

**Form 603**

Corporations Act 2001

Section 671B

**Notice of initial substantial holder**

**To** Company Name/Scheme **NOTCOPPER HOLDINGS LIMITED**  
 ACN/ARSN **611 717 036**

**1 Details of substantial holder (1)**

Name **ICM Limited and each person or other entity listed in annexure "A"**  
 ACN/ARSN (if applicable) **See annexure "A"**

The holder became a substantial holder on **21/09/16**

**2 Details of voting power**

The total number of votes attached to all the voting shares in the company or voting interests in the scheme that the substantial holder or an associate (2) had a relevant interest (3) in on the date the substantial holder became a substantial holder are as follows:

| Class of securities (4) | Number of securities | Person's votes (5) | Voting power (6) |
|-------------------------|----------------------|--------------------|------------------|
| Ordinary shares         | 5,739,549            | 5,739,549          | 5.2178%          |

**3 Details of relevant interests**

The nature of the relevant interest the substantial holder or an associate had in the following voting securities on the date the substantial holder became a substantial holder are as follows:

| Holder of relevant interest   | Nature of relevant interest (7)   | Class and number of securities |
|-------------------------------|---|--------------------------------|
| ICM Limited                   | Power to control the exercise of voting or disposal of shares held by Somers Limited pursuant to Amended Investment Management Agreement dated 10 December 2014 (a copy of which is annexure "B") | 5,739,549 Ordinary shares      |
| Permanent Investments Limited | The same relevant interests in the Company's shares as are held by Somers Limited (other than by virtue of s608(3)) due to voting power exceeding 20% in Somers Limited                           | 5,739,549 Ordinary shares      |
| Duncan Paul Saville           | Controller of ICM Limited as owner of all shares on issue by it   | 5,739,549 Ordinary shares      |

**4 Details of present registered holders**

The persons registered as holders of the securities referred to in paragraph 3 above are as follows:

| Holder of relevant interest                                  | Registered holder of securities      | Person entitled to be registered as holder (8) | Class and number of securities |
|--|--------------------------------------|--|--------------------------------|
| Each person or other entity listed in part 1 of annexure "A" | JP Morgan Nominees Australia Limited | Somers Limited                                 | 5,739,549 ordinary shares      |

**5 Consideration**

The consideration paid for each relevant interest referred to in paragraph 3 above, and acquired in the four months prior to the day that the substantial holder became a substantial holder is as follows:

| Holder of relevant interest                                  | Date of acquisition | Consideration (9) |          | Class and number of securities |
|--|---------------------|-------------------|----------|--------------------------------|
|  |                     | Cash              | Non-cash |                                |
| Each person or other entity listed in part 1 of annexure "A" | 15/09/16            | Nil               | Nil      | 5,000,000 ordinary shares      |
| Each person or other entity listed in part 1 of annexure "A" | 20/09/16            | Nil               | Nil      | 125,769 ordinary shares        |
| Each person or other entity listed in part 1 of annexure "A" | 21/09/16            | Nil               | Nil      | 613,780 ordinary shares        |

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**6 Associates**

The reasons the persons named in paragraph 3 above are associates of the substantial holder are as follows:

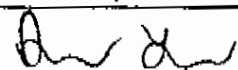
| Name and ACN/ARSN (if applicable) | Nature of associations   |
|-----------------------------------|--|
| Each entity listed in annexure A  | Each is an associate of each other entity listed in annexure A because all are controlled by Duncan Paul Saville |

**7 Addresses**

The addresses of persons named in this form are as follows:

| Name   | Address  |
|--|--|
| Each person or entity listed in annexure "A" | See annexure "A"                                       |
| JP Morgan Nominees Australia Limited         | Level 31, 101 Collins Street, Melbourne, Victoria 3000 |
| Somers Limited                               | 34 Bermudiana Road, Hamilton HM11, Bermuda             |

**Signature**

print name ALASDAIR YOUNIE Capacity DIRECTOR  
 sign here  date 27/04/17

**DIRECTIONS**

- (1) If there are a number of substantial holders with similar or related relevant interests (eg. a corporation and its related corporations, or the manager and trustee of an equity trust), the names could be included in an annexure to the form. If the relevant interests of a group of persons are essentially similar, they may be referred to throughout the form as a specifically named group if the membership of each group, with the names and addresses of members is clearly set out in paragraph 7 of the form.
- (2) See the definition of 'associate' in section 9 of the Corporations Act 2001.
- (3) See the definition of 'relevant interest' in sections 608 and 671B(7) of the Corporations Act 2001.
- (4) The voting shares of a company constitute one class unless divided into separate classes.
- (5) The total number of votes attached to all the voting shares in the company or voting interests in the scheme (if any) that the person or an associate has a relevant interest in.
- (6) The person's votes divided by the total votes in the body corporate or scheme multiplied by 100.
- (7) Include details of:
  - (a) any relevant agreement or other circumstances by which the relevant interest was acquired. If subsection 671B(4) applies, a copy of any document setting out the terms of any relevant agreement, and a statement by the person giving full and accurate details of any contract, scheme or arrangement, must accompany this form, together with a written statement certifying this contract, scheme or arrangement; and
  - (b) any qualification of the power of a person to exercise, control the exercise of, or influence the exercise of, the voting powers or disposal of the securities to which the relevant interest relates (indicating clearly the particular securities to which the qualification applies).

