to have been duly given if delivered at the time of delivery and if sent by post as aforesaid seventy two hours after the same shall have been posted and if sent by email when despatched.

15.8 Entire Agreement

This Agreement and the Schedules annexed hereto embody the entire agreement and understanding between the parties hereto and supersede all prior statements, representations, agreements and understandings relating to the subject matter hereof and shall be amended or supplemented only by written agreement of all the parties hereto.

15.9 Conflicts

The Shareholders hereby agree that in the event of any conflict between the terms of this Agreement and the Articles of Association the terms of this Agreement (insofar only as it applies to the regulation of rights between Shareholders and without fettering any powers of the company thereunder) shall prevail and if such a conflict arises the Shareholders agree, at the first available opportunity to exercise their voting rights so as to ensure the passing of a special resolution for the purpose of amending the Articles of Association so as to comply with this Agreement.

15.10 Governing Law

This Agreement shall in all respects (including the formation thereof and performance thereunder) be governed by and non-construed in accordance with the laws of [Ireland] and the parties hereto submit to the non-exclusive jurisdiction of the [Courts of Ireland].

IN WITNESS whereof these presents have been entered into the day and year first herein written.

**SCHEDULE 1**

**Warranties**

# 1. Assets

## 1.1 **Ownership of assets**

### Except for current assets subsequently acquired, sold or realised in the normal course of business the Vendor owned absolutely at the Accounts Date and still owns absolutely all the Assets.

### The Vendor has not disposed of or agreed to dispose of or granted or agreed to grant any security or other encumbrance in respect of any of the Assets.

### None of the Assets is subject to, and there is no agreement or commitment to give or create, any option, lien or encumbrance (including without limitation any charges by the Revenue Commissioners as defined in the Taxes Consolidation Act 1997).

### None of the Assets has been purchased on terms that property does not pass to the Vendor until full payment is made by it to the supplier.

### There has been no exercise, purported exercise or claim for any charge, lien, encumbrance or equity over any of the Assets and there is no dispute directly or indirectly relating to any of the Assets.

## 1.2 **Assets sufficient for the business**

### 1.2.1 The Assets comprise all assets now used in the Business and which are necessary for the continuation of the Business as now carried on.

### The Stocks are sufficient for the normal requirements of the Business.

### The work‑in‑progress included in the Stocks is at its normal level having regard to current orders included in the Contracts and to orders reasonably anticipated from customers of the Business.

### The stocks of raw materials, packaging materials and finished goods included in the Stocks are not excessive and are adequate in relation to the current trading requirements of the Business.

# 2. Trading

## 2.1 **Business and financial position**

###  2.1.1 Since the Accounts Date:

 (a) the Business has been continued in the normal course as regards its nature, extent and manner of carrying it on;

 (b) neither the turnover nor the financial or trading position of the Business has deteriorated;

 (c) the Vendor has not borrowed or raised any money or taken any financial facility in relation to the Business except for the overdraft facilities from its bankers specified in the Disclosures;

 (d) the Vendor has paid the creditors of the Business in accordance with their respective credit terms and there are no amounts owing by the Vendor which have been due for more than [6] weeks.

### So far as the Vendor is aware, the trading prospects of the Business have not been adversely affected as a result of any event or circumstance which has arisen since the Accounts Date.

### 2.1.3 Since the Accounts Date the Vendor has not done or omitted to do anything which might prejudicially affect the Goodwill.

## 2.2 **Existing suppliers and customers**

###  2.2.1 So far as the Vendor is aware:

 (a) no supplier of the Business has, in the past [3] years, ceased or (as a result of the acquisition of the Business by the Purchaser or for any other reason) will cease supplying the Business or may substantially reduce its supplies to the Business;

 (b) no customer of the Business has, in the past [3] years, terminated or materially reduced, or will (as a result of the acquisition of the Business by the Purchaser or for any other reason) terminate or materially reduce, its relationship with the Business.

## 2.3 **Licences and consents**

###  2.3.1 The Vendor has obtained all necessary licences and consents for the proper carrying on of the Business and is not in breach of any of their terms or conditions.

