

DATED: _____ **2018**

STANLEY GIBBONS (GUERNSEY) LIMITED (in administration)

And

NICK VERMEULEN and ZELF HUSSAIN (as joint administrators)

And

PHOENIX UK FUND LTD

ASSET PURCHASE AGREEMENT

in relation to the purchase of certain stock from Stanley Gibbons (Guernsey) Limited (in administration)

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PARTIES

- (1) **STANLEY GIBBONS (GUERNSEY) LIMITED (in administration)** incorporated and registered in Guernsey with company number 42180 whose registered office is at Roseneath, The Grange, St Peter Port, Guernsey GY1 2QJ (the "**Seller**") acting by its joint administrators Nick Vermeulen (a partner of PricewaterhouseCoopers CI LLP) and Zelf Hussain (a partner of PricewaterhouseCoopers LLP) (separately and together the "**Administrator**"); and
- (2) **THE ADMINISTRATOR**; and
- (3) **PHOENIX UK FUND LTD** incorporated and registered in the commonwealth of the Bahamas with company number 72182B whose registered office is at Suite 205A, Saffery Square, Bank Lane & Bay Street, P.O. Box N-9934, Nassau, Bahamas (the "**Buyer**").

BACKGROUND

- (A) On 21 November 2017, the Administrator was appointed as the administrator of the Seller pursuant to Part XXI of the Companies (Guernsey) Law, 2008 (as amended).
- (B) The parties have agreed that the Seller shall sell and the Buyer shall purchase the Assets on the terms and conditions of this agreement.

AGREED TERMS

1. INTERPRETATION

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

Administrator's Advocates: Carey Olsen of Carey House, Les Banques, St Peter Port, Guernsey GY1 4BZ.

Assets: the property, rights and assets of the Seller set out in the Schedule to this agreement.

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

Buyer's Advocates: Collas Crill LLP of Gategny Court, Gategny Esplanade, St Peter Port, Guernsey GY1 4EW.

Companies Law: the Companies (Guernsey) Law, 2008, as amended.

Completion: the completion of the sale and purchase of the Assets pursuant to and in accordance with this agreement.

Completion Date: the date of this agreement.

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

Interest Rate: interest at a rate equal to 2% per annum above the Bank of England base rate.

Purchase Price: has the meaning given in clause 3.1.

Third Party Assets: those assets in the possession of the Seller by virtue of any contract or arrangement under which title does not vest in the Seller (including those assets that are on loan, subject to lease, hire purchase, conditional sale, retention of title, rental or contract hire) or of which it is for any reason bailee.

- 1.2 Clause, schedule and paragraph headings do not affect the interpretation of this agreement.
- 1.3 A reference to a clause or a schedule is a reference to a clause of, or schedule to, this agreement. A reference to a paragraph is to a paragraph of the relevant schedule, and a reference to an appendix is to the relevant appendix to this agreement.
- 1.4 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors or permitted assigns.
- 1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated.
- 1.6 Words in the singular include the plural and in the plural include the singular.
- 1.7 A reference to one gender includes a reference to the other gender.
- 1.8 A reference to a particular statute, statutory provision or subordinate legislation is a reference to it as it is in force at the date of this agreement, taking account of any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts and subordinate legislation for the time being in force made under it.
- 1.9 **Writing** or **written** does not include e-mail.
- 1.10 Documents in **agreed form** are documents in the form agreed by the parties to this agreement and initialled by them or on their behalf for identification.
- 1.11 Where the words **include(s) including** or **in particular** are used in this agreement, they are deemed to have the words "without limitation" following them.

1.12 Any obligation in this agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.

1.13 **Other** and **otherwise** are illustrative and shall not limit the sense of the words preceding them.

1.14 References to times of the day are, unless the context requires otherwise, to Guernsey time and references to a day are to a period of 24 hours running from midnight on the previous day.

2. **AGREEMENT TO SELL AND PURCHASE**

2.1 At the direction of the Administrator and subject to the terms of this agreement, the Seller shall sell and the Buyer shall purchase such right, title and interest (if any) as the Seller may have in the Assets, for the Purchase Price on the Completion Date, in each case in so far as the Seller is entitled to sell such Assets and subject to all Encumbrances relating to them.