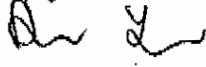
See the definition of 'relevant agreement' in section 9 of the Corporations Act 2001.
- (8) If the substantial holder is unable to determine the identity of the person (eg. if the relevant interest arises because of an option) write 'unknown'.
- (9) Details of the consideration must include any and all benefits, money and other, that any person from whom a relevant interest was acquired has, or may, become entitled to receive in relation to that acquisition. Details must be included even if the benefit is conditional on the happening or not of a contingency. Details must be included of any benefit paid on behalf of the substantial holder or its associate in relation to the acquisitions, even if they are not paid directly to the person from whom the relevant interest was acquired.

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## Annexure "A"

This is the annexure of 1 page marked "A" mentioned to the Form 603 Notice of Initial Substantial Holder signed by me and dated 27 April 2017



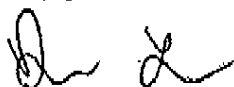
| <u>Name of substantial holder</u>  | <u>ACN/ARSN (for each)</u> | <u>Address (for each)</u>                  |
|--|----------------------------|--|
| <u>Part 1</u>  |                            |  |
| ICM Limited, Permanent Investments Limited & Duncan Paul Saville                                       | Not applicable             | 34 Bermudiana Road, Hamilton HM11, Bermuda |
| <u>Part 2</u>  |                            |  |
| Permanent Mutual Limited, Somers Isles Private Trust Co Limited & Ingot Capital Management Pty Limited | Not applicable             | 34 Bermudiana Road, Hamilton HM11, Bermuda |

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Annexure "B"

This is the annexure of 22 pages marked "B" mentioned to the Form 603 Notice of Initial Substantial Holder signed by me and dated  
27 April 2017

A handwritten signature in black ink, consisting of a stylized 'D' followed by a cursive flourish.

Dated 10 December 2014

SOMERS LIMITED

(1)

and

ICM LIMITED

(2)

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AMENDED AND RESTATED  
INVESTMENT MANAGEMENT  
AGREEMENT

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**THIS AMENDED AND RESTATED AGREEMENT** is made on 10 December 2014 **BETWEEN:**

- (1) **SOMERS LIMITED** registered in Bermuda (No. 46441) whose registered office is at Commercial Bank Building, 19 Par-le-Ville Road, Hamilton HM 11 Bermuda (the Company); and
- (2) **ICM LIMITED** registered in Bermuda (No. 44350) whose registered office is at Bermuda Commercial Bank Building, 19 Par-le-Ville Road, Hamilton HM 11 Bermuda (ICM).

**WHEREAS:**

- (A) Pursuant to an agreement dated 1 December 2012, ICM has managed the investment of the Assets with effect from 1 October 2012 (the Prior Agreement).
- (B) The Company and ICM wish to amend and restate the Prior Agreement on the terms of this Agreement, which shall from the Effective Date govern the relationship between the Company and ICM to the exclusion of the terms contained in the Prior Agreement.

**IT IS HEREBY AGREED** as follows:

**1 Definitions**

1.1 In this Agreement (including the Recitals):

1.1.1 unless the context otherwise requires the following expressions have the following meanings:

|                                     |   |
|-------------------------------------|---|
| <b>Appointment</b>                  | means the appointment of ICM under clause 2;  |
| <b>Assets</b>                       | means any asset of the Group whatsoever including, without limitation, shares, stocks, bonds, convertibles, warrants, derivatives, other securities and any cash wherever held; |
| <b>Associate</b>                    | means a company under the control of or under common control with ICM;  |
| <b>Auditors</b>                     | means the auditor of the Company;   |
| <b>BSX</b>                          | means the Bermuda Stock Exchange;   |
| <b>Board</b>                        | means the Board of Directors of the Company or any duly authorised committee thereof;   |
| <b>Business Day</b>                 | means a day on which banks are open for normal banking business in Bermuda, excluding a Saturday or Sunday;   |
| <b>Bye-Laws</b>                     | means the bye-laws of the Company;  |
| <b>Company Secretarial Services</b> | means the company secretarial services set out in Schedule 2;   |
| <b>Custodian</b>                    | means Bermuda Commercial Bank or any other person appointed as a custodian of the Assets (or any of them) from time to time;  |

|                             |   |
|-----------------------------|---|
| <b>Effective Date</b>       | means 1 October 2014;   |
| <b>Group</b>                | means the Company and any of the Company's Subsidiaries from time to time;  |
| <b>Investment Services</b>  | means the management of the Assets on a full discretionary basis and the giving of investment advice in relation thereto;   |
| <b>Regulatory Authority</b> | means all or any bodies, persons, authorities, agencies, organisations, exchanges, clearing houses, professional bodies, institutes and trade associations concerned with regulating business carried on by the Group;  |
| <b>Shares</b>               | means common shares of \$0.0001 nominal value in the capital of the Company;  |
| <b>Subsidiary</b>           | means a subsidiary of the Company (and in interpreting that provision for the purposes of this Agreement a company is to be treated as a member of a subsidiary even if its shares are registered in the name of (i) a nominee or (ii) any party holding security over those shares, or that secured party's nominee; |
| <b>US Dollar</b>            | means the lawful currency of the USA.   |

