

**Response of Kellen Acquisitions Limited to the Consultation Paper
by the Northern Ireland Authority for Energy Regulation (“the
Authority”)
(May 2005)**

**The Proposed Acquisition of East Surrey Holdings plc (“ESH”) by
Kellen Acquisitions Limited – Implications for Phoenix Natural Gas
Limited (“PNG”)**

Kellen Acquisitions Limited (“Kellen”) welcomes the opportunity to respond to the Consultation Paper, and our response provides factual clarification where we believe this is necessary as well as our comments and proposals on detailed licence modifications.

- **If it is not possible for Phoenix to complete the steps envisaged under the proposed regulatory agreement prior to the acquisition of ESH by Kellen, are there assurances that should be sought by the Authority in relation to them? Are those steps still an appropriate means of protecting the interests of gas consumers in Northern Ireland?**

PNG has implemented the majority of the proposed Licence amendments agreed in August 2004. For the record the major Licence amendments in the August 2004 Agreement which have been fully implemented are:

- A reduction in the Domestic Tariff price cap by 47%, a substantial saving for gas customers to current prices over the period to 2016.
- A reduction from October 2004 in the Domestic Gas conveyance costs of 19%.

Following the mutualisation of BTP, a further reduction of 7% is also expected.

To achieve these substantial savings for customers, PNG agreed to a reduction in its Regulated Asset Base from £351m to £306m (both in March 05 prices) and the Authority agreed to allow the distribution business of PNG to recover the allowed rate of return under the existing licence (8.5% pre tax real) over 40 years from 1 January 2004 rather than the 20 years (from 1996) provided in the original licence.

A limited number of steps are outstanding under the August 2004 Regulatory Agreement and a few of these have been highlighted in the Consultation Paper. The terms set out in the agreement are repeated in italics below:

- *Agreement by Phoenix to mutualise transmission as soon as is feasible for up to £50m net of all taxes (1996 valuation). (£105.60m at 1 Jan 2004, Dec 03 prices) In the meantime (and in the absence of mutualisation) a Transmission Asset Base (TAB) of £36.15m (this translates to a value of £76.35m on 1st Jan 2004 (Dec 03 prices)) put into the postalised pot to be recovered by 2024 at 7.5% (real pre-tax) to 30th Sept 2016 and for Oct 2016 to Oct 2024 the cost of capital to be determined at formal review. The value of the TAB to be mutualised will be based on an annuity over 20 years on £36.15m (96 prices) plus £13.85m (96 prices) depreciated over 40 years from 1 Jan 2004. The initial Annual Required Revenue (ARR) is calculated on the basis of 7.5% to 2024.*

Kellen is aware that mutualisation is progressing and that the first step to achieving mutualisation is to resolve a tax issue which may give rise to substantial tax liabilities arising on mutualisation. If these tax liabilities were to be incurred then they would more than offset the potential savings from mutualisation to gas consumers. Kellen understands that mitigation of these potential liabilities will be subject to approval of a corporate reorganisation by the Inland Revenue and that assuming this is agreed to the satisfaction of PNG and the Authority, that PNG have agreed with the Authority to complete a mutualisation of the BTP asset before December 2006.

In the interim, customer gas charges since October 2004 have reflected a lower cost of gas conveyance due to the reduced return proposed by the Authority and agreed by PNG on the BTP Transmission Asset Base.

Kellen is fully committed to honouring the process of mutualising the BTP asset on the terms set out in the 2004 Agreement, and recognises the value to the PNG franchise of the anticipated 7% savings on the cost of gas conveyance to the Domestic customer.

- *Phoenix has agreed to look at the possibility of a move to return on equity. It is believed that such a move has the potential to reduce the effective cost of capital.*

Kellen understands that PNG remains committed to looking at the possibility of a move to a return on equity methodology for determining the appropriate cost of capital for PNG. Kellen is also committed to engaging with the Authority on this issue.

Given the limited time between conclusion of this consultation and the Proposed Acquisition, it is clearly not possible to implement solutions to either of these steps before completion of the Proposed Acquisition. Kellen would therefore be prepared to provide a commitment to Ofreg to abide by any agreement Phoenix has reached in relation to mutualisation and/or the move to a return on equity. Such a commitment should avoid concern that the acquisition will in any way cause regulatory detriment.