3. **PURCHASE PRICE AND ADJUSTMENT**

3.1 The Purchase Price for the Assets to be paid by the Buyer to the Seller pursuant to this agreement is £3,250,000.

3.2 The Purchase Price shall be paid in cash on Completion by the Buyer.

3.3 The Seller confirms that the Administrator may give a good receipt for all payments to the Seller.

3.4 The Purchase Price shall only be capable of adjustment in the event of any Asset being a Non-Delivered Asset in accordance with clause 4.6. In such event:

3.4.1 each relevant Non-Delivered Asset shall be excluded from the sale under this agreement whereupon the Buyer shall be deemed to have waived and relinquished such title (if any) to each Non-Delivered Asset as it may have acquired:

3.4.2 each Non-Delivered Asset shall thereafter cease to be an Asset for the purposes of this agreement; and

3.4.3 the Seller shall refund to the Buyer, as soon as reasonably practicable, an amount equal to 28.02% of the cost price per item of each Non-Delivered Asset, as set out in the Schedule.

4. **COMPLETION**

4.1 Completion shall take place on the Completion Date:

4.1.1 at the offices of the Administrator's Advocates; or

4.1.2 at any other place agreed by the parties.

4.2 At Completion, the Buyer shall:

- 4.2.1 pay the Purchase Price in accordance with clause 3;
 - 4.2.2 deliver to the Seller a certified copy of the resolution adopted by the board of directors of the Buyer in the agreed form authorising the execution and delivery by the officers specified in the resolution of this agreement, and any other documents referred to in this agreement as being required to delivered by it; and
 - 4.2.3 make such arrangements as it sees fit for collecting any of the Assets.
- 4.3 At Completion, and subject to the Buyer having complied with clause 4.2, the Seller shall make available to the Buyer physical possession of all of the Assets at their then current location and the Seller shall make the Assets available for collection at that location for up to ten business days following Completion.
- 4.4 Risk in respect of and such rights, title and interest (if any) as the Seller has in the Assets shall vest in the Buyer on Completion.
- 4.5 The terms of this agreement shall, insofar as not performed at Completion and subject as otherwise specifically provided in this agreement, continue in full force and effect notwithstanding Completion.
- 4.6 If it is agreed by the parties that the Seller has not made any Asset available for collection in accordance with clause 4.3, and is not able to make such Asset available to the Buyer within 7 Business Days immediately following Completion, such Asset shall thereafter be a "**Non-Delivered Asset**" and the Purchase Price shall be adjusted in accordance with clause 3.4.
5. **THIRD PARTY ASSETS**
- 5.1 The Buyer acknowledges that some of the Assets may belong to persons other than the Seller and that such Assets are not the subject of any sale under this agreement.
- 5.2 Where possession is given to the Buyer of any Third Party Assets, the Buyer shall:
- 5.2.1 hold the Third Party Assets as bailee;
 - 5.2.2 have no title to nor further right to possess or use any of the Third Party Assets;
 - 5.2.3 not hold itself out as owner of any of the Third Party Assets;
 - 5.2.4 at its own expense, maintain the Third Party Assets in as good condition as they were in at the time of Completion (subject to normal wear and tear);
 - 5.2.5 not sell, charge or otherwise encumber or dispose of any of the Third Party Assets; and

- 5.2.6 allow the Administrator, the Seller, the owners of the Third Party Assets and their respective representatives, to have access to the Third Party Assets at any reasonable time, to enable them to inspect, remove or otherwise deal with them.
- 5.3 The Buyer shall use all reasonable endeavours to obtain the consent of the owners of the Third Party Assets to the Buyer's continued possession, use or purchase of them. Neither the Administrator nor the Seller shall object to or hinder any arrangements that the Buyer may wish to make in this respect provided that the Buyer shall not make any such arrangement with the owner or person entitled to such assets unless such arrangements include waivers in full of any claim that the owner may have against the Administrator (whether for conversion, trespass to goods or on any other account), and of any claim made as an expense of the administration for the payment of any monies in respect of such Third Party Assets or their use. Subject to this and to the requirements of Clause 9 the Seller shall execute such documents as the Buyer may reasonably require.
- 5.4 If the owner of any Third Party Asset refuses to sell it or otherwise make it available to the Buyer, the Buyer shall forthwith deliver up such item for collection and removal by the owner and notify the Seller of such delivery up.
- 5.5 The Buyer shall indemnify the Seller and the Administrator from and against all claims and losses that may be brought against or incurred by the Seller or the Administrator in respect of any or all of the Third Party Assets insofar as such claims and losses arise in respect of an event occurring after Completion, as follows:
- 5.5.1 to the extent such a claim or loss arises against the Administrator personally and/or constitutes an expense of the administration as a matter of Guernsey law, the Buyer provides a full indemnity, save for any liability of the Administrator incurred pursuant to section 379(4) of the Companies Law; and
- 5.5.2 to the extent such a claim ranks as an unsecured claim against the Seller, the Buyer's liability under the indemnity in respect of that unsecured claim will be limited to the amount recovered by the relevant third party from the Seller.