- 1.1.2 the headings to clauses shall not affect their interpretation;
- 1.1.3 references to clauses and the schedule are references to clauses of and the schedule to this Agreement;
- 1.1.4 unless the context otherwise requires, reference to any statute shall include any statutory modification or re-enactment thereof for the time being in force (and to any orders, regulations, instruments or subordinate legislation made under the relevant statute or statutory provision); and
- 1.1.5 references to the "Company" in this Agreement (including, for the avoidance of doubt, the Definitions) shall be deemed to include references to each subsidiary of the Company where the context so permits.

## 2 Appointment and term

- 2.1 This Agreement, which amends and restates the Prior Agreement, shall be deemed to have come into effect on the Effective Date and from the Effective Date ICM will provide the Investment Services to the Company on the terms and conditions of this Agreement and the terms and conditions contained in the Prior Agreement shall have no further force and effect with effect from the Effective Date.
- 2.2 ICM shall manage and advise on the investment of all the Assets. ICM's appointment as investment manager and investment adviser to the Company is exclusive and the Company



may not appoint any other investment manager or adviser to act jointly with ICM or otherwise during the term of this Agreement.

- 2.3 The Appointment shall continue until such time as it is terminated pursuant to clause 23.

### **3 ICM's duties**

- 3.1 ICM shall in the performance of its duties hereunder:

- 3.1.1 observe and comply with the Bye-Laws;
  - 3.1.2 so long as the Shares are admitted to listing by the BSX or any other stock exchange, observe and comply with the investment restrictions and requirements imposed by the BSX and any such other stock exchange;
  - 3.1.3 observe and comply with the objectives, policies and restrictions of the Company as amended from time to time by the Board; and
  - 3.1.4 conform to, comply with and carry out all policy decisions and directions which the Board may from time to time make or give.
- 3.2 ICM shall give the Company the benefit of its best judgement, efforts and facilities and shall devote such time and have all necessary, competent and efficient personnel and equipment to enable it to carry out its duties hereunder properly and efficiently.
- 3.3 During the continuance of its appointment hereunder ICM shall render such investment management and advisory services to the Company as the Board may from time to time require in connection with the management and investment of the Assets and shall (subject as provided in this Agreement) manage the investment, disposal and re-investment of the Assets in accordance with the investment policy of the Company from time to time and with a view to achieving the Company's investment objectives. Without prejudice to the generality of the foregoing, and subject always to the provisions of clause 3.1, the duties of ICM shall include:
- 3.3.1 keeping under constant review the Assets and making recommendations to and advising the Company concerning the investment, disposal and re-investment of the Assets and advising the Board on matters of policy;
  - 3.3.2 searching out and evaluating investment opportunities for possible investment by the Company;
  - 3.3.3 providing advice to the Board as to the funding of possible investments and any action to make the funds of the Company available for such purpose and as to the drawdown of any monies pursuant to any loan facilities provided to the Company from time to time and the repayment of any such borrowings from time to time;

- 3.3.4 making recommendations to the Board as to the use of hedging and derivatives where appropriate in accordance with policies and guidelines covering these issues determined from time to time by the Board;
  - 3.3.5 liaising with and, if required by the Board, instructing the Custodian on administrative requirements in order to facilitate the implementation of investment management decisions;
  - 3.3.6 If required by the Board, instructing the Custodian as to the payment of amounts payable by the Company and the currencies in which the same are so payable;
  - 3.3.7 as and when requested by the Board, supplying the Custodian and/or the Auditors with such information in connection with the Company and the Assets as such person may reasonably require and as may be in the possession of ICM or may reasonably be obtained or provided by it;
  - 3.3.8 analysing the progress of companies in which the Company have invested; and
  - 3.3.9 advising the Board of any future developments or changes to the investment policy of the Company which ICM considers advisable.
- 3.4 In providing the Investment Services, ICM shall use reasonable endeavours to seek to ensure that the Company complies with all legislation and regulations affecting the Company or its business in force from time to time and in particular, but without prejudice to the generality of the foregoing, to seek to ensure that the Company complies with the requirements of the Bermuda Companies Act 1981 (as amended) applicable to an investment company and, so long as the Shares are admitted to listing by the BSX, the BSX Regulations.

