

Sale and Purchase Agreement

THIS SALE AND PURCHASE AGREEMENT is made on _____

BETWEEN

1. _____ (Company Number _____)
whose address is _____
_____ (the "**Seller**"); and
2. **MITSUBISHI HC CAPITAL UK PLC** (trading as Novuna Business Finance) (Company Number 01630491) whose address is Novuna House, Thorpe Road, Staines-Upon-Thames, Surrey TW18 3HP (the "**Purchaser**")

WHEREAS:

- (A) The Seller is the owner of and has taken delivery of the goods consisting of _____
_____ together with the operating instructions, handbooks, specifications and books pertaining thereto (the "**Goods**");
- (B) The Seller and the Purchaser have agreed that the Purchaser will buy the Goods and the Purchaser will hire the Goods to the Seller under Agreement number _____ dated on or about the date hereof between the parties in the Purchaser's standard form and on such terms as the Purchaser shall stipulate (the "**Finance Agreement**").

THE PARTIES HEREBY AGREE as follows:

1. Sale and Purchase

- 1.1. The Seller as beneficial owner hereby sells and the Purchaser hereby purchases the Goods free from all liens, burdens, encumbrances and adverse interests.
- 1.2. The Seller acknowledges that in purchasing the Goods the Purchaser is relying on the warranties set out in clause 5 of this Agreement.

2. Price and Payment

- 2.1. The purchase price shall be £_____ exclusive of VAT, and payable in Pounds Sterling (the "**Purchase Price**").
- 2.2. The Purchaser shall pay the Purchase Price less any deposit, payments or fees due, together with any applicable value added tax properly chargeable thereon, to the Seller on or before the date when the Seller completes its performance of the obligations specified in clauses 2.3 and 2.4 (the "**Payment Date**").
- 2.3. On or before the Payment Date the Seller shall deliver to the Purchaser:
 - 2.3.1. a valid value added tax invoice for the Purchase Price authorising the Purchaser to deduct any amounts due to the Purchaser from the Seller; and
 - 2.3.2. the original invoice rendered to the Seller by the manufacturer or supplier of the Goods to the Seller or a copy thereof, together with such evidence as is acceptable to the Purchaser that such invoice has been fully paid and such other evidence if any as the Purchaser reasonably demands to enable it to confirm to its satisfaction that the Seller is the legal and beneficial owner of the Goods.
- 2.4. On or before the Payment Date the Seller shall:
 - 2.4.1. pay (except to the extent the same may already have been paid) the first payment, the documentation fee and any other sums which are due under the Agreement;

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2.4.2. provide evidence satisfactory to the Purchaser that the requirements of the Agreement in relation to insurance of the Goods have been complied with; and

2.4.3. enter into the Agreement.

2.5. The Seller acknowledges that in the event that the supply of Goods by the Seller to the Purchaser is: (i) not a zero-rated supply; and/or (ii) results in the Seller's taxable turnover per annum being over and above the Value Added Tax ("VAT") registration threshold defined by HM Revenue & Customs ("HMRC"), the purchase by the Purchaser of the Goods may affect its VAT status so that it is compulsorily required to register for VAT, if it is not already registered.

3. Risk and Title

3.1. Upon the Purchaser making payment of the Purchase Price together with the value added tax properly chargeable thereon:

3.1.1. title in the Goods, free from all liens, burdens, encumbrances and adverse interests, shall pass to the Purchaser; and

3.1.2. risk in the Goods and in particular the risk of their loss, theft, damage or destruction shall remain with the Seller.

4. Termination

4.1. At any time before complying with its obligations under clause 2.2 the Purchaser may terminate this Agreement (without prejudice to any right of action which the Purchaser may already have against the Seller) by giving notice to the Seller if:

4.1.1. the Goods shall have been lost, stolen, damaged or destroyed; or

4.1.2. there shall be a breach of any of the warranties set out in clause 5; or

4.1.3. the Seller shall be in breach of any other obligation incumbent on it hereunder; or

4.1.4. the Seller dies or is the subject of a bankruptcy order or becomes insolvent or steps are taken to appoint a receiver or administrator over all or any of its assets or an execution is levied on the Goods under a judgment or if a distress is levied or any deed or arrangement or compromise with creditors is made or if the Seller ceases or threatens to cease to carry on trading or if the Seller (being a company) shall call a meeting of creditors, or a resolution or petition is passed or presented for the Seller's winding-up (other than for a voluntary reconstruction or amalgamation); or

4.1.5. delivery of the Goods to the Purchaser and payment of the Purchase Price on or prior to the Payment Date shall not have occurred.

4.2. If the Purchaser terminates this Agreement pursuant to clause 4.1, the obligations on the Purchaser under this Agreement shall cease.

5. Warranties

5.1. The Seller warrants to the Purchaser both as at the date of this Agreement and as at the Payment Date that:

5.1.1. the Seller has a good marketable title to the Goods free from all liens, burdens, encumbrances and adverse interests, the Goods have been delivered to the Seller and are in the Seller's sole possession;

5.1.2. the Goods are of satisfactory quality and are free from defects in workmanship, installation and design and it is not engaged in any dispute with the supplier of the Goods;

5.1.3. the Goods have an open market value of an amount at least equal to the Purchase Price:

5.1.4. the Purchase Price does not exceed the total price paid for the Goods by the Seller plus any sums expended by the Seller on adding to or improving or installing the Goods (all exclusive of value added tax);

5.1.5. the Goods constitute machinery or plant which is eligible for an annual writing down allowance under the Capital Allowances Act 1990; and

5.1.6. the Goods are not affixed to any land or building.

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6. Security relating to the Goods

- 6.1. The Seller hereby assigns to the Purchaser the benefits of any guarantees, conditions and warranties which may be given to the Seller by the manufacturers or suppliers of the Goods (the "Benefits"). If any of the Benefits are not assignable the same shall be held in trust by the Seller for the Purchaser.
- 6.2. The Purchaser agrees that so long as (i) no termination event in the Agreement has occurred and (ii) the Purchaser has not notified the manufacturer or supplier of the assignment of the Benefit, the Seller may at its own expense exercise, claim and enforce the Benefits assigned pursuant to clause 6.1.

7. General

- 7.1. The Seller may not assign, dispose or deal with any of its rights or liabilities under this Agreement without the Purchaser 's prior written consent. The Purchaser may assign, dispose of or deal with its rights and liabilities under this Agreement to any person without the need for the consent of the Seller.
- 7.2. Any notice or other communication given under this Agreement shall be in writing and may be delivered by fax, hand or sent by first class pre-paid post to the address of the other party as appearing herein or to such other address within the U.K. as may previously have been notified by any party to the other. The notice or communication shall be deemed to have been served on the day of delivery or in the case of a fax when received or in the case of posting within forty-eight hours of the date of posting.
- 7.3. This Agreement constitutes the entire agreement and understanding of the Purchaser and the Seller and supersedes any previous agreement between the parties relating to the subject matter of this Agreement.
- 7.4. A person who is not a party to this Agreement shall have no right to enforce any terms of it under the Contracts (Rights of Third Parties) Act 1999.
- 7.5. This Agreement shall be governed by English Law and the parties submit to the exclusive jurisdiction of the English Courts.

THIS AGREEMENT is entered into on the date stated at the beginning of this Agreement. This Agreement is NOT for use in Scotland.

Signed for and on behalf of the Seller

Full name in
 BLOCK Capitals _____
 Position Held _____

(to be signed by the same person as the Agreement)

Signed for and on behalf of Novuna Business Finance