Should the proposed regulatory agreement with Phoenix, when taken as a whole, be reconsidered in the light of the recent developments? If so, are there any particular considerations to which the Authority should have regard, or any particular changes or provisions that are necessary to strike the right balance of interests in the light of its general duties?

Section 5 of the Consultation Paper addresses “*The Kellen Acquisition and Current Regulatory Issues*”. In this section, the Authority estimates a possible premia to Regulatory Asset Base of PNG represented by the price offered by Kellen for the total business of ESH. The Authority recognises that “it is not therefore possible to identify with any certainty the extent of any premium included in the proposed consideration for the PNG assets over and above their Regulatory Asset Base”. The Authority then makes an estimate of the premium to assets acquired and allocates the premium pro-rata to the Regulatory Asset Bases of either 13% or 18% depending on whether the transmission asset is included or excluded.

Kellen believes that the Authority’s calculation is reliant on a series of unsubstantiated assumptions. A more robust position can be calculated based upon publicly available information and using this methodology, Kellen calculates that the price it is offering for PNG is c£373m. Assuming the amendments proposed in the

August 2004 Agreement to regulated asset base this price represents a premium to Regulatory Asset Base at the proposed date of the acquisition (June 2005) of £17m or c5%. If the Regulatory Asset Base before the August 2004 adjustment is considered more relevant then the discount is c£28m or 7%. In both cases the licence provides for a return of 8.5% (pre tax real) on the Regulatory Asset Base.¹

Are the proposals under the heading 'Review of the Licence Conditions' appropriate to ensure that the PNG business is safeguarded and its compliance with licence conditions ensured? Are there any other proposals that the Authority should be considering at this stage?

Kellen has reviewed the seven licence modifications proposed by the Authority in its Consultation Paper and notes that these proposed modifications are very similar in substance to licence provisions included by Ofwat in its water licences.

As indicated to you when we met, Kellen recognises the logic of the modifications included by Ofwat in the past; and understands why Ofreg requests these. Kellen is accordingly willing in principle to all “Ofwat-style” modifications. Dealing with each of the proposed modifications set out in the Consultation Paper in turn:

1. Require the directors of Phoenix to act solely in the interests of the gas business and independently of the parent company

PNG’s licence already contains, in condition 1.6, provisions which restrict the use that can be made of commercially confidential information obtained in the course of the gas transportation business. In addition, certain restrictions are placed on the conduct by PNG of its gas transportation business in condition 2.7.

The gas conveyance licences for both Bord Gais Eireann (**BGE**) and Premier Transmission contain identical provisions to those contained in PNG’s licence. Neither of these licences (as provided to us by the Ofreg library) appear to make the specific provision that the Authority is minded to propose in relation to PNG. However, a similar licence provision is contained in the Ofwat water licences. This

¹ The rate of return on the BTP assets is reduced to 7.5% from August 2004

requires that the Licensee's board will act independently of the parent company and exclusively in the Licensee's interests.

Kellen has suggested changes to the PNG licence (and attached such amendments at Annex A(1) to this Paper) to reflect these proposed licence modifications and would be willing to provide the Authority with assurances that, following the Proposed Acquisition, PNG will act as if such licence modifications were already in place, should the Authority be minded to seek such assurances.

2. Prohibit Phoenix, without the Authority's permission, from entering into arrangements which contain provisions for cross-default, or accepting liabilities in respect of any related undertaking

We note that a corresponding condition to that proposed above is contained in the existing licence granted to BGE (as provided to us by the Ofreg library).

We have therefore suggested amendments to the PNG licence (at Annex A(2) to this Paper) to include this additional licence modification and would again be willing to provide the Authority with assurances that following the Proposed Acquisition PNG will act as if these modifications were already in place, should the Authority be minded to seek such assurances from us.

3. Require Phoenix to publish its results as if it were listed on the Stock Exchange

Whilst BGE's and Premier Transmission's gas conveyance licences (as provided to us by the Ofreg library) do not appear to include a corresponding provision, a similar licence provision is however contained in the Ofwat water licences. This requires that a Licensee shall publish such information about its annual final results as is required by a company whose shares are listed on the London Stock Exchange.

Kellen would be willing to provide the Authority with assurances that following the Proposed Acquisition PNG will act as if these modifications were already in place. A suggested amendment to Condition 1.3 of PNG's licence reflecting the potential modification is attached at Annex A(3) to this Paper.