#### **4 Excluded activities**

- 4.1 The duties of ICM hereunder shall not include:
  - 4.1.1 any management, advisory or other services necessary as a result of a substantial change in the taxation laws applicable to the Company such as the introduction of a new tax (but not a change to the rate of an existing tax);
  - 4.1.2 services provided in relation to a take-over or merger involving the Company or any issue of any securities of the Company unless covered by a separate agreement;
  - 4.1.3 administering any obligations of the Company as trustee;
  - 4.1.4 any services to be provided by the Custodian;

- 4.1.5 any advice or other services which would not normally be provided by an investment manager or adviser of an investment company and which are not referred to in clause 3;
- 4.1.6 any advice or service provided in relation to a reconstruction, reorganisation, liquidation, or amalgamation of the Company.
- 4.2 ICM hereby undertakes to provide such advice and services to the Company as are referred to in clause 4.1 on such terms and conditions as to additional remuneration, based on an hourly rate at the appropriate level and reimbursement of out-of-pocket expenses, as the parties may from time to time agree.

## **5 Rights of ICM and undertakings by the Company**

- 5.1 The Company shall do and procure to be done all such matters, acts or things as may be necessary to ensure that control of the Assets is vested in ICM and, during the continuance of this Agreement, the Company shall not buy, sell, grant options over or otherwise deal in any of the Assets in such a way as to derogate from the appointment of ICM hereunder to provide the Investment Services but without prejudice to the employment of the individuals referred to in clause 6.1 and their respective activities under their service agreements.
- 5.2 The Company shall give prior notification to ICM of any charge or other encumbrance over the Assets which it proposes to create.
- 5.3 ICM shall be entitled to deal with the Assets without having regard to any matter whatsoever arising between the Company and any third party of which ICM has no actual knowledge.
- 5.4 ICM may, at its discretion, provide advice and make recommendations to the Board in respect of the buyback of Shares by the Company and if the Board approves such buybacks ICM shall have authority to instruct the Company's brokers to implement such buyback programme in accordance with any parameters specified by the Board.
- 5.5 Where the formal consent or approval of the Company or the Board is required hereunder then, if such consent is given, the Company shall thereafter when requested by ICM so to do execute and do or procure to be executed and done all such documents, deeds, acts and things as may be requisite and shall lend its name to any proceedings in relation to the matter for which such consent or approval is given.

## **6 Provision of staff and facilities**

ICM shall throughout the duration of this Agreement procure for the Company the services of such number of individuals as decided by ICM and approved by the Company (such approval

not to be unreasonably withheld) to be responsible for day to day management of the Assets under the supervision of the Board. Those individuals will be employed by ICM and their remuneration shall be paid by ICM. In the event that any individual appointed as a fund manager pursuant to this clause ceases to act in that capacity (by reason of resignation, termination of employment by the Company, incapacity or otherwise), ICM shall be responsible for procuring the recruitment by the Company of a suitable replacement with substantially equivalent experience as soon as is practicable and in any event within 2 months of such event.

## **7 ICM's powers and dealings**

- 7.1 Subject to clause 3.1, the Company vests in ICM all rights and powers of whatsoever nature as shall be necessary for ICM properly and efficiently to perform its duties hereunder.
- 7.2 Subject to clause 3.1, ICM shall in providing the Investment Services have sole, absolute and unlimited discretion on the Company's behalf to manage, buy, sell, retain, convert, exchange or otherwise deal in the Assets as and when ICM thinks fit or otherwise to act as ICM shall deem appropriate.
- 7.3 Subject to clause 3.1:
  - 7.3.1 the Investment Services to be provided under this Agreement may relate to options, futures or contracts for differences;
  - 7.3.2 ICM may manage Assets denominated in currencies other than US Dollars;
  - 7.3.3 ICM may manage investments in circumstances in which they or an Associate holds a long position or a short position;
  - 7.3.4 the Investment Services provided under this Agreement may relate to, and ICM may invest on behalf of the Company in or make recommendations to the Board in respect of:
    - (a) units of a fund or investment company operated, managed or advised by ICM or any Associate; and
    - (b) securities of which the issue or offer for sale was underwritten, managed or arranged by ICM or any Associate;
  - 7.3.5 ICM may effect a transaction on behalf of the Company or advise on a transaction in which ICM or any Associate has directly or indirectly a material interest which may involve a conflict with ICM's duty to the Company provided that the nature of such conflict has been disclosed in advance to the Board;

- 7.3.6 ICM may effect a transaction on behalf of the Company or advise the Company to effect a transaction in which either ICM acts as principal or as agent for the counterparty provided that ICM's interest in the transaction has been disclosed in advance to the Board.

7.4 The Company may:

- 7.4.1 request ICM to sell any Asset or (subject to the availability of funds) purchase any investment; and
- 7.4.2 instruct ICM as to the exercise of any of their powers, including the exercise of voting and other rights which may attach to the Assets and, in the absence of such Instructions, ICM may exercise all such powers, subject to this Agreement, at their own discretion.

**8 Money and banking**

ICM will not be required to hold Assets on behalf of the Company. The Company's Assets will be held by the Custodian or in bank accounts maintained by the Company.

**9 Records, accounts and accounting**

The Company is responsible for the keeping of proper and accurate books of account of all Assets and transactions undertaken by the Company and ICM shall assist where required in this process.

