

**Strictly Private and Confidential**

Tom Incorporated.

23 November 2016

Dear Sirs

**Project Tower**

**Confidentiality undertaking**

We refer to our recent discussions with you concerning the Proposed Offer.

In connection with this, we have agreed to make certain information available to you in order to enable you to conduct due diligence and investigate the viability of the Proposed Offer. This letter sets out the terms and conditions on which we have agreed to let you have access to such information.

Words and expressions used in this letter shall be interpreted in accordance with the schedule to this letter.

**1 Confidentiality obligations**

1.1 Subject to paragraph 2 below, you shall, and you shall ensure that each other member of your Group, and your and their respective Representatives shall, and you shall use reasonable efforts to ensure that your and their respective Advisers and Finance Providers shall, at all times, whether or not the Proposed Offer is completed:

1.1.1 use the Confidential Information only for the purpose of considering, facilitating, advising, seeking advice or determining whether to provide finance in relation to or furthering the Proposed Offer and not use it for any other purpose whatsoever and, in particular, not use any Confidential Information so as to procure any commercial advantage over the Company;

1.1.2 not disclose any Confidential Information to anyone other than those persons (i) who are a member of your Group, or your or another member of your Group's Advisers, Representatives or Finance Providers and (ii) who need to know such information for the purposes of considering, furthering or advising in relation to the Proposed Offer and (iii) who are aware of the obligations of confidentiality and agree to keep the Proposed Offer and such Confidential Information confidential;

1.1.3 keep confidential and preserve the secrecy of the Confidential Information and not permit the Confidential Information to go out of your possession or custody and control (other than to other members of your Group and your own Representatives, Advisers and/or Finance Providers in accordance with paragraph 1.1.2);

1.1.4 save with the prior consent of Investec Bank plc ("**Investec**"), not contact any Representatives or Advisers of the Company (other than Investec or Macfarlanes LLP ("**Macfarlanes**")) or any other person in circumstances that are likely to give rise to suspicions that the Proposed Offer is being planned or contemplated; and

1.1.5 not disclose either the fact that discussions or negotiations are taking place in relation to the Proposed Offer or the contents or status of such discussions or negotiations (except to other members of your Group and your own

Representatives, Advisers and/or Finance Providers in accordance with paragraph 1.1.2).

1.2 In order to control the copying and distribution of the Confidential Information, you undertake that you shall, and shall ensure that each other member of your Group, and your and their respective Representatives shall, and you shall use reasonable efforts to ensure that your and their respective Advisers and Finance Providers shall:

1.2.1 store the Confidential Information securely (including by ensuring that appropriate technical and organisational measures are in place to protect the Confidential Information against unauthorised or unlawful processing and against accidental loss, damage or destruction); and

1.2.2 keep the Confidential Information separate from all other documents and information you, any other member of your Group, or your or their respective Representatives or Advisers may hold; and

1.2.3 not duplicate the Confidential Information except as you deem reasonably necessary for the purpose of considering, facilitating, advising or seeking advice in relation to or furthering the Proposed Offer.

1.3 You further undertake that you shall not, and shall ensure that each other member of your Group, and your and their respective Representatives shall and, you shall use reasonable efforts to ensure that your and their respective Advisers and Finance Providers shall not:

1.3.1 seek disclosure of any information (whether or not Confidential Information) regarding the Company from any director, officer, employee, agent of or professional adviser to the Company; and

1.3.2 contact or communicate with, directly or indirectly, any director, officer or employee of the Company in relation to the Proposed Offer or its terms or any matter ancillary to it (or attempt to do so),

in each case except by prior arrangement confirmed by Investec or Macfarlanes and save for any discussions that have occurred or may occur between your Chairman, President and Chief Executive Officer and/or Chief Operating Officer (on the one hand) and the Chairman and/or Chief Executive Officer of the Company (on the other).

1.4 You will inform us without delay if you become aware of a breach by you or any other member of your Group, or any of your or their respective Representatives, Advisers or Finance Providers, of the terms of this paragraph 1.

1.5 Any member of our Group may enforce the terms of this paragraph 1 in accordance with the Contracts (Rights of Third Parties) Act 1999.