4. Require Phoenix's payment of dividends not to have any adverse effect on its ability to carry out its licensed activities

We note again that whilst BGE's and Premier Transmission gas conveyance licences (as provided to us by the Ofreg library) do not appear to include a corresponding provision, a similar licence provision is contained in the Ofwat water licences. This provides that dividends are only to be declared or paid where this will not impair the ability of Licensed entity to finance its business.

Kellen would be willing to provide the Authority with assurances that following the Proposed Acquisition PNG will act as if these modifications were in place, should the Authority be minded to seek such assurances. We attach in Annex A(4) to this Paper a new suggested condition to PNG's licence, intended to deal with the specific proposal made by the Authority.

5. Phoenix's parent company to give a legal commitment to provide any information that the Authority required in performing its statutory duties

We again note that whilst BGE's and Premier Transmission's gas conveyance licences (as provided to us by the Ofreg library) do not appear to include a corresponding provision, a similar licence provision is contained in the standard conditions for GB Gas Transporter licences. This requires a Licensee to obtain from its ultimate controller a legally enforceable undertaking that the Licensee will be provided with all such information as may be necessary to enable the Licensee to provide such information or reports as may be required by the Authority. A similar undertaking is also required in Ofwat's water licences.

Kellen would be willing to provide the Authority with assurances that following the Proposed Acquisition PNG will act as if these modifications were in place, should the Authority be minded to seek such assurances. A new proposed condition to PNG's licence is attached in Annex A(5) to this Paper. We have also attached a suggested form of ultimate controller undertaking, based on that proposed by Ofgem on a recent acquisition in the UK, at Annex A (6) to this Paper. Kellen would be happy to

provide PNG with a similar form of undertaking from its ultimate controller within 7 days of the Proposed Acquisition if the Authority were to request this.

6. Phoenix's parent company to give a legal commitment to avoid taking any action that may interfere with PNG's ability to meet its licence obligations

We have again reviewed the terms of BGE's and Premier Transmission's gas conveyance licences (as provided to us by the Ofreg library) and neither appear to include a corresponding provision. A similar licence provision is however contained in the Ofwat water licences and the standard conditions of GB Gas Transporter licences. These licences provide that the Licensee will obtain an undertaking from its ultimate controller that it will refrain from taking any action which would be likely to cause the Licensee to breach any of its statutory or licence obligations. We have already included in the proposed modifications to the PNG licence referred to in paragraph 4 above and attached at Annex A(5) and Annex A(6) our suggested proposals.

7. Require the parent company of Phoenix to consult and seek the approval of the Authority to any material changes to Phoenix's financial structure

We have asked the Authority for clarification on the proposed licence modification that they require here as we have been unable to identify a corresponding provision in any of BGE's and Premier Transmission's gas conveyance licences (as provided to us by the Ofreg library) or in the standard conditions of the GB Transporter licences or the Ofwat water licences. Kellen does note however that there is already an existing undertaking dated 9 December 2003 between East Surrey Holdings plc and The Department of Enterprise, Trade and Investment. This undertaking limits the leverage that can be raised in the PNG corporate entities. It specifically provides that:

*“the aggregate amount of the Financial Indebtedness of Phoenix shall not exceed 60% of its Value; and
it will procure that Phoenix operates in accordance with an interest cover ratio (i.e. cash available to Net Interest of 1:3:1)”*

Kellen is fully committed to continuing to honour the terms of this legally binding agreement with PNG after completion of the Proposed Acquisition.

Kellen Acquisitions Limited

15 June 2005

Annex A(1)- Requirement on the Directors of Phoenix to act solely in the interests of the gas business and independently of the parent company

Condition 1.6A

1.6A.1 The Licensee shall, at all times, conduct the Licensed Business as if it were substantially the Licensee's sole business and the Licensee were a separate public limited company. The Licensee should have particular regard to the following in the application of this condition:-

- a) the composition of the Board of the Licensee should be such that the directors, acting as such, act independently of the parent company or controlling shareholder and act exclusively in the interests of the Licensee;
- b) the Licensee must ensure that each of its directors must disclose, to the Licensee and the Authority, conflicts between duties of the directors as directors of the Licensee and other duties;
- c) where potential conflicts exist between the interests of the Licensee in carrying out its Licensed Business, and those of other Group Companies, the Licensee and its directors must ensure that, in acting as directors of the Licensee, they should have regard exclusively to the interests of the Licensee in carrying out its Licensed Business;
- d) no director of the Licensee should vote on any contract or arrangement or any other proposal in which he has an interest by virtue of other directorships. This arrangement should be reflected in the Articles of Association of the Licensee;
- e) the Licensee should inform the Authority without delay when:
 - i) a new director is appointed;
 - ii) the resignation or removal of a director takes effect; or
 - iii) any important change in the functions or executive responsibilities of a director occurs.

