RULE 21. RESTRICTIONS ON FRUSTRATING ACTION

21.1 RESTRICTION ON ACTIONS BY THE BOARD OF THE OFFEREE COMPANY

(a) Except with the approval of shareholders in general meeting or the consent of the Panel, during the relevant period the board of the offeree company must not take or agree to take:

(i) any restricted action; or

(ii) any other action which may result in the frustration of any offer or bona fide possible offer.

(b) The "relevant period" is the period from the earlier of:

(i) an approach by a potential offeror to the board of the offeree company; and

(ii) the beginning of the offer period,

until the end of the offer period or, where no offer period has begun, 5.00 pm on the seventh day following the date on which the latest approach is unequivocally rejected. See also Note 7 and Note 9.

(c) A "restricted action" means any of the following, to the extent that it is not in the ordinary course of the offeree company's business:

(i) issuing, or transferring out of treasury, shares, or securities carrying rights of conversion into or subscription for shares, in the offeree company;

(ii) redeeming or purchasing shares, or securities carrying rights of conversion into or subscription for shares, in the offeree company;

(iii) granting options over or awards in respect of shares in the offeree company;

(iv) disposing of or acquiring (in one or more transactions) assets of a material amount; or

(v) entering into, amending or terminating a material contract.

(d) The Panel must be consulted in advance if any proposed action may be restricted by Rule 21.1(a).

(e) The Panel will normally give its consent under Rule 21.1(a) if:

(i) the taking of the proposed action is conditional on the offer being withdrawn or lapsing (see also Rule 21.1(g));

(ii) the offeror consents to the taking of the proposed action;

(iii) holders of shares carrying more than 50% of the voting rights of the offeree company state in writing that they approve the taking of the proposed action and would vote in favour of any resolution to that effect proposed at a general meeting;

(iv) the proposed action is in pursuance of a contract entered into before the beginning of the relevant period or another pre-existing obligation; or

(v) a decision to take the proposed action had been taken and partly implemented before the beginning of the relevant period.

(f) Where shareholder approval is to be sought in general meeting for the taking of a proposed action the board of the offeree company must:

(i) obtain competent independent advice as to whether the financial terms of the proposed action are fair and reasonable;

(ii) consult the Panel regarding the date of the general meeting; and

(iii) send a circular to shareholders containing the details set out in Note 6 as soon as practicable after the announcement of the proposed action.

(g) Where the Panel has given its consent to a proposed action because the taking of the proposed action is conditional on the offer being withdrawn or lapsing, the board of the offeree company must publish an announcement containing the details set out in Note 6. (See also Rule 30.1(c).)

NOTES ON RULE 21.1

1. Incentive and retention arrangements

(a) The Panel will normally consider the proposed grant of options over, or awards in respect of, shares to be in the ordinary course of the offeree company's business if the timing and level are in accordance with:

(i) the offeree company's normal practice under an established incentive scheme; or

(ii) the offeree company's proposed practice under a new incentive scheme, provided that the proposed practice was publicly disclosed before the relevant period,

or if the grant of options over, or awards in respect of, shares is in connection with a genuine promotion or new appointment or hire.

(b) The Panel will normally consider the issue of new shares or the transfer of shares from treasury to satisfy the exercise of options or the vesting of awards under an incentive scheme to be in the ordinary course of the offeree company's business.

(c) The Panel must be consulted where the board of the offeree company proposes to put in place offer-related retention arrangements (other than arrangements that are considered to be in the ordinary course of the offeree company's business under Note 1(a) or Note 1(b)) that will relate to a period

that is (in whole or in part) prior to the end of the offer period, whether in cash or in the form of options over, or awards in respect of, shares in the offeree company. Where those arrangements are significant in value or relate to directors or management, the Panel may regard entering into those arrangements as a restricted action.

2. Redemption or purchase of own shares

A redemption or purchase of its own shares in line with defined limits announced or established before the relevant period will normally be in the ordinary course of the offeree company's business.

3. Assets of a material amount

(a) In assessing whether a disposal or acquisition is of assets of a material amount, the Panel will normally have regard to:

(i) the value of the consideration to be received or given compared with the market value of the equity share capital of the offeree company; and, where appropriate,

(ii) the value of the assets compared with the value of the assets of the offeree company; and

(iii) the operating profit (i.e. profit before tax and interest and excluding exceptional items) attributable to the assets compared with the operating profit of the offeree company.

For these purposes:

"assets" will normally mean total assets less current liabilities (other than short-term indebtedness); and

"equity share capital" will be interpreted by reference to Note 3 on Rule 14.1.

(b) The figures to be used for these calculations must be:

(i) for the market value of the equity share capital of the offeree company, the value at the close of business:

(A) on the business day immediately preceding the start of the offer period; or

(B) if there is no offer period, on the business day immediately preceding the announcement of the transaction; and

(ii) for assets and profits, the figures stated in the latest published audited consolidated accounts or, where appropriate, a subsequent preliminary statement of annual results or half-yearly financial report.

(c) The Panel may have regard to additional or alternative indicators of materiality that it considers appropriate either in the context of the relevant industry or in order to take into account the particular circumstances of the offeree company or the nature of the relevant assets.

