

INTERNAL REVENUE SERVICE

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April 29, 1999

Company =

Parent =

Subsidiaries =

Plan =

Trust Company =

Dear

This is in reply to a letter dated December 19, 1998, in which a ruling is requested as to whether the Plan qualifies as an "employee stock purchase plan," as defined in section 423(b) of the Internal Revenue Code. Additional rulings are requested concerning the tax consequences of the Plan.

The information submitted states that Parent is a United Kingdom corporation that is the direct or indirect parent corporation of numerous United States subsidiary corporations. Company is a wholly-owned subsidiary of Parent.

Under the Plan, options to purchase ordinary shares of Parent, as traded on the London Stock exchange, will be granted only to employees of certain United States subsidiaries of Parent. On the date of exercise of the options, Parent will arrange delivery of American Depository Shares ("ADSs") to Trust Company. Trust Company will then issue American Depository Receipts ("ADRs"), which certify ownership of the ADSs, to the optionees. The ADSs evidenced by ADRs are traded on the New York Stock Exchange, and each ADS currently represents four ordinary shares of Parent.

Parent ordinary shares represented by ADSs rank *pari passu* with all other ordinary shares of Parent.

An optionee's rights as a shareholder of Parent are limited to those specified in the Deposit Agreement. Under that agreement, holders of ADRs are entitled to receive cash and other property distributed with respect to the underlying ordinary shares (whether as a dividend, in liquidation, or otherwise), to vote as a shareholder of Parent, to continue his or her interest in any security issued in exchange for ordinary shares, and to exchange his or her ADSs for Parent ordinary shares at any time.

Parent's board of directors adopted the Plan on June 18, 1998, and its shareholders approved the Plan on August 11, 1998. The aggregate maximum number of Parent ordinary shares issuable upon the exercise of options is 71,500,000. Although that maximum number may be adjusted to reflect changes in the capitalization of Parent, all such adjustments must be accomplished in a manner that would allow the options to continue to qualify as options issued pursuant to an "employee stock purchase plan." The number of ordinary shares for which options may be granted on any grant date is limited to a stated percentage of the ordinary shares in issue on the day preceding that date of grant.

Parent's board of directors will, from time to time, designate the subsidiaries whose employees will be eligible to participate in the Plan. Every employee of a participating subsidiary as of a particular date of grant of options will be eligible to receive options granted on that date, provided that the employee is then actively employed by the subsidiary or on leave of absence. However, for purposes of the Plan, the term "employee" does not include any person whose customary employment is less than 20 hours per week, any person whose customary employment is five months or less in any calendar year, or any person who is on a leave of absence for more than 90 days if his or her employment is not guaranteed by contract or statute.

An employee may not be granted an option under the Plan if, immediately after the option is granted, the employee owns stock possessing five percent or more of the total combined voting power or value of all classes of stock of Company or of its "parent corporation" or a "subsidiary corporation" (as those terms are defined in sections 424(e) and (f) of the Code). For purposes of this determination, the rules of section 424(d) will apply, and stock that the employee may purchase under outstanding options (whether issued pursuant to the Plan or otherwise) is treated as owned by the employee.

Additionally, no employee may be granted an option that permits the employee's rights to purchase ADSs under all employee stock purchase plans of Company and its parent and subsidiary corporations to accrue at a rate that exceeds \$20,000 of fair market value of such ADSs (determined at the time such option is granted) for each calendar year in which such option is outstanding at any time. The Plan calls this restriction the "Plan Limitation," and authorizes the Board of Directors to increase the Plan limitation, for all optionees, if the Code is amended to permit such an increase.

Options are granted under the Plan on each October 1st ("Grant Date") occurring during the life of the Plan. Within 30 days following the Grant Date, Parent will mail a written Notice of Grant to each optionee. The Notice of Grant will inform the optionee of the right to purchase ADSs pursuant to the terms of the Plan at the applicable Discounted ADS Price (see below) on the applicable Purchase Date. The "Purchase Date" of ADSs is defined as the last trading day of the calendar year following the calendar year in which the Grant Date occurs.

The Notice of Grant will specify that the maximum number of ADSs for which the employee was granted an option on the Grant Date will equal \$20,000 divided by the Discounted ADS Price on the Grant Date, rounded up (if necessary) to the next highest number of ADSs or, if less, the statutory limit under section 423(b)(8). All corporate action necessary to effect the grant of options under an offering will be completed on or prior to the Grant Date.