The Licensee should notify the Authority of the effective date of the change and, in the case of an appointment, whether the position is executive or non-executive and the nature of any specific function or responsibility.

“Group Companies” means any subsidiary or holding company of the Licensee and any subsidiary of any holding company of the Licensee (other than the Licensee)" ***[to be inserted in Condition 1.1.6***

“Licensed Business” means the activities connected with the conveyance and supply of gas pursuant to the Licence ***[to be inserted in Condition 1.1.6]***

Annex A(2)- Prohibition on Phoenix, without the Authority's permission, from entering into arrangements which contain provisions for cross-default, or accepting liabilities in respect of any related undertaking.

New conditions 1.13.6- 1.13.8 to be inserted.

Condition 1.13.6 Additional requirements in respect of disposals

In addition to the requirements of Conditions 1.13.1 to Condition 1.13.5, the Licensee shall not without the prior written consent of the Authority (following the disclosure by the Licensee of all material facts) in respect of the Licensed Business:

- (a) create or continue to permit to remain in effect any mortgage, charge, pledge, lien or other form of security or encumbrance whatsoever, undertake any indebtedness to any other person or enter into any guarantee or any obligation otherwise than:
 - (i) on an arm's length basis; and
 - (ii) on normal commercial terms;
- (b) transfer, lease, license or lend any sum or sums, asset, right or benefit to any affiliate or related undertaking of the Licensee otherwise than by way of:
 - (i) a dividend or other distribution out of distributable reserves;
 - (ii) repayment of capital;
 - (iii) payment properly due for any goods, services or assets provided on an arm's length basis and on normal commercial terms;
 - (iv) a transfer, lease, licence or loan of any sum or sums, asset, right or benefit on an arm's length basis, on normal commercial terms and made in compliance with the payment condition;
 - (v) repayment of or payment of interest on a loan not prohibited by subparagraph (a);
 - (vi) payments for group corporation tax relief calculated on a basis not exceeding the value of the benefit received; or
 - (vii) an acquisition of shares or other investments made on an arm's length basis and on normal commercial terms;
- (c) enter into an agreement or incur a commitment incorporating a cross-default obligation which has or could reasonably be expected to have a material effect on the Licensee's ability to carry on the Licensed Business; or
- (d) continue or permit to remain in effect any agreement or commitment incorporating a cross-default obligation subsisting at the date this Condition 1.13.6 takes effect which has or could be reasonably expected to have a material effect on the Licensee's ability to carry on the Licensed Business, save that the Licensee may permit any cross-default obligation in existence at that date to remain in effect for a period not exceeding twelve months from that date, provided that the cross-default obligation is

solely referable to an instrument relating to the provision of a loan or other financial facilities granted prior to that date and the terms on which those facilities have been made available as subsisting on that date are not varied or otherwise made more onerous.

- (e) the provisions of sub-paragraph (c) and (d) of this paragraph shall not prevent the Licensee from giving any guarantee permitted by and compliant with the requirements of sub-paragraph (a).
- (f) The payment condition referred to in sub-paragraph (b)(iv) is that the consideration due in respect of the transaction in question is paid in full when the transaction is entered into unless either:-
 - (i) the counter-party to the transaction has and maintains until payment is made in full an investment grade issuer credit rating; or
 - (ii) the obligations of the counter-party to the transaction are fully and unconditionally guaranteed throughout the period during which any part of the consideration remains outstanding by a guarantor which has and maintains an investment grade issuer credit rating.

1.13.7 Construction of relevant asset

For the purposes of this Condition, relevant asset means any part of the Network operated from time to time by the Licensee or any gas plant used by the Licensee for or for purposes connected with the conveyance of gas, or supply of gas in the Licensed Area, together with any estate or interest in land required for the utilisation of the Network or gas plant or any property necessary in the supply of gas not comprised in the Network. Provided that after 31st December 2004 any relevant asset associated with the supply of gas and not in any way or manner with the conveyance of gas shall cease to be a relevant asset for the purposes of this Condition.