(d) A relative value of 10% or more will normally be of a material amount. A relative value of less than 10% may also be of a material amount if the assets are of particular significance to the offeree company.

(e) If a number of disposals and/or acquisitions (other than disposals or acquisitions in the ordinary course of the offeree company's business) are or, following the last proposed action, will be, in aggregate, of a material amount, the last relevant disposal or acquisition and any subsequent relevant disposal or acquisition will be treated as a restricted action. Disposals and acquisitions will be aggregated together disregarding any negative values.

4. Service contracts

The Panel will regard entering into or amending a service contract with, or creating or varying the terms of employment or appointment of, a director or manager as entering into or amending a material contract outside the ordinary course of the offeree company's business for the purpose of Rule 21.1 if the new or amended contract or terms constitute an abnormal increase in the director's or manager's emoluments or a significant improvement in the terms of service, unless the increase or improvement results from a genuine promotion or new appointment or hire.

5. Inducement fees

The Panel will normally consider an inducement fee arrangement proposed to be entered into by the offeree company (other than an inducement fee arrangement in relation to an offer permitted under Note 1 or Note 2 on Rule 21.2) to be a material contract outside the ordinary course of the offeree company's business if the aggregate value of the inducement fee or fees that may be payable is:

(a) where the inducement fee arrangement is entered into prior to the announcement by an offeror of a firm intention to make an offer, more than 1% of the market value of the equity share capital of the offeree company (as determined in accordance with Note 3); or

(b) where the inducement fee arrangement is entered into after the announcement by an offeror of a firm intention to make an offer, more than 1% of the value of the offeree company calculated by reference to the price of the offeror's offer (or, if there are two or more offerors, the first offer) at the time of the announcement.

6. Details to be included in circular or announcement

Any circular sent to shareholders under Rule 21.1(f)(iii) or announcement published under Rule 21.1(g) must contain the following:

(a) full details of the proposed action;

(b) the opinion of the board of the offeree company on the proposed action and the board's reasons for forming its opinion;

(c) if Rule 21.1(f)(i) applies, the substance of the advice given to the board of the offeree company;

(d) information about the current status of the offer or possible offer; and

(e) any other information necessary to enable shareholders to make an informed decision.

The offeree company must also publish the circular or announcement, and any contracts entered into in connection with the proposed action, on a website. (See also Rule 26.1(a).)

7. Competing offerors

Where there is more than one offeror, the Panel will normally treat the relevant period for any new offeror or potential offeror as beginning upon an approach by that offeror to the board of the offeree company or, if earlier, when that offeror is publicly identified in an announcement.

8. Reverse takeovers

Where an offer is, or a possible offer would be, a reverse takeover, Rule 21.1 will also apply during the relevant period to the board of the offeror as if the offeror were an offeree company and vice versa.

9. Relevant period where the offeree board is seeking a potential offeror or where a purchaser is sought for a controlling interest

(a) Where the board of an offeree company is seeking one or more potential offerors (whether by way of a formal sale process or otherwise), the relevant period for a potential offeror will not normally begin until that potential offeror makes a proposal with indicative offer terms.

(b) The Panel should be consulted at an early stage to determine when the relevant period will begin for a potential offeror where a purchaser is being sought for interests in shares carrying in aggregate 30% or more of the voting rights of a company.

10. Sanction of a scheme of arrangement in a competitive situation

Other than in exceptional circumstances, the Panel will consent to the restrictions in Rule 21.1(a) not being applied where the board of the offeree company seeks to sanction a scheme of arrangement in a competitive situation.

21.2 OFFER-RELATED ARRANGEMENTS

(a) Except with the consent of the Panel, neither the offeree company nor any person acting in concert with it may enter into any offer-related arrangement with either the offeror or any person acting in concert with it during an offer period or when an offer is reasonably in contemplation.

(b) An offer-related arrangement means any agreement, arrangement or commitment in connection with an offer, including any inducement fee arrangement or other arrangement having a similar or comparable financial or economic effect, but excluding:

(i) a commitment to maintain the confidentiality of information provided that it does not include any other provisions prohibited by Rule 21.2(a) or Rule 2.3(d) or otherwise under the Code;

(ii) a commitment not to solicit employees, customers or suppliers;

(iii) a commitment to provide information or assistance for the purposes of obtaining any official authorisation or regulatory clearance;

(iv) irrevocable commitments and letters of intent;

(v) any agreement, arrangement or commitment which imposes obligations only on an offeror or any person acting in concert with it, other than in the context of a reverse takeover;

(vi) any agreement relating to any existing employee incentive arrangement; and

(vii) an agreement between an offeror and the trustees of any of the offeree company's pension schemes in relation to the future funding of the pension scheme.

(c) If there is any doubt as to whether any proposed agreement, arrangement or commitment is subject to this Rule, the Panel should be consulted at the earliest opportunity.

