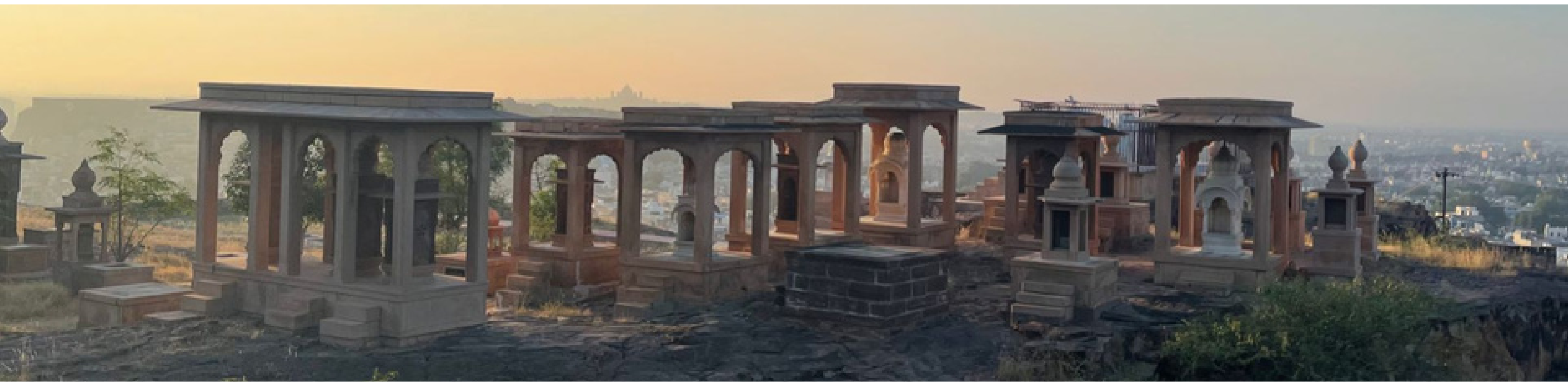
ALLEN & OVERY



FINAL ROUND PROPOSITION

OH HORIZON GREEN

ALLEN & OVERY - NLU JODHPUR
INTERNATIONAL DEAL
NEGOTIATION COMPETITION
10TH - 12TH MARCH, 2023

SUPPORTING PARTNERS

AIADR
ASIAN INSTITUTE OF ALTERNATIVE DISPUTE RESOLUTION

AIAC
ASIAN INTERNATIONAL ARBITRATION CENTRE (MALAYSIA)

Swiss Arbitration Centre

WIPO | ADR
Arbitration and Mediation Center

THAC
Thailand Arbitration Center
Resolve Dispute Smoothly

HAC®
HYDERABAD ARBITRATION CENTRE

ICSID
International Centre for Settlement of Investment Disputes
WORLD BANK GROUP

Background of the Parties

Acquitex Industries

Acquitex Industries Limited ["**Acquitex**"] is a US-based private equity firm started by reality television star and businesswoman Farhana Henlo and multi-millionaire Theo Johnson in 2009. With a global presence in 21 countries, Acquitex has over £300 billion in assets under management, generating over £120 billion in annual revenue. Acquitex is reputed for its large-scale leveraged buyouts.

Green Blazon is a start-up founded by two India-based entrepreneurs, Yash Shah and Aaliyah Gnomes, in 2007. Yash and Aaliyah are graduates of the prestigious Indian Institute of Technology (IIT), Mumbai, and pursued their master's degree at Harvard Business School, USA. In 2007, Yash and Aaliyah decided to settle down in Singapore, where they founded and incorporated their start-up, Green Blazon Pvt. Ltd. ["**Green Blazon**" or the "**Company**"].

The Company focuses on sustainable and reusable packaging. In 2009, the Company was granted two patents under the Patent Cooperation Treaty for its invention of reusable polymers as a packaging material and for a type of collapsible cardboard. The Company's business model includes licensing its technology as well as manufacturing and selling the protected polymers and cardboard to its clients, who then use them to package their products. The model relies on consumers storing and returning the used cardboard at designated drop boxes throughout the city. On return of the packaging, the Company sanitizes and recycles it, to be used for packaging the next product. The Company has assisted its clients in reducing their packaging waste by over 60%.