## 2 Permitted disclosures

2.1 The undertakings in paragraph 1.1 shall not apply to any Confidential Information:

2.1.1 which at the time of disclosure is within the public domain;

2.1.2 which falls into the public domain through no fault of yours or of other members of your Group or of your or their respective Representatives, Advisers or Finance Providers contrary to your or their respective obligations of confidentiality;

2.1.3 becomes available to you from a source other than the Company, its Representatives or Advisers, which source, so far as you are aware, is lawfully in possession of such information and has not breached any legal, regulatory or fiduciary obligation to the Company or any third party in so making available

such information and has not required you to refrain from disclosing such information to others; or

- 2.1.4 disclosure of which is necessary for you to comply with any legal or regulatory obligation or the requirements of any governmental, regulatory body, stock or recognised investment exchange or court of competent jurisdiction, provided that, to the extent that you are reasonably able to do so, you give us a reasonable opportunity to make representations as to the form and content of such disclosure and you incorporate any such representations into the disclosure, to the extent reasonable.

### 3 **Compliance with law**

- 3.1 You confirm and acknowledge that any Confidential Information disclosed to you, other members of your Group or your or their respective Representatives, Advisers or Finance Providers is solely for the purposes of your due diligence in relation to the Proposed Offer and to enable you to obtain advice or to obtain finance in relation to the Proposed Offer.
- 3.2 You undertake that you shall, and you will procure that each other member of your Group and each of your or their respective Representatives shall, and you shall use your reasonable efforts to ensure that your and their respective Advisers or Finance Providers shall, act in relation to the Confidential Information in compliance with:
  - 3.2.1 the prohibition on market abuse contained in the EU Market Abuse Regulation (2014/596/EU);
  - 3.2.2 the Disclosure Guidance (issued by the Financial Conduct Authority);
  - 3.2.3 the criminal offences in relation to inside information contained in Part V of the Criminal Justice Act 1993; and
  - 3.2.4 the requirements of the Data Protection Act 1998 including but not limited to the obligation to process personal data fairly and lawfully.
- 3.3 Any member of our Group may enforce the terms of this paragraph 3 in accordance with the Contracts (Rights of Third Parties) Act 1999.

### 4 **Protective covenants**

- 4.1 Subject to paragraph 4.2 below, you agree that during the period of 12 months from the date of this letter you shall not, and shall ensure that no member of your Group shall, directly or indirectly:
  - 4.1.1 other than (i) in the ordinary course of business and unrelated to any Proposed Offer; or (ii) in respect of any customer of the Company who, as at the date of this letter, was also your customer, solicit any business from any customer of the Company for the purpose of providing to that customer goods or services which are the same as or similar to those which the Company has been involved in providing to that customer at any time in the six months prior to the date of this letter;
  - 4.1.2 solicit, interfere with or endeavour to entice away from the Company any person (a "**Relevant Person**") who at the date of this letter or during the discussions of the Proposed Offer is a Representative of the Company with whom you or any of any member of your Group or your or their Representatives or Advisers has come into contact in connection with discussions and negotiations regarding the Proposed Offer and is a member of senior management of the Company who holds or otherwise has access to trade secrets or other Confidential Information belonging to the Company (whether or not such person would commit any breach of his contract of employment or engagement by leaving such position); and