An eligible employee indicates his or her intention to purchase ADSs by returning a participation form to the Plan Administrator within 30 days after the Notice of Grant is sent (the "Election Date"). The form authorizes the employing corporation to deduct amounts from after-tax compensation otherwise payable to the optionee and deposit them in an internal account of the employer (the "Purchase Account"). Payroll deductions begin in the first pay period occurring during the Offering Period and end on the Purchase Date.

Upon timely receipt of a participation form, Parent will calculate the whole number of ADSs that can be purchased on the Purchase Date (the "Elected ADSs") by applying the optionee's allocable share of the funds that will have accumulated in the Purchase Account as of the Purchase Date. Before the beginning of the period commencing 30 days prior to the Deposit Commencement Date, the Plan Administrator will send each optionee a notice confirming the number of Elected ADSs that may be purchased by the optionee under the offering. No optionee may be granted an option that affords the optionee the right to purchase ADSs in excess of the Elected ADSs. A minimum of \$250 in Fair Market Value of ADSs must be purchased upon the exercise

of an option. For this purpose, the Fair Market Value of an ADS (determined at the time an option is granted) is computed using the method described below. Unless the accumulated funds are returned to the optionee (see below), they may only be applied toward the purchase of Elected ADSs.

Optionees have no obligation to purchase any of the ADSs offered to them under the options. If a properly completed participation form is not submitted by the optionee by the Election Date, he or she is deemed to have elected not to participate in the offering.

The purchase price of each ADS subject to an option is 85 percent of the average of the Fair Market Values of an ADS, expressed in United States Dollars, on the three Trading Days immediately preceding the Grant Date of such option (the "Discounted ADS Price"). For this purpose, "Fair Market Value" is defined as the closing sale price of an ADS as reported on the New York Stock Exchange Composite Tape, and "Trading Day" is defined as any day on which the ADSs are traded on the New York Stock Exchange or, if the ADSs are no longer traded on the New York Stock exchange, any other exchange on which the ADSs are traded. In no event, however, may the purchase price of an ADS be less than the pounds sterling equivalent on the Purchase Date of the nominal value of the Parent ordinary shares represented by such ADSs. The product of the Discounted ADS price and the number of Elected ADSs is the "Purchase Price" of such Elected ADSs. The Plan provides that, notwithstanding any other provision of the Plan, the purchase price of each ADS subject to an option under the Plan may not be less than the lesser of (i) an amount equal to 85 percent of the fair market value of the ADS at the time such option is granted, or (ii) an amount less than 85 percent of the fair market value of an ADS at the time such option is exercised.

Options are exercisable only on the Purchase Date and expire after that date. Generally, unless an option is terminated (see below), an optionee who elects to purchase ADSs pursuant to an option will be deemed to have exercised the option for the Elected ADSs on the Purchase Date. However, an optionee will be deemed not to have exercised an option if: (1) he or she sends written notice not to exercise the option, and the Plan Administrator receives that notice no later than the day that is 20 days prior to the Purchase Date and no sooner than the day that is 40 days prior to the Purchase Date, or (2) the product of the Fair Market Value of an ADS on the Purchase Date (or on the Trading Day immediately preceding the Purchase Date if the Purchase Date is not a Trading Day) and the Elected ADSs is less than the Purchase Price. If, under either of the foregoing circumstances, an optionee is deemed not to have exercised an option, the optionee will receive, as soon as administratively feasible after the Purchase Date, the funds in the Purchase Account allocable to that option as of the

Purchase Date.

Options granted under the Plan may be terminated under certain circumstances. An optionee may terminate an option in its entirety by written notice of such termination (the "Withdrawal Notice") no later than the day that is 20 days prior to the Purchase Date and no sooner than the day that is 40 days prior to the Purchase Date. If an option is so terminated, the optionee's share of funds in the Purchase Account that is allocable to the terminated option will be paid to the optionee as soon as administratively feasible after receipt of the Withdrawal Notice.

Generally, an option will also terminate if the optionee terminates employment during the term of the option and is not re-employed by a participating subsidiary. In such cases, the option will terminate immediately, and the optionee's share of funds, including interest, in the Purchase Account will be paid to the optionee as soon as administratively feasible.

However, if the optionee's termination of employment is due to the optionee's death, disability during employment, or retirement under the employing subsidiary's retirement plan, the optionee (or his or legal representative, if applicable) will have the right, within three months after termination of employment, to exercise any option to purchase the number of ADSs that can be purchased by applying his or her share of the funds then on deposit in respect of that option as of the date of such purchase. In qualification of the foregoing, if the applicable Purchase Date occurs prior to the end of the referenced three-month period, the optionee (or representative) may exercise the option only on the Purchase Date.