**10 Reporting**

ICM shall at its own expense keep the Board fully informed as to the discharge of ICM's duties and responsibilities hereunder and shall once in every six months, or more frequently at such regular intervals as the Board shall reasonably require, submit to the Board such reports and information regarding the Company's affairs as the Board shall reasonably require (including manager's reports for inclusion in the Company's interim and annual accounts) and shall attend all meetings of the Board or any committee thereof whenever reasonably required by the Board.

**11 Instructions and communicating with the Company**

- 11.1 Any instruction from the Board to ICM in relation to ICM's duties hereunder may be communicated either orally (which may take the form of an oral instruction from the Board or of a duly authorised committee of the Board) or in writing (which may take the form of a minute of a resolution of the Board or of a duly authorised committee of the Board) to ICM but so that ICM shall not be obliged to act on oral instructions until such instructions are confirmed in writing to the satisfaction of ICM.

- 11.2 Any instruction given by the Company regarding amendments to the objectives and guidelines set out in the Prospectus shall be given to ICM and accepted by ICM in writing (which may take the form of a minute of a resolution of the Board or of a duly authorised committee of the Board).
- 11.3 ICM shall not act on any instruction received from any of the Company's employees given pursuant to Clause 11.1 or 11.2 if and to the extent that such instruction appears to have been given by the relevant employee from the United Kingdom.

## 12 Duties in relation to the Assets

ICM shall in the performance of its duties use proper care to ensure that its conduct of business on behalf of the Company conforms to every law and regulation for the time being binding the Company and ICM or affecting any particular transaction or which shall otherwise be applicable in relation to the business of the Company and subject matter of this Agreement.

## 13 Remuneration

- 13.1 As from the date of this Agreement, the Company shall pay to ICM a management fee and a performance fee calculated and payable in accordance with Schedule 1.
- 13.2 ICM hereby agrees to amend the calculation of any management fee or performance fee payable by the Company so that any fee payable in respect of the Company's investment in Bermuda Commercial Bank Limited where ICM receives a management fee or performance fee from Bermuda Commercial Bank Limited in respect of such investment will be disregarded.
- 13.3 The Company shall at all times during the continuance of this Agreement and (to the extent necessary) after the termination thereof permit ICM by its duly authorised representatives access to the books of account and records of the Company for the purpose of confirming the amounts due to it by way of fees hereunder.
- 13.4 All out-of-pocket costs and expenses incurred on behalf of the Company by ICM in the performance of its duties hereunder, including (without prejudice to the generality of the foregoing) advertising costs, bank charges, printing costs, professional charges, professional fees including consultants and advisers, registrar's fees, any saving scheme expenses, auditors fees and listing fees of the UKLA (but, for the avoidance of doubt, excluding ICM's own overheads) shall be borne by the Company unless otherwise agreed. The Company shall also reimburse ICM's reasonable travel and related costs incurred in the performance of its duties hereunder.

**13.5** In the event of a change to applicable law (statutory or otherwise), rules, principles, guidelines or directives (whether formal or otherwise) of a Regulatory Authority necessitating ICM to change substantially its operating systems (including, without limitation, its computer programmes), ICM shall have the right to re-negotiate the fee payable hereunder to take into account the additional cost to ICM of any such change.

**13.6** ICM may pay costs and expenses incurred by it on behalf of the Company which shall be payable by the Company from accounts of the Company in accordance with directions to be agreed from time to time by the Board and ICM.

**14 ICM's right to render similar services to others**

The services of ICM to the Company hereunder are not to be deemed exclusive and ICM shall be at liberty to render similar services to others.

**15 Disclosure of interest**

**15.1** It is understood that:

**15.1.1** directors, officers, agents and shareholders of the Company are or may be interested in ICM as directors, officers, agents, shareholders or otherwise;

**15.1.2** directors, officers, agents and shareholders of ICM are or may be interested in the Company as directors, officers, agents, shareholders or otherwise; and

**15.1.3** ICM may be interested in the Company as a shareholder or otherwise.

**15.2** ICM may effect or advise on transactions which may involve a potential conflict of interest with its duty to the Company, subject to acting in the best interests of the Company and without prejudice to clause 3.1.3.

**16 Delegation**

- 16.1 ICM while remaining liable for its obligations hereunder shall be at liberty in the performance of its duties to act by a responsible officer or officers for the time being and may whenever it thinks it expedient employ or otherwise retain the services of and pay agents to perform any of the services required to be performed hereunder.
- 16.2 ICM may obtain, act or rely on the opinion or advice or any information given by any broker, lawyer, accountant, valuer, surveyor, auctioneer or other expert (whether reporting to the Company or ICM) and ICM shall not in the absence of negligence by ICM be responsible for any loss occasioned because of them so acting.
- 16.3 ICM while remaining liable for its obligations hereunder shall have full power to delegate the whole or any part of its duties hereunder to any person or corporation which is previously approved by the Board for this purpose and ICM shall be entitled to appoint any person to act as investment adviser to ICM (but without prejudice to the employment by the Company of any of the individuals referred to in clause 6.1).