- 4.1.3 without prejudice to paragraph 4.1.2, knowingly offer to employ, or aid or assist in or procure the employment by any other person of any person, who at the date of this letter or during the discussions and negotiations in connection with the Proposed Offer is a Relevant Person.
- 4.2 The placing of an advertisement of a post with you or any other member of your Group available to members of the public generally and/or the recruitment of a person through an employment agency shall not constitute a breach of paragraphs 4.1.2 or 4.1.3 provided that neither you, any other member of your Group nor any of your or their respective Representatives (i) specifically target any Relevant Person with such advertisement or (ii) instruct such agency specifically to approach any such Relevant Person.
- 4.3 Subject to clause 4.4 and save as and to the extent required by law or regulation, you shall not, during a period of 12 months from the date of this letter, without our approval in writing, directly or indirectly, by purchases or otherwise, through companies or persons connected with you or otherwise:
- 4.3.1 acquire, offer to acquire or agree to acquire ownership of or any interest in shares of the Company;
- 4.3.2 acquire or agree to acquire ownership of, or any interest in, options in shares in the Company;
- 4.3.3 act or seek to influence or control the management or policies of the Company; or
- 4.3.4 act in concert (as defined for the purposes of the Code) with other parties in pursuance of any of the objectives set out in this paragraph 4.3.
- 4.4 The restrictions in clause 4.3 shall cease to apply if :
- 4.4.1 a third party (which shall not include you or any person with whom you may be deemed to be "acting in concert" (as that term is defined in the Code)) (a "Third Party") makes or announces, pursuant to Rule 2.7 of the Code, a firm intention to make an offer to acquire shares carrying over 50% of the voting rights in the Company (including by way of scheme of arrangement or other structure); or
- 4.4.2 a possible offer announcement pursuant to the Code is made in respect of any Third Party stating that such Third Party (or any concert party of that Third Party) may make an offer to acquire shares carrying over 50% of the voting rights in the Company (including by way of scheme of arrangement or other structure).
- 4.5 Save when accompanied by representatives of, or following receipt of written permission from, the Company, neither you, any other member of your Group nor any of your or their respective Representatives or Advisers shall, until the earlier of (i) one year from the date of this letter and (ii) the date of announcement of an offer or possible offer by you for the Company made in accordance with the Code and recommended by the directors of the Company, make any approach to, or hold any discussions with, any shareholder of the Company where mention is made or it might be inferred that you might be interested in the Proposed Offer or otherwise in or in relation to the Company. The restrictions set out in this clause 4.5 shall cease to apply on the occurrence of the events set out in clause 4.4.
- 4.6 Any member of our Group may enforce the terms of this paragraph 4 in accordance with the Contracts (Rights of Third Parties) Act 1999.
- 5 Expiry and return of information**
- 5.1 Subject to paragraph 5.2, you undertake that in the event that:

- 5.1.1 negotiations and discussions in relation to the Proposed Offer break down; or
- 5.1.2 you decide not to proceed with the Proposed Offer; or
- 5.1.3 upon our written request,

you will, and you will ensure that each other member of your Group and your and their respective Representatives will, and you will use reasonable efforts to ensure that your and their respective Advisers and Finance Providers will, return or (at our option) destroy any document containing Confidential Information (including any note, analysis or memorandum that may have been prepared by you (save for any board papers in which Confidential Information may be contained or referred to, subject to the restrictions set out in paragraph 5.2 below) or any other such person and any copy you or any other such person may have made) and erase all Confidential Information from any computer, word processor or other device containing the Confidential Information (save that you shall be entitled to retain one copy of such information in your archives, subject to the restrictions set out in paragraph 5.2 below). Any destruction of Confidential Information will be certified in writing to us by you by an authorised officer supervising the destruction.

- 5.2 To the extent that any Confidential Information continues to be held in any computer, word processor or other device containing information or in any board papers you, other members of your Group and your and their Representatives and Advisers shall make no use or disclosure of it.
- 5.3 The terms of this letter shall cease to apply from the earlier of (i) 2 years from the date of this letter and (ii) the date any offer by you to acquire the Company becomes or is declared unconditional in all respects in accordance with its terms or (as the case may be) the court order sanctioning a scheme of arrangement in relation to the Proposed Offer has been delivered to the Registrar of Companies for registration.