Provisions that are materially similar to those just referenced exist with respect to involuntary terminations of employment due to work force reduction or job elimination and terminations of employment resulting from a change in control of the employing subsidiary. In all cases, if a terminated optionee does not choose to exercise an option as described, the option will terminate at the end of the applicable three-month period, and the optionee will receive, as soon as administratively feasible, his or her share of the funds on deposit in respect of such option as of the date of termination of employment.

If a "Change of Control" of Parent occurs, an optionee shall elect, on or within 10 days prior to the Change of Control Date whether to continue the optionee's Deposit Amount or to receive the Settlement Amount (as defined below). Regardless of whether it is the Deposit Amount or the Settlement Amount that is elected, in no event may the amount received by an optionee under this election exceed the difference

between (i) the fair market value on the Change of Control Date of the ADSs that the optionee could purchase by applying his or her share of funds in the Purchase Account and (ii) the Discounted ADS price thereof (the "amount limitation").

Subject to the amount limitation described above, if the optionee elects to continue the optionee's Deposit Amount, the option will be converted into the right to receive for each ADS subject to the option the securities, cash, and/or property which the holder of one ADS would be entitled to receive upon the Change of Control.

Subject to the amount limitation described above, if the optionee elects to receive the Settlement Amount, the optionee will, within 30 days after the Change in Control Date, receive the Settlement Amount in cash in respect of each option held by such optionee. Upon receipt of the Settlement Amount, the optionee's option will terminate, and the optionee will no longer have any claim to any funds in the Purchase Account. The term "Settlement Amount" means, with respect to an option, the amount that would be realized by an optionee if the optionee exercised the option to purchase the number of ADSs (including fractional shares) that could be purchased by applying the optionee's share of funds in the Purchase Account in respect of that option as of the Change in Control Date and sold all such ADSs immediately thereafter at the Change in Control ADS Price (defined below).

Subject to the amount limitation described above, if, however, in respect of an option, the Change in Control ADS Price is less than the Discounted ADS Price, the optionee shall receive, within 30 days after the Change in Control Date, in lieu of the Settlement Amount, the optionee's share of funds on deposit in the Purchase Account in respect of such option as of the Change of Control Date, and the option will terminate upon such receipt.

For the above purposes, the term "Change in Control ADS Price" means the fair market value of an ADS on the Change of Control Date (or if the Change in Control Date is not a Trading Day, the Trading Day immediately prior to such Change in Control Date).

If an effective resolution is passed for the liquidation of Parent, the optionee will have the right, within 30 days after receiving notice thereof, to exercise any option to purchase the whole number of ADSs that can be purchased by applying the optionee's share of the funds, including interest, then on deposit in respect of that option as of the date of such purchase. However, if the applicable Purchase Date occurs prior to the end of the referenced 30-day period, the optionee may exercise the option only on the Purchase Date. All unexercised options will terminate after the expiration of the 30-day period. An optionee then holding unexercised options will receive, as soon as

administratively feasible, his or her allocable funds in the Purchase Account.

Any optionee's share of any excess funds remaining in the Purchase Account after the optionee's exercise of an option under the provisions of the Plan relating to Termination of Employment or the provisions of the Plan relating to Change in Control or Liquidation of Parent will be paid to the optionee as soon as administratively feasible after the date of exercise.

The right to purchase ADSs under the Plan is not assignable or transferable by the participant other than by will or by the laws of descent and distribution and is exercisable during the optionee's lifetime only by the optionee. All optionees have the same rights and privileges under the Plan with respect to options granted at the same time.

In pertinent portion, section 421(a) of the Code provides that, if a share of stock is transferred to an individual in a transfer in which the requirements of section 423(a) are met, no income shall result to the individual at the time of the transfer, no deduction under section 162 shall be allowable at any time to the employer corporation with respect to the share transferred, and no amount other than the price paid under the option shall be considered as received by the employer corporation for the share transferred.

Section 423(a) of the Code provides that section 421 will apply to the transfer of a share of stock to an individual pursuant to the exercise of an option granted under an employee stock purchase plan if (1) no disposition of the stock is made by the individual within two years after the date of the granting of the option nor within one year after the transfer of such share to him or her, and (2) at all times during the period beginning with the date that the option is granted and ending 3 months before the date of its exercise, the optionee remains an employee of the granting corporation, a parent or subsidiary corporation of such corporation, or a corporation or parent or subsidiary corporation of such corporation issuing or assuming a stock option in a transaction to which section 424(a) applies.