1.13.8 Additional Definitions

In this Condition, the following terms shall have the meanings given to them below:

- "cross-default obligation" means a term of any agreement or arrangement whereby the Licensee's liability to pay or repay any debt or other sum arises or is increased or accelerated or could reasonably be expected to be capable of arising, increasing or of acceleration by reason of a default (howsoever such default may be described or defined) by any person other than the Licensee, unless:
- (i) that liability can arise only as a result of a default by a subsidiary of the Licensee; and
 - (ii) the Licensee holds a majority of the voting rights in that subsidiary and has the right to appoint or remove a majority of its board of directors;
- "disposal" includes any sale, assignment, gift, exchange, lease, licence, the grant of any right of possession, loan, security, mortgage, charge or the grant of any other encumbrance or the

permitting of any encumbrance to subsist or any other disposition to a third party and "dispose" shall be construed accordingly.

"indebtedness"

means all liabilities now or hereafter due, owing or incurred, whether actual or contingent, whether solely or jointly with any other person and whether as principal or surety, together with any interest accruing thereon and all costs, charges, penalties and expenses incurred in connection therewith.

Annex A3- Requirement on Phoenix to publish its results as if it were listed on the Stock Exchange

1.3.13 The Licensee shall, at such times and in such ways as may from time to time be required by the Listing Rules of the Financial Services Authority, publish such information about its annual final results as is by those rules required to be announced by a company whose shares are for the time being listed on the London Stock Exchange.

Annex A4- Phoenix's payment of dividends not to have any adverse effect on its ability to carry out its licensed activities.

The Licensee shall declare or pay dividends only in accordance with a dividend policy which, has been approved by the Board of the Licensee and which complies with the following principles –

- (i) the dividends declared or paid will not impair the ability of the Licensee to finance the Licensed Business; and
- (ii) under a system of incentive regulation dividends would be expected to reward efficiency and the management of economic risk.

Annex A(5)- Undertaking from Ultimate Controller.

Condition 1.16- Undertakings from Ultimate Controller

1.16.1 The Licensee shall procure, from each person (if any) which is at any time an ultimate controller of the Licensee, a legally enforceable undertaking:

- (a) in favour of the Licensee;
- (b) in such form as is approved by the Authority;
- (c) within 7 days of the person in question becoming an ultimate controller of the Licensee;
- (d) that will remain in force until a further undertaking expressly stated to replace that undertaking is provided in accordance with this Condition 1.16.1; and
- (e) that the person in question will, and will procure that each of their subsidiaries (other than the Licensee and its subsidiaries) will:
 - (a) give to the Licensee all such information as may be necessary to enable the Licensee to furnish to the Authority such information and reports as the Authority may reasonably require or as may be necessary for the purpose of performing:
 - (i) the functions conferred on it by or under the Order of Energy Order; and
 - (ii) any functions transferred to it under the Order or the Energy Order;
 - (b) refrain from any action which would or may cause the Licensee to breach any of its obligations under the Order or Energy Order or the conditions of the Licence;

1.16.2 The Licensee shall:

- (a) deliver to the Authority evidence (including a copy of each such undertaking) that the Licensee has complied with its obligations to procure undertakings pursuant to Condition 1.16.1;
- (b) on becoming aware that any such undertaking is not in full force and effect or is not legally enforceable or has been breached, inform the Authority immediately in writing; and
- (c) comply with any direction from the Authority to enforce any such undertaking.

1.16.3 The Licensee shall not, save with the consent in writing of the Authority, enter (directly or indirectly) into any agreement or arrangement with any ultimate controller of the Licensee or with any subsidiary of any such ultimate controller at a time when,

- (a) an undertaking complying with Condition 1.16.1 is not in place in relation to that ultimate controller; or
- (b) there is an unremedied breach of such undertaking; or
- (c) the Licensee is in breach of the terms of any direction issued by the Authority under Condition 1.16.2(c).