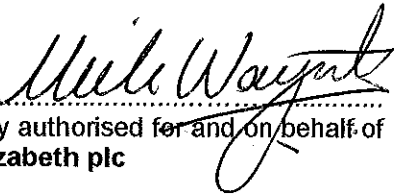
## **6 General**

- 6.1 You shall, and you shall ensure that each other member of your Group, and your and their respective Representatives shall, and you shall use reasonable efforts to ensure that your and their respective Advisers and Finance Providers shall observe the terms (mutatis mutandis) of this letter and you shall, without proof of fault on your part, be responsible for any breach of undertakings in this letter as they apply to such persons.
- 6.2 You agree that we shall not be obliged to negotiate exclusively with you with regard to the sale of the issued, and to be issued, share capital of the Company or any similar or equivalent transaction and that we shall be free to negotiate and deal with any other person without liability to you in respect of such sale or transaction. You understand that the decision by the directors of the Company to enter into discussions which may lead to the Proposed Offer may be changed at any time and without notice and you agree that they will be under no obligation to accept or recommend for acceptance any offer or proposal which may be made by you or on your behalf in the course of any negotiations.
- 6.3 You acknowledge that, as any Confidential Information and any non-Confidential Information relating to the Company or its business, assets or liabilities disclosed to you is for evaluation purposes only, neither the Company nor any of our Representatives or Advisers make any representation or offer any warranty with respect to the completeness or accuracy of that information. Neither the Company nor any of its Representatives or Advisers will have any liability to you or any other person arising from your or their use of the Confidential Information, save where the liability arises from fraud.
- 6.4 You confirm that the Confidential Information is not intended as, and should not be construed in any way as, an invitation or inducement to you or any other person to engage in investment activity (within the meaning of the Financial Services and Markets Act 2000) and that the provision to you of any Confidential Information or non-Confidential Information by us, any other member of our Group, our Representatives or Advisers does not constitute an offer, or an invitation to offer, for the issue or sale of any securities.

- 6.5 You agree that no right or licence is granted to you or anyone else in relation to the Confidential Information except as expressly set out in this letter and the Company shall retain all rights, title and interest to the Confidential Information.
- 6.6 You acknowledge that the Confidential Information may contain material which is subject to legal professional privilege. You agree that the provision to you, or any other person, and your or their receipt, of such material is not intended to and does not constitute a waiver of such privilege against any third party.
- 6.7 Without prejudice to any other rights or remedies that we or any other member of our Group may have, you acknowledge and agree that damages may not be an adequate remedy for any breach by you, or by persons for whom you are responsible by virtue of paragraph 6.1 of the provisions of this letter, and that accordingly, we and other members of our Group shall be entitled to seek the remedies of injunction and other equitable relief for any threatened or actual breach of the provisions of this letter by you or by persons for whom you are responsible by virtue of paragraph 6.1 of this letter.
- 6.8 It is further understood and agreed that any delay or failure by us in exercising any right, power or privilege arising under this letter or by implication of law will not act as a waiver of such rights, powers or privileges, nor will any single or partial exercise of such rights, powers or privileges preclude any further exercise of any of them.
- 6.9 The terms of this letter constitute the whole agreement between us in relation to its subject matter as of the date of this letter and there are no terms or conditions of such agreement other than those contained in this letter.
- 6.10 No variation of the terms of this letter shall be valid unless it is in writing and signed on behalf of each of us.
- 6.11 If any provision of this letter shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other terms of this letter which shall remain in full force and effect.
- 6.12 You confirm that you are acting in this matter as principal and not as agent or broker for any other person.
- 6.13 We each shall be responsible for our own costs, fees and expenses in connection with the negotiation and preparation of this letter and any evaluation and discussions of the Proposed Offer or any other proposal which may be made in relation to the Company, its undertaking or assets.
- 6.14 We agree that, subject always to and save as expressly provided in this paragraph 6.14 and paragraphs 1 (Confidentiality obligations), 3 (Compliance with law) and 4 (Protective covenants):
- 6.14.1 no term of this letter shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party; and
- 6.14.2 notwithstanding that any term of this letter may be or become enforceable by a third party, the terms of this letter or any of them may be varied in any way or waived or the agreement set out in this letter may be rescinded (in each case) without the consent of any such third party.
- 6.15 This letter is governed by and shall be construed in accordance with the laws of England. Non-contractual obligations (if any) arising out of or in connection with this letter (including its formation) shall also be governed by the laws of England.
- 6.16 We each submit to the exclusive jurisdiction of the courts of England and Wales as regards any claim, dispute or matter (whether contractual or non-contractual) arising out of or in connection with this letter or any of the documents to be entered into pursuant to this letter (including their formation).

If the terms and conditions in, and other provisions of, this letter are acceptable to you, we would be grateful if you would sign, date and return to us the enclosed copy of it.

Yours faithfully

  
.....  
duly authorised for and on behalf of  
**Elizabeth plc**

We confirm our agreement to the terms and conditions in, and other provisions of, the letter of which this is a copy:

.....  
for and on behalf of  
**Tom Incorporated**

Dated .....2016

If the terms and conditions in, and other provisions of, this letter are acceptable to you, we would be grateful if you would sign, date and return to us the enclosed copy of it.