For purposes of these determinations, section 424(e) of the Code defines "parent corporation" as any corporation (other than the employer corporation) in an unbroken chain of corporations ending with the employer corporation if, at the time of the granting of the option, each of the corporations other than the employer corporation owns stock possessing 50 percent or more of the total combined voting power of all classes of stock in one of the other corporations in such chain. Section 424(f) defines "subsidiary corporation" as any corporation (other than the employer corporation) in an unbroken chain of corporations beginning with the employer corporation if, at the time

of the granting of the option, each of the corporations other than the last corporation in the unbroken chain owns stock possessing 50 percent or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

Section 423(b) of the Code defines an "employee stock purchase plan" as a plan that meets the requirements set forth in paragraphs (1) through (9) of that section.

For purposes of section 421, the term "stock" means capital stock of any class, including voting or nonvoting common or preferred stock. The term includes both treasury stock and stock of original issue. Special classes of stock authorized to be issued to and held by employees are within the scope of the term "stock" as used in section 421, provided that such stock otherwise possesses the rights and characteristics of capital stock. See sections 1.421-1(c) and 1.421-7(d) of the regulations.

Revenue Ruling 65-218, 1965-2 C.B. 566, holds that holders of ADRs are treated as if they own the shares of stock underlying the ADRs for purposes of the foreign tax credit allowed by section 901 of the Code and the United States-Japan Income Tax Convention. The basis for this holding is that holders of ADRs have full dividend and voting rights, and that the ADRs can be exchanged at any time for their underlying shares. Similarly, Revenue Ruling 72-271, 1972-1 C.B. 369, holds that ADRs constitute an "interest in stock" within the meaning of (since repealed) section 4920(a)(2) of the Internal Revenue Code of 1954.

Section 1.421-7(a)(1) of the Income Tax Regulations provides, in part, that, for purposes of sections 421 and 423 of the Code, the term "option" includes the right or privilege of an individual to purchase stock from a corporation by virtue of an offer of the corporation continuing for a stated period of time, whether or not irrevocable, to sell such stock at a price determined under section 1.421-7(e), such individual being under no obligation to purchase. Such right or privilege, when granted, must be evidenced in

writing. While no particular form of words is necessary, the written option should express, among other things, an offer to sell at the option price and the period of time during which the offer shall remain open.

Applying the above law to the information submitted, we rule as follows:

(1) Parent's use of ADSs comes within the scope of the term "stock" for purposes of section 423 of the Code, and the Plan otherwise qualifies as an "employee stock purchase plan" as defined in section 423(b).

(2) The Plan's change in control provisions do not disqualify the Plan, any options granted under the Plan, or any options held under the Plan by an optionee who, after a Change in Control, chooses to continue his or her Deposit Amount.

Except as ruled above, no opinion is expressed as to the federal tax consequences of the transaction described above under any provision of the Internal Revenue Code. In particular, we specifically note that no opinion is expressed regarding either the Plan's method of valuing the ADSs, or whether any adjustments made under Sections 12 of the Plan will affect the Plan's compliance with the requirements of section 423 of the Code. Please note that our rulings are conditioned on Sections 7, 8, 9, and 11 of the Plan being amended as provided in your submission to this office dated April 20, 1999, on the deletion of the last sentence of Section 8(a) of the Plan, and on amendment of the election under the change in control provisions to provide that it may be made only when the fair market value of an ADS exceeds the Purchase Price of an ADS and only when the optionee's option is otherwise exercisable. Additionally, please note that if the Plan is otherwise amended the above rulings may not remain in effect. Also, as requested in your letter dated April 6, 1999, we are considering your requested rulings numbered 3, 4, and 5 withdrawn. Finally, please note that, as explained in a recent telephone conversation between representatives of our offices, we are declining to rule with respect to requested ruling number 6 (concerning disqualified options granted under a previous plan).

This ruling is directed only to the taxpayer who requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter should be attached to Company's federal income tax return for the year in which the Plan is implemented. A copy is enclosed for that purpose.

Sincerely yours,

ROBERT B. MISNER
Assistant Chief, Branch 4
Office of the Associate
Chief Counsel
(Employee Benefits and
Exempt Organizations)

Enclosures: 2
Copy of this letter
Copy for section 6110 purposes