NOTES ON RULE 21.2

1. Competing offerors

Where an offeror has announced a firm intention to make an offer which was not recommended by the board of the offeree company at the time of that announcement and remains not recommended, the Panel will normally consent to the offeree company entering into an inducement fee arrangement with a competing offeror at the time of the announcement of its firm intention to make a competing offer, provided that:

(a) the aggregate value of the inducement fee or fees that may be payable by the offeree company is de minimis, i.e. normally no more than 1% of the value of the offeree company calculated by reference to the price of the competing offer (or, if there are two or more competing offerors, the first competing offer) at the time of the announcement made under Rule 2.7; and

(b) any inducement fee is capable of becoming payable only if an offer becomes or is declared unconditional.

2. Formal sale process

Where, prior to an offeror having announced a firm intention to make an offer, the board of the offeree company announces that it is seeking one or more potential offerors by means of a formal sale process, the Panel will normally grant a dispensation from the prohibition in Rule 21.2, such that the offeree company would be permitted, subject to the same provisos as set out in Note 1(a) and (b) above, to enter into an inducement fee arrangement with one offeror (who had participated in that process) at the time of the announcement of its firm intention to make an offer. In exceptional circumstances, the Panel may also be prepared to consent to the offeree company entering into other offer-related arrangements with that offeror. The Panel should be consulted at the earliest opportunity in all cases where such a dispensation is sought.

3. Rule 9 waivers

Rule 21.2 also applies in the context of a transaction which is subject to a Rule 9 waiver. The Panel should be consulted at an early stage where such a transaction is proposed.

4. Disclosure

An announcement of a firm intention to make an offer, an offer document or a Rule 9 waiver circular, as the case may be, must include a summary of any offer-related arrangement or other agreement, arrangement or commitment permitted under, or excluded from, Rule 21.2 and, subject to Note 6 on Rule 26, a copy of the agreement, arrangement or commitment must be published on a website in accordance with Rule 26.2.

21.3 EQUALITY OF INFORMATION TO COMPETING OFFERORS

(a) The board of the offeree company must, on request, equally and promptly provide an offeror or bona fide potential offeror with all information that it has provided, and that it provides in the seven days following the request, to another offeror or potential offeror.

(b) The requirement in Rule 21.3(a) will normally only apply when:

(i) there has been an announcement of the existence of the offeror or potential offeror to which information has been provided; or

(ii) the offeror or bona fide potential offeror requesting information has been informed authoritatively of the existence of another potential offeror.

NOTES ON RULE 21.3

1. Conditions attached to the passing of information

(a) The passing of information under Rule 21.3(a) should not be made subject to any conditions other than those relating to:

(i) the confidentiality of the information passed. This may include a condition that the offeror or potential offeror will not share the information with external providers or potential providers of finance (whether equity or debt) without the consent of the offeree company, provided that such consent may not be unreasonably withheld;

(ii) reasonable restrictions prohibiting the use of the information passed to solicit customers or employees; or

(iii) the use of the information solely in connection with an offer or possible offer.

Any such conditions should be no more onerous than those imposed on any other offeror or potential offeror.

(b) A requirement that the offeror or potential offeror sign a hold harmless letter in favour of a third party will normally be acceptable provided that each other offeror or potential offeror has been required to sign a letter in similar form.

2. Management buy-outs

If the offer or possible offer is a management buy-out or similar transaction, the information which Rule 21.3 requires to be given to another offeror or potential offeror is that information generated by the offeree company (including the management of the offeree company acting in their capacity as such) which is passed to external providers or potential providers of finance (whether equity or debt) to the offeror or potential offeror. The directors who are involved in making the offer must co-operate with the independent directors of the offeree company and its advisers in the assembly of this information.

3. Reverse takeovers

Where an offer or possible offer is a reverse takeover, an offeror or potential offeror for either party to the reverse takeover will be entitled to receive information which has been given by that party to the other party to the reverse takeover.

4. Information provided to a purchaser of assets

(a) If, during the relevant period (as defined in Rule 21.1(b)), the board of the offeree company commences discussions with one or more persons in relation to the sale of all or substantially all of the offeree company's assets (excluding cash and cash equivalents), information provided by the board of the offeree company to the potential asset purchaser(s) must be provided on the basis set out in Rule 21.3 to an offeror or bona fide potential offeror.

(b) This requirement will normally only apply when:

(i) there has been an announcement of the discussions between the offeree company and the potential asset purchaser(s); or,

(ii) the offeror or bona fide potential offeror requesting information has been informed authoritatively that the board of the offeree company and the potential asset purchaser(s) are having such discussions.

(c) If the board of the offeree company was in discussions with one or more potential purchaser(s) regarding the sale of all or substantially all of the offeree company's assets (excluding cash and cash equivalents) prior to the relevant period, Rule 21.3(a) will apply only in relation to information provided to the potential asset purchaser(s) after the beginning of the relevant period.

21.4 INFORMATION TO INDEPENDENT DIRECTORS IN MANAGEMENT BUY-OUTS

If the offer or possible offer is a management buy-out or similar transaction, the offeror or potential offeror must, on request, equally and promptly provide the independent directors of the offeree company or its advisers with all information which has been, or is subsequently, provided by the offeror or potential offeror to external providers or potential providers of finance (whether equity or debt) for the management buy-out or similar transaction.