Yours faithfully

.....  
duly authorised for and on behalf of  
**Elizabeth plc**

We confirm our agreement to the terms and conditions in, and other provisions of, the letter of which this is a copy:



.....  
for and on behalf of  
**Tom Incorporated**

Dated *November 23,*  
.....2016



## THE SCHEDULE

### Definitions and interpretation

#### 1 Definitions

1.1 In this letter, the following words and expression shall have the following meanings:

**Advisers:** in relation to any person, professional advisers or investment bankers and brokers and any other persons advising it in relation to the Proposed Offer, including (unless the context otherwise requires) partners in, and directors and employees of, such advisers and other persons;

**Bidder:** the company code-named "Tom" and each of its Subsidiaries;

**Code:** City Code on Takeovers and Mergers;

**Company:** unless the context requires otherwise, the company code-named "Elizabeth" and each of its Subsidiaries;

**Confidential Information:** comprises

- (i) information regarding Tom's approach to the Company and any discussions or negotiations between the Company and Tom or any of their respective Advisers, Representatives or Finance Providers relating to the Proposed Offer or any similar or equivalent transactions;
- (ii) confidential information and data of whatever nature, whether or not recorded or preserved relating to the Company and its activities which is disclosed orally, electronically or in writing (whether before, on, or after the date of this letter) for the purposes of or in relation to or as a consequence of enquiries, discussions and negotiations surrounding the Proposed Offer or any similar or equivalent transaction and which is disclosed by, or at the request or direction of, the Company or any of its Advisers or Representatives to Tom or any of its Advisers, Representatives or Finance Providers;
- (iii) confidential information and data of whatever nature, whether or not recorded or preserved disclosed to Tom or any of its Advisers, Representatives or Finance Providers by any inspection of, or visit to, property owned, used or occupied by the Company; and
- (iv) such reports, interpretations, forecasts, analyses, compilations, studies and other documents prepared by Tom or any other member of its Group or any of its or their respective Representatives or Advisers as contain or reflect or are otherwise generated from information falling within paragraphs (ii) or (iii) above (but only to the extent that they contain or reflect such information);

**directly or indirectly:** either alone or jointly with any other person and whether on his own account or in partnership with another or others or as the holder of any interest in or as officer, employee or agent of or consultant to any other person;

**Finance Provider:** a potential provider of finance to you in connection with the Proposed Offer, whether of debt or equity;

**Group:** in relation to either Party, that Party together with any body corporate or other entity which are Holding Companies or Subsidiaries of it or of any such Holding Company, and "member of the Group" and similar expressions shall be construed accordingly;

**Holding Company and Subsidiaries:** the meaning given to them in s.1159 Companies Act 2006 save that a company shall be treated, for the purposes only of the membership requirement contained in ss.1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or that person's nominee), whether by way of security or in connection with the taking of security, or (b) its nominee;

**Party:** Tom and Elizabeth, and "party" shall be construed accordingly;

**Proposed Offer:** the proposed offer by Tom or another member of its Group to acquire the entire issued and to be issued share capital of the Company either by way of a takeover offer or a scheme of arrangement in accordance with Part 26 Companies Act 2006 or otherwise; and

**Representatives:** in relation to any person, the directors, partners, officers, employees and consultants of, and individuals seconded to work for, it or other bodies corporate within its Group.

## 2 Interpretation

2.1 In this letter, unless otherwise specified:

2.1.1 any reference to any statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, whether before, on, or after the date of this letter;

2.1.2 any reference to any legislation (whether of the United Kingdom or elsewhere), including to any statute, statutory provision or subordinate legislation ("Legislation") includes a reference to that Legislation as from time to time amended or re-enacted, whether before, on, or after the date of this letter; and

2.1.3 any reference to re-enactment includes consolidation and rewriting, in each case whether with or without modification.

2.2 The words "include(s)" and "including" shall be interpreted as if they were in each case followed by the words "without limitation".

2.3 The headings in this letter are included for convenience only and shall not affect the interpretation of it.