6. LIMITATIONS OF LIABILITY

- 6.1 The Administrator acts as agent for the Seller and neither the Seller, nor the Administrator, nor the Administrator's firm, nor their representatives, employees or agents shall incur any personal liability in any circumstances whatever by virtue of this agreement, nor in relation to any related matter or claim, nor in respect of any transfer, assignment or other documents made pursuant to this agreement.
- 6.2 The Administrator has entered into this agreement solely for the purpose of obtaining the benefit of the provisions in their favour.

6.3 Neither the Seller nor the Administrator shall have any liability to pay any tax, import duty or other similar payment arising in connection with or resulting from the Buyer acquiring or taking possession of the Assets.

7. EXCLUSIONS

7.1 Subject to Clause 7.5, all representations, warranties, conditions, guarantees and stipulations, express or implied, statutory, customary or otherwise in respect of the Assets or any of the rights, title and interests transferred or agreed to be transferred pursuant to this agreement are, to the fullest extent permitted by law, expressly excluded (including warranties and conditions as to title, quiet possession, merchantable or satisfactory quality, fitness for purpose and description). Except as expressly set out in this agreement, any lists contained in any schedule or annexe shall not constitute any warranty in respect of the Seller's ownership of the listed items or otherwise.

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

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

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

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

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

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

- 7.4 The Buyer acknowledges that it has not entered into this agreement in reliance upon any representations, agreements, statements or replies to specific enquiries (whether oral or written) made or alleged to have been made by the Seller, the Administrator, the Administrator's firm or its or their representatives, employees, agents or advisers at any time.
- 7.5 Nothing in this agreement operates to limit or exclude any liability for fraud or fraudulent misrepresentation.
- 7.6 The Buyer acknowledges that if the Seller does not have title or unencumbered title to any or all of the Assets, or if the Buyer cannot exercise any right conferred or purported to be conferred on it by this agreement, this shall not be a ground or grounds for rescinding, avoiding or varying any or all of the provisions of this agreement, or for any reduction or repayment of any part of the consideration.

8. **CONFIDENTIALITY AND ANNOUNCEMENTS**

- 8.1 The Seller undertakes to the Buyer to keep confidential all the information that it has acquired about the Buyer and to use such information only for the purposes contemplated by this agreement.
- 8.2 The Buyer undertakes to the Seller to keep confidential the terms of this agreement and all information that it has acquired about the Seller and to use the information only for the purposes contemplated by this agreement.
- 8.3 Either party may disclose any information that it is otherwise required to keep confidential under this clause 8:
- 8.3.1 to such professional advisers, consultants and employees or officers of its group as are reasonably necessary to advise on this agreement, or to facilitate the Transaction, provided that the disclosing party procures that the people to whom the information is disclosed keep it confidential as if they were that party; or
 - 8.3.2 with the written consent of the other party; or
 - 8.3.3 to the extent that the disclosure is required:
 - (a) by law; or
 - (b) by any regulatory body, tax authority or securities exchange or (in the case of a disclosure by the Seller or the Administrator) is required in the Administrator's opinion to enable the Administrator to comply with any applicable requirements of insolvency practice or disclosure requirement to which it is subject (whether as a matter of law, practice or professional conduct).

8.4 No announcement, circular or other publicity in connection with the subject matter of this agreement (other than as permitted by this agreement) shall be made before Completion by or on behalf of a party without the approval of the Administrator and the Buyer (such approval not to be unreasonably withheld or delayed).

9. **FURTHER ASSURANCE**

For six months following Completion, the Seller and the Administrator (provided they are, at the relevant time, the administrators of the Seller) shall (at the Buyer's expense) execute and deliver all such documents, and do whatever the Buyer may from time to time reasonably require for the purpose of giving effect to the provisions of this agreement.