###  2.3.2 Details of all of the licences and consents are set out in the Disclosures and the Vendor knows of no reason why they should not be capable of being transferred to or obtained by the Purchaser without the necessity for any special arrangement or expense.

## 2.4 **Insurance**

###  2.4.1 All the Assets of an insurable nature are and have at all material times been insured, in amounts representing their full replacement or reinstatement value, against fire and other risks normally insured against by persons carrying on business of the same class as the Business.

###  2.4.2 The Business and the Assets are and have at all material times been adequately covered against accident, damage, injury, third party loss, loss of profits and other risks normally covered by insurance.

###  2.4.3 All insurances relating to the Business or the Assets are currently in full force and effect and nothing has been done or omitted to be done which could make any policy of insurance void or voidable.

## 2.5 **Joint ventures and partnerships**

###  2.5.1 The Vendor:

 (a) is not and has not been a party to any joint venture or consortium or any partnership arrangement or agreement or to any agreement or arrangement for sharing commissions or other income relating to the Business;

 (b) does not conduct and has not conducted any part of the Business through a branch, agency or permanent establishment outside the United Kingdom;

 (c) is not a member of any partnership, trade association, society or other group, whether formal or informal and whether or not having a separate legal identity, in connection with the Business and no such body is relevant to or has any material influence over the Business as now carried on.

## 2.6 **Agreements concerning the business**

###  2.6.1 There have been no arrangements and understandings (whether legally enforceable or not) between the Vendor and any person who is, directly or indirectly, a shareholder or the beneficial owner of any interest in the Vendor or any company in which the Vendor is interested relating to the management of the Business or the ownership or transfer of ownership or the letting of any of the Assets or the provision of finance, goods, services or other facilities to or by the Vendor or otherwise in any way relating to the Business or the Assets.

###  2.6.2 The Vendor has not been a party to any agency, distributorship, marketing, purchasing, manufacturing or licensing agreement or arrangement or any restrictive trading or other agreement or arrangement pursuant to which any part of the Business has been carried on or which in any way has restricted its freedom to carry on the whole or any part of the Business or to use or exploit any of the Assets in any part of the world in such manner as it thought fit.

###  2.6.3 Compliance with the terms of this agreement does not and will not conflict with, result in the breach of or constitute a default under any of the terms, conditions or provisions of any agreement or instrument to which the Vendor is now a party relating to the Business.

## 2.7 **Litigation**

### The Vendor is not engaged in any litigation or arbitration proceedings as plaintiff or defendant, except for debt collection of sums not exceeding an aggregate of [€1,000], and there are no such proceedings pending or threatened either by or against the Vendor affecting the Business and there are no facts which are likely to give rise to any litigation or arbitration.

## 2.8 **Business names**

###  2.8.1 The Vendor uses no name for any purpose in connection with the Business other than its full corporate name.

## 2.9 **Vendor’s activities**

###  2.9.1 The Vendor is entitled to enter into and carry out the provisions of this agreement and has full power and authority to sell the Assets to the Purchaser without obtaining the consent of any third party.

### Compliance with the terms of this agreement, and any document entered into by the Vendor in accordance with it, does not and will not conflict with or result in a breach of any of the provisions of the Vendor’s Memorandum or Articles of Association.

### The Vendor has at all times carried on the Business in all respects in accordance with its Memorandum and Articles of Association for the time being in force and any other documents to which it is or has been a party.

### Neither the Vendor nor any of its members has any interest, directly or indirectly, in any company or business other than the Business which is or is likely to be or become competitive with the Business, save as registered holder or beneficial owner of not more than 5 per cent of any class of securities of any company which is listed, dealt in or traded on the Stock Exchange.

### 2.10 **Guarantees and indemnities**

### There is not now outstanding in respect of the Business any guarantee or agreement for indemnity or for suretyship given by or for the accommodation of the Business otherwise than by the Vendor.

# 3. Contracts

## 3.1 **Disclosure of contracts**

### The Contracts and the Leases constitute all the contracts and other engagements, whether written or oral, referable to the Business to which the Vendor is now a party, apart from the contracts of employment of the Employees.