**17 Ratification, indemnity, extent of liability, taxation and insurance**

- 17.1 ICM will act in good faith and use reasonable skill and care in carrying out its duties and in exercising its rights and authorities under this Agreement.
- 17.2 The Company shall if called on to do so, ratify and confirm any act or thing lawfully and properly done or caused to be done by ICM in the proper performance of its duties hereunder.
- 17.3 The Company shall at all times keep ICM indemnified against all or any actions, proceedings, claims, demands and liabilities whatsoever arising out of the proper performance of ICM's duties hereunder (which for the avoidance of doubt excludes ICM's negligence, fraud or wilful default) which may be brought or prosecuted against or incurred by ICM but so that the provisions of this clause shall be without prejudice to any claims which the Company may have against ICM in respect of any negligence, fraud or wilful default.
- 17.4 ICM shall not be liable to the Company for any loss, damage, cost, claim or expense suffered by the Company or any loss, damage, cost, claim or expense arising from any depreciation in the value of the Assets or the income derived from the Assets (including, without limitation, where such depreciation results from capital loss or taxation liability) save where such loss, damage, cost, claim or expense has arisen as a result of ICM's negligence, fraud or wilful default.
- 17.5 ICM shall not be liable for loss arising from any act or default of the Custodian or any nominee (except where such nominee is an Associate of ICM). ICM shall not be liable for loss arising from any act or default of any broker, dealer, market-maker or agent used by ICM for the purpose of or in connection with the carrying out of its duties under this



Agreement (but subject always to the scope of ICM's powers as referred to in clause 7.1) provided that ICM has taken reasonable care in its selection and supervision of such persons.

17.6 In carrying out its duties under this Agreement, ICM shall not be liable for any failure to take account of any facts about the Company, any investment or any transaction of which none of the individuals responsible for advising on or effecting a particular transaction, at the time they did so, knew or ought to have known due to the fact that arrangements for restricted communication were in operation and, by virtue of those arrangements, those individuals are individuals from whom information about those facts were withheld under those arrangements.

17.7 The Company will at all times be fully responsible for the payment of all taxes due in respect of the Assets advised on and managed by ICM pursuant to this Agreement. ICM shall be entitled to and shall be entitled to authorise any person instructed by ICM to make such deductions in respect of the Assets in respect of taxation as ICM or such persons are required by law to make.

17.8 ICM shall effect and maintain appropriate professional indemnity insurance on such terms regarding extent of cover as shall be agreed between ICM and the Company.

## 18 Not a partnership

Nothing in this Agreement shall constitute a partnership between the Company (or any member of the Group) and ICM.

## 19 Confidentiality

19.1 ICM shall not divulge or use for its own benefit any confidential information which it may obtain in relation to the affairs of the Company and shall cause its employees to enter into a similar undertaking with them with regard to the affairs of the Company.

19.2 In making investment decisions hereunder, neither ICM nor any person employed by ICM nor any agent appointed by ICM shall be under any duty to use or attempt to use information received from any person (whether or not an Associate) which is privileged or confidential.

## 20 Assignment

The benefit of this Agreement may not be assigned by either party without the prior written consent of the other.

## 21 Entire agreement

This Agreement sets forth the entire agreement and understanding between the parties in connection with the management and advisory arrangements described herein and neither party

has relied on any warranty or representation except as expressly stated or referred to in this Agreement.

## **22 Variation of the agreement in writing**

Save as otherwise expressly provided herein, no alteration or addition to this Agreement shall be valid unless made in writing and signed by both parties hereto.

## **23 Termination**

- 23.1 The appointment of ICM shall continue unless or until terminated by the Company giving ICM not less than 6 months' notice in writing (or such lesser notice period as the parties agree in writing).
- 23.2 ICM may terminate its own appointment by giving to the Company not less than 3 months' notice in writing (or such lesser notice period as the parties agree in writing).
- 23.3 ICM's appointment may be terminated forthwith on notice from the Company to ICM if:
  - 23.3.1 ICM commits a material breach of this Agreement and (if such breach is capable of remedy) fails to rectify the same within 30 days of being requested so to do; or
  - 23.3.2 ICM enters into liquidation whether compulsorily or voluntarily (otherwise than a voluntary and solvent liquidation for the purpose of a reconstruction or amalgamation) or enters into any composition with its creditors generally or suffers any similar action in consequence of default by it in its obligations in respect of any indebtedness for borrowed moneys; or
  - 23.3.3 ICM has a receiver appointed to any of its undertaking and assets; or
  - 23.3.4 ICM has an administrator or similar officer appointed or any encumbrancer take possession of any of its undertaking and assets; or
  - 23.3.5 ICM fails to obtain or ceases to hold or comply with any licence, permission, authorisation or consent required under any applicable law to permit it to carry out its duties hereunder.
- 23.4 This Agreement may be terminated forthwith on notice from the Company to ICM if the Company goes into voluntary liquidation pursuant to its Bye-Laws.
- 23.5 ICM may terminate its own appointment forthwith on giving notice to the Company if the Company:
  - 23.5.1 commits a material breach of this Agreement and (if such breach is capable of remedy) fails to rectify the same within 30 days of being requested so to do; or