10. **ASSIGNMENT**

Except as otherwise provided in this agreement, no party may assign, or grant any Encumbrance over or deal in any way with, any of its rights under this agreement or any document referred to in it.

11. **WHOLE AGREEMENT**

11.1 This agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.

11.2 Nothing in this clause operates to limit or exclude any liability for fraud.

12. **VARIATION**

12.1 A variation of this agreement shall be in writing and signed by or on behalf of each party.

12.2 Any waiver of any right under this agreement is only effective if it is in writing and signed by the waiving or consenting party and it applies only in the circumstances for which it is given and shall not prevent the party who has given the waiver from subsequently relying on the provision it has waived.

12.3 No failure to exercise or delay in exercising any right or remedy provided under this agreement or by law constitutes a waiver of such right or remedy or shall prevent any future exercise in whole or in part thereof.

12.4 No single or partial exercise of any right or remedy under this agreement shall preclude or restrict the further exercise of any such right or remedy.

12.5 Unless specifically provided otherwise, rights arising under this agreement are cumulative and do not exclude rights provided by law.

13. **COSTS**

Each party shall pay its own costs and expenses in connection with the negotiation, preparation, execution and performance of this agreement, and any documents referred to in it.

14. **NOTICE**

14.1 A notice given under this agreement:

14.1.1 shall be in writing in the English language (or be accompanied by a properly prepared translation into English);

14.1.2 shall be sent for the attention of the person, and to the address set out in this agreement (or such other address or person as the relevant party may notify to the party); and

14.1.3 shall be:

- (a) delivered personally; or
- (b) delivered by commercial courier; or
- (c) sent by pre-paid first class post or recorded delivery; or
- (d) (if the notice is to be served by post outside the country from which it is sent) sent by registered airmail.

14.2 A notice is deemed to have been received:

14.2.1 if delivered personally, at the time of delivery; or

14.2.2 if delivered by commercial courier, at the time of signature of the courier's receipt; or

14.2.3 if sent by pre-paid first class post, recorded delivery or registered post, 48 hours from the date of posting; or

14.2.4 if sent by registered airmail, five days from the date of posting; or

14.2.5 if deemed receipt under the previous paragraphs of this clause 14.2 is not within business hours (business hours meaning 9.00 am to 5.30 pm Monday to Friday on a day that is a Business Day), when business next starts in the place of receipt.

14.3 To prove service, it is sufficient to prove that the envelope containing the notice was properly addressed and posted.

15. **INTEREST ON LATE PAYMENT**

Where a sum is required to be paid under this agreement but is not paid before or on the date the parties agreed, the party due to pay the sum shall also pay interest on that sum at the Interest Rate for the period beginning with that date and ending with the date the sum is paid (and the period shall continue after as well as before judgment). Interest shall accrue on a daily basis from the due date until actual payment of the overdue amount.

16. **SEVERANCE**

16.1 If any provision of this agreement (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

16.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

17. **AGREEMENT SURVIVES COMPLETION**

17.1 This agreement (other than obligations that have already been fully performed) remains in full force after Completion.

17.2 All obligations of the Seller and the Administrator under this agreement shall (without prejudice to any antecedent breach) automatically determine three months after the Completion Date other than those obligations (if any) that are expressed or contemplated to continue thereafter, which obligations shall subsist until they have been performed or otherwise discharged.

18. **THIRD PARTY RIGHTS**

18.1 This agreement and the documents referred to in it are made for the benefit of the parties to them and their successors and permitted assigns and, except where expressly provided to the contrary, are not intended to benefit, or be enforceable by, anyone else.

18.2 The Administrator's firm, and their representatives, employees, agents or advisers may enforce and rely on clause 6 to the same extent as if they were a party to this agreement.

19. **SUCCESSORS**

The rights and obligations of the parties shall continue for the benefit of and shall be binding on their respective successors and assigns.

20. **COUNTERPARTS**

This agreement may be executed in any number of counterparts, each of which is an original and which together have the same effect as if each party had signed the same document.

21. **LANGUAGE**

If this agreement is translated into any language other than English, the English language text shall prevail.

22. **GOVERNING LAW AND JURISDICTION**

22.1 This agreement and any disputes or claims arising out of or in connection with its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the law of the Island of Guernsey.

22.2 The parties irrevocably agree that the courts of the Island of Guernsey have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This agreement has been entered into on the date stated at the beginning of it.