## 3.2 **Nature of contracts**

### 3.2.1 None of the Contracts:

 (a) is of an unusual, abnormal or onerous nature;

 (b) is for a fixed term of more than 6 months;

 (c) is of a long‑term nature (that is to say incapable of performance in accordance with its terms within 6 months after the date on which it was entered into or undertaken);

 (d) will be incapable of termination in accordance with its terms by the Purchaser on 60 days’ notice or less;

 (e) is of a loss‑making nature (that is to say known to have been likely to result in a loss to the Vendor on completion of performance if the Vendor had not sold the Business);

 (f) will not be capable of being readily fulfilled or performed by the Purchaser on time without undue or unusual expenditure of money or personnel;

 (g) will not involve payment by the Purchaser by reference to fluctuations in the index of retail prices or any other index;

 (h) involves the supply of goods the aggregate sales value of which will represent in excess of [10] per cent of the anticipated turnover of the Business for the period of [12] months following the Effective Date;

 (i) was entered into in any way otherwise than in the normal course of the Business.

###  3.2.2 The performance of this agreement will not relieve any other party to any Contract from its obligations or enable it to determine any of them.

## 3.3 **Defaults under agreements**

###  3.3.1 The Vendor is not nor would it, if the sale of the Business did not take place, with the lapse of time become:

 (a) in default under any of the Contracts or in respect of any other obligations or restrictions binding upon it in relation to the Business nor has it waived any rights or privileges under any of them;

 (b) in default under any provisions existing by reason of membership of any association or body relating to the Business;

 (c) liable in respect of any representation or warranty (whether express or implied) or matter giving rise to a duty of care on the part of the Vendor relating to the Business.

###  3.3.2 No threat or claim of default under any of the Contracts or any other agreement, instrument or arrangement to which the Vendor is a party relating to the Business or the Assets has been made and is outstanding against the Vendor and there is nothing whereby any of the Contracts or any other such agreement, instrument or arrangement may be terminated or rescinded by any other party or whereby the terms may be worsened as against the Vendor or the Purchaser or whereby the Business or the Assets may be prejudiced as a result of anything done or omitted or permitted to be done by the Vendor.

## 3.4 **Outstanding offers**

###  3.4.1 No offer, tender or the like relating to the Business, which is capable of being converted into an obligation of the Business by an acceptance or other act of some other person, is outstanding.

## 3.5 **Defective products and service liabilities**

###  3.5.1 The Vendor has not manufactured or sold products which were or are or will become in any material respect faulty or defective or which did not or do not comply in any material respect with any warranties or representations expressly or impliedly made by the Vendor or with all applicable regulations, standards and requirements.

###  3.5.2 The Vendor has not accepted any liability or obligation to service, repair, maintain, take back or otherwise do or not do anything in respect of any goods or products that would apply after the goods or products have been delivered by it.

## 3.6 **Purchases and sales from or to one party**

###  3.6.1 Neither more than 25 per cent of the aggregate amount of all the purchases nor more than 25 per cent of the aggregate amount of all the sales of the Business are obtained or made from or to the same supplier or customer (including any person in any way connected with a supplier or customer) nor is any material source of supply to the Business or any material outlet for the sales of the Business in jeopardy or likely to be in jeopardy.

# 4. Books and records

### All the books and records of the Vendor which are to be delivered to the Purchaser in accordance with this agreement (including all invoices and other records required for value added tax purposes):

 (a) have been fully, properly and accurately kept and completed;

 (b) do not contain any material inaccuracies or discrepancies of any kind;

 (c) give and reflect a true and fair view of the financial, contractual and trading position of the Business and of its plant and machinery, fixed and current assets and liabilities (actual and contingent), debtors and creditors and stock‑in‑trade and all other matters which would normally be expected to appear in them.

## 5. **Terms of employment**

### Full particulars of the terms and conditions of employment of all the Employees, including without limitation profit sharing or commission or discretionary bonus arrangements, are set out in the Disclosures.