- 23.5.2 enters into liquidation whether compulsorily or voluntarily (otherwise than a voluntary and solvent liquidation for the purpose of a reconstruction or amalgamation) or enters into any composition with its creditors generally or suffers any similar action in consequence of default by it in its obligations in respect of any indebtedness for borrowed moneys; or
- 23.5.3 has a receiver appointed to any of its undertaking and assets; or
- 23.5.4 has an administrator or similar officer appointed or any encumbrancer take possession of any of its undertaking and assets.
- 23.6 Any termination of this Agreement shall be without prejudice to:
- 23.6.1 any claim by the Company against ICM or by ICM against the Company for any breach of the terms hereof committed prior to such termination or any other rights which have accrued hereunder to the Company or ICM;
- 23.6.2 any rights of third parties (if any) acquired by them pursuant to a bona fide exercise by the parties hereto of their rights and duties hereunder; and
- 23.6.3 to the completion of transactions already initiated which shall be completed in accordance with ICM's usual practice.
- 23.7 Each party hereto agrees that, after the termination of this Agreement, it will not hold itself out as connected in any way with the other parties, or take any action which could reasonably be construed as implying that there is any connection between it and the other party.
- 24 Notices
- 24.1 Any notice or other document to be given under this Agreement shall be in writing and shall be deemed duly given if left at or sent by first class post or other fast postal service or other means of telecommunication in permanent written form to the respective addresses shown on the face hereof or other respective registered offices or principal places of business for the time being of the parties and shall be deemed to have been received when in the ordinary course of the means of transmission it would first be received by the addressee in normal business hours.
- 24.2 In proving the giving of a notice it shall be sufficient to prove that the notice was left or that the envelope containing such notice was properly addressed and posted or that the applicable means of telecommunications was properly addressed and despatched (as the case may be).

25 Third party rights

No term of this contract is enforceable by a person who is not a party to it.

**26 Law and Jurisdiction**

- 26.1 This Agreement and any non-contractual obligations arising out of or under it will be governed by and construed in accordance with the laws of Bermuda. Each of the parties hereby irrevocably submits to the non-exclusive jurisdiction of the courts of Bermuda to settle any disputes or claims which may arise out of or in connection with this Agreement.

## **Schedule 1**

### **Remuneration**

#### **Management Fee**

1. For the purpose of this schedule the expression "Funds Managed" shall mean the gross assets of the Company after deducting therefrom:
  - (a) all current liabilities which for the avoidance of doubt does not include borrowings incurred by the Company for investment purposes; and
  - (b) all holdings in funds or Company of which ICM or one of its Subsidiaries is investment manager and/or investment adviser,as valued on a basis approved by the Board.
2. On 31 March, 30 June and 30 September and 31 December in each year during the continuance of this Agreement and on the date upon which this Agreement is terminated (such dates being hereinafter referred to as "Calculation Dates") the Funds Managed as at that Calculation Date shall be valued and, within 10 Business Days of each such Calculation Date, the Company shall pay to ICM an amount equal to 0.50 per cent. of the Funds Managed on that Calculation Date, provided that if any such period is less than six months, the relevant payment shall be reduced on a pro rated time basis.

#### **Performance Fee**

1. The Company will pay to ICM a fee (the "Performance Fee") determined as at each Calculation Date as follows:

PF = (A-B) X 15% where:

PF is the Performance Fee payable to ICM;

A is the Adjusted Equity Funds as at that Calculation Date;

B is the "Base Equity Funds" being the higher of:

  - (i) the Equity Funds of Somers Limited on September 30, 2014 (Opening Equity Funds);
  - (ii) the Equity Funds on the last day of a Calculation Period in respect of which a Performance Fee was last paid under this Agreement (High Water Mark); and
  - (iii) the Equity Funds on the last day of the previous Calculation Period, increased by the

**Reference Index during that Calculation Period (Previous Equity Funds).**

B (i) above, Opening Equity Funds, will be adjusted as appropriate for any Capital Events.

B (ii) above, High Water Mark, will be adjusted as appropriate for any Capital Events occurring since the establishment of the High Water Mark.

B (iii) above, Previous Equity Funds, will be adjusted as appropriate for any Capital Events occurring since the previous Calculation Date. The value of those Capital Events will be added to (in respect of a capital increase) or deducted from (in respect of a capital reduction) the Previous Equity Funds, such adjustments being increased by the Reference Index for the period between the date of the relevant Capital Event and the end of the Calculation Period.

The first Calculation Period for the performance fee will be the period from 1 October 2014 to 30 September 2015.

The Performance Fee will be payable within 14 days of the publication of the Company's annual report and accounts for the relevant Calculation Period, or within 30 days of the termination of ICM's appointment or the commencement of the winding up of the Company where (ii) or (iii) in the definition of Calculation Period applies.