3.8.4 In this Condition 1.16, the following expressions shall have the following meanings:

“ultimate controller”

means, in respect of the Licensee:

- (a) any holding company of the Licensee, which is not itself a subsidiary of another company; and/or
- (b) any person who (whether alone or with a person or persons connected with him) is in a position to control, or to exercise significant influence over, the policy of the Licensee, or any holding company of the Licensee, by virtue of:
 - (i) rights under contractual arrangements to which he is a party or of which he is a beneficiary;
 - (ii) rights of ownership (including rights attached to or deriving from securities or rights under a trust) which are held by him or of which he is a beneficiary,

A person shall be considered to be connected with another person if they are party to any arrangement regarding the exercise of any such rights as are described in (i) and/or (ii) above.

Annex A6

Suggested Form of Undertaking from Ultimate Controller

THIS DEED made on day of 2005 between:

- (1) **TERRA FIRMA INVESTMENTS GP (2) LIMITED**, (as General Partner of the six limited partnerships (namely Terra Firma Capital Partners II, L.P.-A, Terra Firma Capital Partners II, L.P.-B, Terra Firma Capital Partners II, L.P.-C, Terra Firma Capital Partners II, L.P.-D, Terra Firma Capital Partners II, L.P.-E and Terra Firma Capital Partners II, L.P.-F)) constituting the Terra Firma Capital Partners II Fund) (a company registered in Guernsey and whose registered office is at PO Box 543, East Wing, Trafalgar Court, Admiral Park, St Peter Port, Guernsey, GY1 6HJ (“the **Covenantor**”); and

- (2) **PHOENIX NATURAL GAS LIMITED** (a company registered in Northern Ireland and whose registered office is at 197 Airport Road West, Belfast, BT3 9ED) (the “**Licensee**”).

WHEREAS:

- (A). The Licensee is bound by certain obligations under the Gas (Northern Ireland) Order 1996 (the “Order”) and the Energy (Northern Ireland) Order 2003 (the “Energy Order”) and the combined licences for the conveyance and supply of gas granted under Article 8 of the Order (the “Licence”) relating to the Licensee.

- (B). Condition 1.16 (Undertakings from Ultimate Controller) of the Licence requires the Licensee to procure from any person who is at any time an ultimate controller of the Licensee an enforceable undertaking in respect of the provision of information by the Licensee to the Authority, and the refraining from any action which would or may cause the licensee to breach any of its obligations under the Order or the Energy Order or the conditions of the Licence.

- (C). The Covenantor is the ultimate controller of the Licensee.

NOW THIS DEED WITNESSES as follows:

UNDERTAKINGS

The Covenantor hereby undertakes in favour of the Licensee:

1. To give the Licensee, and to procure that any person who is a subsidiary of, or controlled by, the Covenantor (other than the Licensee and any of its subsidiaries) and which holds relevant information will give to the Licensee, in such manner and at such times as the Licensee may require, all such information as may be necessary to enable the Licensee to furnish to the Authority such information and reports as the Authority may reasonably require or as may be necessary for the purpose of performing:
 - i. the functions conferred on it by or under the Order or the Energy Order, and
 - ii. any functions transferred to it under the Order or the Energy Order;
2. That it, any person who is a subsidiary of, or controlled by, the Covenantor (other than the Licensee and any of its subsidiaries), will refrain from any action which would or may cause the Licensee to breach any of its obligations under the Order or the Energy Order or the Licence.

GENERAL

3. The undertakings given under this deed shall remain in full force and effect until such time as the Licensee ceases to hold the Licence or the Covenantor ceases to be the ultimate controller of the Licensee.
4. For the purposes of this deed;
 - i. any reference to a Northern Ireland Order shall include any statutory modification or re-enactment thereof after the date on which this deed is executed, and
 - ii. words and expressions defined for the purpose of any provision of such an Order or of the Licence held by the Licensee shall have the same meaning when used in this deed.
5. The Covenantor and the Licensee hereby exclude the operation of the Contracts (Rights of Third Parties) Act 1999.
6. This deed may be executed and completed by the signing and dating of any number of counterparts (whether faxed copies or otherwise) all of which shall constitute the undertaking of the parties hereto.
7. This deed is governed by and shall be construed in accordance with Northern Irish Law.

IN WITNESS of which, this deed has been executed and delivered on the date first appearing on page 1.

EXECUTED as a **DEED** by)
TERRA FIRMA INVESTMENTS GP (2))
LIMITED (for and on behalf of the six) **Director**
limited partnerships constituting the Terra Firma)
Capital Partners II Fund) **Director/Secretary**