###  5.1.2 There are no schemes in operation by or in relation to the Vendor whereunder any of the Employees is entitled to a commission or remuneration of any other sort calculated by reference to the whole or part of the turnover, profits or sales of the Business.

###  5.1.3 Since the Accounts Date no change has been made in the rate of remuneration, emoluments, pension benefits or other terms of employment of any of the Employees.

###  5.1.4 No negotiations for any increase in the remuneration or benefits of any of the Employees are current or likely within a period of 6 months after the Effective Date.

## 5.2 **Industrial disputes and agreements**

###  5.2.1 None of the Employees is involved in any industrial dispute and to the best of the Vendor’s knowledge, information and belief there are no circumstances which may result in any industrial dispute involving any Employees and none of the provisions of this agreement, including the identity of the Purchaser, may lead to any industrial dispute.

###  5.2.2 The Vendor has not entered into any recognition agreement with a trade union nor has it done any act which might be construed as recognition.

###  5.2.3 [Save for the pension scheme referred to in Schedule [5] (‘the Scheme’)] the Vendor is not under any legal or moral liability or obligation or ex‑gratia arrangement or promise to pay pensions, gratuities, superannuation allowances or the like to any of the Employees.

### Full particulars of the Scheme, of which the Employees are entitled to be or become members, have been disclosed in writing to the Purchaser including without limitation the trust deeds, assets, funding arrangements, rules, current membership and latest actuarial report.

### The assets, investments or policies held by the trustees of the Scheme are sufficient to satisfy the liabilities and obligations (both current and contingent) which the Scheme has to its members at the date of this agreement.

# 6 Intellectual property rights

## 6.1 Disclosure of intellectual property rights

### The Vendor is the beneficial owner, registered proprietor or licensee of the Intellectual Property Rights.

## 6.2 **Validity of intellectual property rights**

### 6.2.1 To the best of the Vendor’s knowledge, information and belief, each of the Intellectual Property Rights is valid and enforceable and no act has been done or omission permitted whereby any of them has ceased or might cease to be valid and enforceable.

## 6.3 **Infringements**

### The Business does not and is not likely to infringe any patent, registered design, trade mark, copyright or other intellectual or intellectual property right of any

### other person (or would not do so if the same were valid) or give rise to a liability to pay compensation pursuant to the Patents Act 1992 - 2017 as amended.

###  6.3.2 The Vendor does not require and has not been granted any licence in relation to any intellectual property.

###  6.3.3 No right has been granted to any person to do anything which would or might otherwise infringe any of the Intellectual Property Rights.

## 6.4 **Disclosure of trade secrets**

### The Vendor has not (except in the normal course of business) disclosed or permitted to be disclosed or undertaken or arranged to disclose to any person other than the Purchaser any of its know‑how, trade secrets, confidential information, price lists or lists of customers or suppliers relating to the Business.

# 7. General

### 7.1 **Material information**

### All information given by the Vendor, the Vendor’s solicitors or the Vendor’s auditors to the Purchaser, the Purchaser’s solicitors or the Purchaser’s accountants relating to the Business or Assets was when given and is true, accurate and comprehensive in all respects.

### To the best of the Vendor’s knowledge, information and belief, there are no material facts or circumstances in relation to the Business or Assets which have not been fully and fairly disclosed in writing to the Purchaser or the Purchaser’s solicitors and which, if disclosed, might reasonably have been expected to affect the decision of the Purchaser to enter into this agreement.

**SCHEDULE 2**

**Excluded assets**

**Book Debts**

Cash in hand or at the bank, excluding the Cash Float.

Any amounts recoverable in respect of taxation attributable to periods ended on or before the Effective Date.

**PRESENT** when the Common Seal

## of **• Limited**

## was affixed hereto:-

## **PRESENT** when the Common Seal

## of **•Limited**

### was affixed hereto:-

**Dated the • day of • 20[ ]**

1. **• Limited**

**and**

1. **• Limited**

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**ASSET SALE AGREEMENT**

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Adams Law

13 Herbert Street

Dublin 2