**2. For the purpose of the above calculation:**

**Adjusted Equity Funds** means Equity Funds adjusted by adding back any dividends paid or accrued relating to that Calculation Period, plus any accrual for unpaid performance fee arising for that Calculation Period;

**Calculation Date** means the last day of each Calculation Period;

**Calculation Period** means each successive period starting on the first day of an accounting reference period of the Company and ending on the earlier of (i) the last day of that accounting reference period (ii) the termination of ICM's appointment for any reason and (iii) the commencement of the winding up of the Company, provided that in respect of the first

Calculation Period under this Agreement such period shall be deemed to have commenced on 1 October 2014;

Capital Event means any repayment or otherwise that reduces funds attributable Shareholders, or any issuance of equity or otherwise which has the effect of increasing funds attributable to Shareholders. For the avoidance of doubt, the bonus issue of Warrants, the exercise of Warrants, the conversion of convertible loan stock, and buy backs of Shares are Capital Events;

Company's Shares means common shares of \$0.0001 each in the capital of Somers Limited;

Equity Funds means the Net Asset Value (including revenue items) attributable to the Company's Shares;

Inflation means the rate of UK Inflation in annual percentage terms calculated by reference to the year on year change in the UK all items Retail Prices Index excluding mortgage interest payments as issued by the Office of National Statistics calculated as a monthly average;

"Investment Advisory Agreement" means the investment advisory agreement dated 1 December 2012 made between Somers Limited (formerly Bermuda National Limited) and ICM Limited;

"Reference Index" means the higher of 4% plus UK Inflation or 8%;

3. The Board shall instruct the Auditors to review and report to the Board on the calculation referred to in paragraph 1 above.
4. In the event that for any reason the UK all items RPI excluding mortgage interest payments (RPIX) ceases to be published, the Company and ICM shall use their best endeavours to agree an appropriate substitute index.
5. No distribution in specie or any issue of shares wholly or in part for non-cash consideration shall be made by the Company unless ICM and the Company, each acting reasonably, have agreed a value of that distribution or the non-cash consideration for the purpose of calculating the Performance Fee.
6. If at any time a Potential Adjustment Event (defined below) shall occur, the Company shall (unless otherwise agreed with ICM) forthwith instruct the Auditors to report to the Company and to ICM regarding any adjustment which in the opinion of the Auditors shall be appropriate to be made for the purpose of the calculation of the Performance Fee. It shall be the objective of the Auditors to secure that the rights of ICM to receive a Performance Fee

of an amount equal to that which ICM would have received had the Potential Adjustment Event not taken place shall remain unchanged. The Company shall require the Auditors in preparing their report to consult ICM, and take its views into account in relation thereto, prior to delivery of the final form of such report. The final report of the Auditors as to the calculation of the Performance Fee shall take effect on the basis and with effect from such time as the Auditors shall determine. Where a report of the Auditors is required under the terms of this schedule, the Company undertakes to instruct the Auditors to produce (as soon as is practicable) such report and, in doing so, the Auditors shall act as experts not arbitrators. If the Company fails to do so, then ICM shall be entitled to instruct the Auditors, as necessary. The costs of the Auditors in preparing any determinations, opinions or reports under this schedule shall be borne equally by the Company and ICM.

7. "Potential Adjustment Event" means, in relation to the Company:

- (a) (i) an issue of shares, (ii) a redemption or repurchase of shares by the Company, (iii) a consolidation or sub-division of shares, (iv) a reduction of share capital or premium, (v) a capital dividend, and (vi) any other reconstruction, amalgamation or adjustment relating to the share capital of the Company; and
- (b) any change in the manner in which the all items RPI excluding mortgage interest payments (RPIX) is calculated or published and any rebasing of such index.

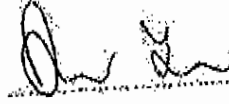
8. The Company and ICM agree that the use of the Reference Index for the purposes of calculation of the Performance Fee is intended only as a performance benchmark but does not represent any assurance that performance in line with or above such Reference Index will be achievable or achieved nor that ICM will take any steps beyond the exercise of its normal investment judgement with a view to doing so. For the avoidance of doubt no liability will attach to ICM solely by reason of the performance of the Company being below that of the Reference Index.

9. The Auditors, acting as experts and not as arbitrators, shall be entitled to make any modifications to the means of calculating the Performance Fee which are of a minor or technical nature or made to correct a manifest error or to give effect to the intent of the Company and ICM. Any question or dispute which may arise in relation to the Performance Fee shall be determined by the Auditors, acting as experts and not as arbitrators, and any determination or adjustment made by them shall be final and binding on the Company and on ICM. The costs of the Auditors in such circumstances shall be borne equally by the Company and ICM.



IN WITNESS whereof this Agreement has been entered into the day and year first  
above written

Executed by JCM Limited by its sole director  
in the presence of:



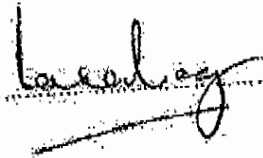
Witness:

Name:

Occupation

Address:

Executed by Somers Limited by a director  
in the presence of:



Witness:

Name:

Occupation

Address: