

Enterprise Act 2002 Undertakings

ACQUISITION OF INSYS GROUP LIMITED BY LOCKHEED MARTIN UK HOLDINGS LIMITED

UNDERTAKINGS GIVEN TO THE SECRETARY OF STATE FOR TRADE AND INDUSTRY BY

LOCKHEED MARTIN UK HOLDINGS LIMITED, INCORPORATED IN ENGLAND AND WALES WHOSE REGISTERED OFFICE IS AT 59 LAFONE STREET, LONDON SE1 2LX (No. 3184898) (“LMUK”); AND

LOCKHEED MARTIN CORPORATION, A COMPANY INCORPORATED UNDER THE LAWS OF THE STATE OF MARYLAND, USA, WHOSE HEADQUARTERS ARE SITUATED AT 6801 ROCKLEDGE DRIVE, BETHESDA, MARYLAND, USA (“LOCKHEED MARTIN CORPORATION”)

WHEREAS:

- (A) On 16 August 2005 LMUK announced its proposal to acquire by way of share purchase Insys Group Limited, incorporated in England and Wales, whose registered office is at Reddings Wood, Ampthill, Bedford, Bedfordshire MK45 2HD (No. 4141148) (“Insys”) (the “Transaction”);
- (B) On 17 August 2005 the Secretary of State issued a special intervention notice to the OFT pursuant to section 59(2) of the Act;
- (C) On 19 September 2005 the OFT reported to the Secretary of State in accordance with section 61(2) of the Act, which was within the period specified by the Secretary of State, summarising representations received by it relating to the national security public interest consideration specified in the special intervention notice;
- (D) The Secretary of State has the power to refer the Transaction to the Competition Commission under section 62(3) of the Act or may, instead of making such a reference, accept undertakings in lieu under paragraph 3(2) of Schedule 7 of the Act;
- (E) The Secretary of State considers the undertakings given below by LMUK and Lockheed Martin Corporation are appropriate to remedy, mitigate or prevent any of the effects adverse to the public interest within the meaning of section 58(1) of the Act, which may be expected to result from the creation of the special merger situation and the Secretary of State shall in consequence not make a reference to the Competition Commission.

LMUK and Lockheed Martin Corporation therefore give to the Secretary of State the following undertakings for the purpose of remedying, mitigating or preventing any of the effects adverse to the public interest within the meaning of section 58(1) of the Act, which may be expected to result from the creation of this special merger situation.

INTERPRETATION

In these undertakings:-

- 1.1 where reference is made to any company then in the event of any merger, joint venture or acquisition or internal re-organisation or sale either private or to the public, such reference shall be interpreted as applying to the equivalent or successor organisation in the new structure;
- 1.2 except where the context does not allow, the singular shall include the plural and the plural shall include the singular;

- 1.3 reference to a clause shall be a reference to a clause within these undertakings;
- 1.4 “**Act**” means the Enterprise Act 2002;
- 1.5 “**Classified**” means protectively marked in accordance with the system of protective marking defined in the Government Manual of Protective Security;
- 1.6 “**Effective Date**” means the date on which these undertakings are accepted by the Secretary of State, except where the Transaction is not completed, in which case these undertakings shall not take effect until the date of such completion;
- 1.7 “**Insys**” means Insys Group Limited, a company incorporated in England and Wales whose registered office is at Reddings Wood, Ampthill, Bedford, Bedfordshire MK45 2HD (No. 4141148);
- 1.8 “**LMUK**” means Lockheed Martin UK Holdings Limited, a company incorporated in England and Wales whose registered office is at 59 Lafone Street, London SE1 2LX (No. 3184898) and for the avoidance of doubt shall not include Lockheed Martin Corporation;
- 1.9 “**Lockheed Martin Corporation**” means Lockheed Martin Corporation, a company incorporated under the laws of the State of Maryland, USA and whose headquarters are situated at 6801 Rockledge Drive, Bethesda, Maryland, USA;
- 1.10 “**Military Programmes**” means any defence-related programmes in relation to which any of the UK Companies enters into or has entered into contracts with the Ministry of Defence;
- 1.11 “**Ministry of Defence**” means the United Kingdom Secretary of State for Defence;
- 1.12 “**OFT**” means the Office of Fair Trading;
- 1.13 “**Prime Contractor**” means a UK Company which is a supplier to the Ministry of Defence under Military Programmes, under a contract between the UK Company in question and the Ministry of Defence;
- 1.14 “**Secretary of State**” means the Secretary of State for Trade and Industry;
- 1.15 “**Security Undertakings**” means the undertakings made in clause 2;
- 1.16 “**Subcontractor**” means a UK Company which is a contractor with a third party in connection with Military Programmes;
- 1.17 “**Subsidiary**” has the meaning ascribed to it in sections 736 and 736A of the Companies Act 1985 as amended;
- 1.18 “**UK Companies**” means Insys and those Subsidiaries of Insys that are incorporated in England and Wales at the Effective Date and any successor UK company resulting from any internal reorganisation of LMUK in accordance with the terms of the Security Undertakings;
- 1.19 “**UK Military Capability**” means the capability immediately prior to the Effective Date within the UK Companies to carry out Military Programmes and to perform any contracts or subcontracts (including those entered into on and after the Effective Date) relating to Military Programmes;
- 1.20 “**UK National Security Regulations**” means the regulations in relation to Classified material set out in the Government Manual of Protective Security as amended or supplemented from time to time;
- 1.21 “**UK Protected Material**” means information, software, hardware and equipment classified “Confidential” or above or to which access is otherwise similarly restricted in the interests of

UK national security; and

1.22 “US ITAR” means United States International Traffic in Arms Regulations.

2. SECURITY UNDERTAKINGS

LMUK undertakes that:

Maintenance of strategic capabilities

- 2.1 It will procure that for so long as any of the UK Companies is a Prime Contractor or a Subcontractor on Military Programmes, except in so far as the Ministry of Defence has separately agreed otherwise in writing, a sufficient number of the directors of such a UK Company shall be UK security cleared British Citizens to enable security sensitive issues to be resolved at board level should the need arise.
- 2.2 It will procure that for so long as any of the UK Companies is a Prime Contractor or a Subcontractor on Military Programmes, those Military Programmes shall continue to be directly controlled, except insofar as the Ministry of Defence has separately agreed otherwise in writing, by a company or companies incorporated within the UK.
- 2.3 It will provide to the Ministry of Defence a copy of the Memorandum and Articles of Association of each of the UK Companies within one month of the completion of the Transaction.
- 2.4 It will inform the Ministry of Defence in writing and thereafter consult with the Ministry of Defence at least 3 months prior to (i) removal of any significant part of the UK Military Capability to any location outside of the United Kingdom; or (ii) disposal of any significant part of the UK Military Capability to any entity not directly or indirectly controlled by LMUK; or (iii) the voluntary winding-up or dissolution of LMUK; or (iv) reducing in any significant way the UK Military Capability with respect to funded Military Programmes.

Protection and Exploitation of Technology and Information

- 2.5 Except in so far as the Ministry of Defence has separately agreed otherwise in writing, all matters relating to Military Programmes and security within the UK Companies shall be maintained in line with UK National Security Regulations, including the security of work areas subject to special physical ring-fencing and in particular:
 - (i) the operational management of the Military Programmes by the UK Companies shall be by personnel with the appropriate UK security clearances, with security procedures meeting UK National Security Regulations and any other such requirements as deemed necessary from time to time by the Ministry of Defence;
 - (ii) only personnel with appropriate security clearance shall have access to UK Protected Material;
 - (iii) no transfer or disclosure by whatever means of UK Protected Material, and no other Classified information which is owned by a third party or country, shall be made outside of LMUK, or to locations outside the United Kingdom without the prior written approval of the Ministry of Defence;
 - (iv) the originals of all information and material generated by the UK Companies pertaining to Military Programmes shall remain in the United Kingdom; and
 - (v) prior to incorporating any information, material or technology which is subject to US ITAR into any Military Programme for which any of the UK Companies is under contract with the Ministry of Defence on the Effective Date, LMUK shall obtain written approval from the Ministry of Defence.
- 2.6 It will ensure that the UK Companies are aware of, and bound by, obligations between the

Ministry of Defence and any of the UK Companies regarding confidentiality of information, and rights in and limitations on use of intellectual property. It will also ensure that the UK Companies shall continue to respect any commercial exploitation levy obligations between the Ministry of Defence and any of the UK Companies in effect at the Effective Date.

Compliance

- 2.7 It will provide the Ministry of Defence with such information as it may from time to time reasonably require to ascertain that LMUK is fulfilling the Security Undertakings. If LMUK is unable to comply with any of the Security Undertakings, or becomes aware of any non-compliance, it will provide full reasons for the inability to comply or the non-compliance within one month of becoming aware thereof.
- 2.8 As well as appointing a security officer responsible for facilitating and overseeing the compliance with UK National Security Regulations and the Security Undertakings at the premises of the UK Companies (as required by UK National Security Regulations), LMUK will, as soon as reasonably practicable after the Effective Date and following consultation with the Ministry of Defence, appoint a compliance officer who shall be responsible for providing to the Ministry of Defence:
- (i) an annual report within three months of the end of the financial year of Insys, as well as any other such information as the Ministry of Defence may from time to time require, to verify compliance with the Security Undertakings, including any measures taken or proposed by the UK Companies so as to ensure compliance with the Security Undertakings and to prevent any breach of them; and
 - (ii) full particulars of any failure to comply with the Security Undertakings immediately upon such failure becoming apparent.
- 2.9 For the purpose of checking compliance with the Security Undertakings, representatives of the Ministry of Defence shall be entitled to enter and inspect any premises used by the UK Companies which are in any way connected with Military Programmes and inspect any document or thing in any such premises which is concerned with such Military Programmes. Such representatives shall be entitled to all such information as they may reasonably require.

Provision of Information

- 2.10 It will co-operate with the OFT and provide it with such information as it may reasonably require for the purpose of any of its functions under section 92 of the Act in relation to these Security Undertakings.

Directions from the OFT

- 2.11 LMUK and the UK Companies will comply with such written directions as the OFT may from time to time give to take such steps within their competence as may be specified or described in the directions for the purpose of carrying out or securing compliance with these Security Undertakings. LMUK and the UK Companies will do or refrain from doing anything so specified or described in such written directions which they might be required by these Security Undertakings to refrain from doing or to do. LMUK will procure that the UK Companies comply with these Security Undertakings as if the UK Companies themselves had given them.

3 UNDERTAKING BY LOCKHEED MARTIN CORPORATION

- 3.1 Lockheed Martin Corporation undertakes that it will take or refrain from taking such action as is reasonably necessary, in order to enable LMUK to comply with the Security Undertakings.

4 GOVERNING LAW

4.1 These Undertakings shall be governed by and construed in accordance with the laws of England and the courts of England shall have exclusive jurisdiction to resolve, and the laws of England shall govern, any actions, proceedings, controversy or claim of whatever nature arising out of or relating to these Undertakings or breach thereof, except that other jurisdictions may apply solely for the purpose of giving effect to this Clause and for the enforcement of any judgement, order or award given under English jurisdiction.

Signed

For and on behalf of Lockheed Martin UK Holdings Limited

Signed

For and on behalf of Lockheed Martin Corporation