Initially, Yash and Aaliyah invested their own money to get the business up and running, holding 50% each of the ordinary shareholdings in the Company. They were also the only two directors of the Company. Having experienced rapid growth, on 15 January, 2009, Green Blazon concluded a fundraising round ["**Series A**"] and issued new ordinary shares amounting to 10% of their issued share capital to a high-net-worth investor, Carl Steven, for £10.5 million. Carl did not have the right to nominate any director to the board of directors of the Company and agreed to only have the right to appoint an "observer" on the board of directors of the Company, and accordingly appointed himself. Therefore, Carl was not engaged in the day-to-day functioning of the Company. During Series A, the articles of association of the Company were amended to allow shareholders holding greater than or equal to 75% of the total issued ordinary share capital ["**Majority Shareholders**"] to call on other shareholders to sell their shareholding in the Company in the event of a sale by the Majority Shareholders to a third party on an arm's length basis.

The shareholding in the Company as of 15 January 2009 is as given below:

#	Shareholder	Number of ordinary shares (the face value of each ordinary share is SGD 1)	Percentage of issued share capital
1.	Aaliyah Gnomes	22,500,000	45%
2.	Yash Shah	22,500,000	45%
3.	Carl Stevens	5,000,000	10%

Yash and Aaliyah were active in the operations of the Company. While Aaliyah acted as the Chief Executive Officer, Yash was the Chief Operating Officer. Despite the duo's initial success, disagreements between the two increased and their relationship began to sour.

In 2015, Yash decided to exit the Company by selling his complete stake in the Company's ordinary shares to Acquitex. As both Yash and Aaliyah's employment contracts included a golden parachute clause, Yash also exited the Company's management team with a hefty compensation of £23 million.

This is also the sum provided for in Aaliyah's employment contract. Yash's exit became a controversial matter covered extensively by the South Asian and American media.

In 2017, to fund their working capital requirements to meet the increased demand for their products, the Company held a further fundraising round in which they issued new ordinary shares amounting to 7.5% of their issued share capital to Mr. Kumar, an Indian high-net-worth individual.

To date, the Company has operations in 47 countries, including developed and quickly developing countries in Western Europe, as well as Canada, the United States ["**US**"], Japan, China, India and Australia. Its biggest markets are in Germany, United Kingdom ["**UK**"], US and India.

At present, the shareholding in the Company
is as given below:

#	Shareholder	Number of ordinary shares (the face value of each ordinary share is SGD 1)	Percentage of issued share capital
1.	Aaliyah Gnomes	22,500,000	39.13%
2.	Acquitex Industries Limited	22,500,000	39.13%
3.	Carl Stevens	5,000,000	14.24%
4.	Mr. Kumar	3,750,000	7.5%

Horizon Index Plc.

Horizon, initially incorporated as Horizon Index Limited, was started in 1902 by two brothers called the Shelby Brothers in Birmingham, UK, to import raw materials for the production of various consumer goods from India, Africa, Canada, Australia, and the US. Three years later, the Shelby Brothers introduced "Sim", one of the first scouring powders in the UK, which soon became one of the bestselling washing products in the UK. Between 1920 and 1950, the brothers acquired over 12 FMCG companies, including manufacturing products ranging from biscuits, detergent, beauty products, home care, etc. By the 1960s, Horizon Index Limited had established itself as the largest and fastest growing FMCG company in the UK.

After the first generation of the Shelby Brothers passed away in 1964 and 1967, respectively, the shareholding in Horizon Index Limited passed onto the next generation of the Shelby family, who were unable to maintain the same growth rate. This internal crisis was aggravated by the economic crisis faced by the UK in the 1970s. Coming out of this financial crisis, Horizon Index was desperately seeking additional funding to meet their working capital requirements and decided to re-register Horizon Index Limited as a public limited company now known as Horizon Plc ["**Horizon**"] and to issue new shares through an initial public offering by listing the ordinary shares of Horizon Plc on the London Stock Exchange. Subsequent to this initial public offering the shareholding of the Shelby family was down to 81%. Today, Horizon is one of the largest FMCG companies in the world, owning over 400 brands, and is part of the FTSE 100 stock market index. The Shelby family, through a series of family-owned companies and trusts, owns about 62% of the share capital in Horizon.

The pandemic substantially changed consumer spending patterns. Prior to the pandemic, consumers would primarily spend cash and purchase Horizon's products in physical retail stores. However, post-pandemic, about 56% of Horizon's revenue was generated through the online sale of products on their Horizon App. As Horizon was conducting its online sales primarily (over 95%) through its own App directly to the consumer, there was also an unexpected increase in their operational costs (including, shipping, packaging, and delivery costs).

To make matters worse, in 2021, Horizon was named on the list of the "Top Polluters in the World" by the Centre for World Environmental Protection, owing in large part to its manufacturing operations in

African countries. Moreover, in 2020, the CEO of Horizon, Jake Shelby infamously said that "*water is not a public right, and as human beings, no one should have a public right to water*". There were also questions being raised about the potential use of child labour in the various cocoa farms run by Horizon in Ivory Coast and Ghana. Due to an increase in social investing and a broader awareness of ESG amongst the western populace, there have been significant calls to boycott Horizon products, especially in the UK and in the US.

Horizon attempted to salvage this situation by committing itself as the title sponsor of COP27. At the conference, Horizon accepted the excessive creation of waste in online delivery and pledged to move to 100% reusable packaging by 2027. In addition, they agreed to reduce their plastic waste by at least 100,000 metric tonnes yearly, until they achieved their net-zero targets.

Over the last half-decade, Horizon has accumulated a large amount of debt, with the net debt (after reducing Horizon's cash and cash equivalents from its short and long-term debts) amounting to £3.22 billion. There have also been rumours that Jake Shelby and Pam-Tankman Shelby (Jake's daughter and the Senior Vice President of Operations) have been using borrowed money to fund their luxurious lifestyles.

Horizon acquired a UK private company called Trinity Limited in 2019 ["**Trinity**"] for a sum of £700 million, which is engaged in the business of packaging and distributing. At the time of its acquisition by Horizon, Trinity held a market share of about 5% of the UK packaging market.

Now to further support its internal packaging needs, Horizon wishes to acquire Green Blazon.

General Information

The negotiations between Acquitex Industries Limited and Horizon Index Plc began in July 2022. In September 2022, the two companies signed a term sheet, which included the following clauses:

A. Break-up Clause: a compensation of 2.5% of the agreed upon purchase price of Green Blazon will be paid to the other party, if either party decides to terminate the negotiation.
B. Condition Precedent: Acquitex to provide proof of their ability to raise money to finance this acquisition. Such a condition shall be fulfilled by a maximum period of six months from the date of signing of the term sheet.
   Note: All promises by the Buyer to show their financial capability to complete the transaction have turned out to be empty.
C. Scope of Indemnity to be agreed upon at the upcoming negotiations.

After many rounds of negotiations between the lawyers of both parties, they have decided the following issues are to be discussed in the upcoming negotiations scheduled for March 2023:

1. Structure of the acquisition

Horizon has previously expressed their intention to purchase nothing less than 100% of the share capital of Green Blazon.

While Aaliyah was initially against this acquisition, she has agreed to join the negotiations on the condition that she retains a senior management position in the Company and is adequately compensated for her work. She has been resistant to selling her entire stake in the Company and wishes to retain a minor shareholding of at least 3% equity. She is also seeking an increased annual compensation package. She intends to renegotiate the terms of her agreement with Green Blazon to this effect.

Carl Steven and Mr. Kumar have both refused to sell their shares in the Company.

2. Valuation

The methods for valuation of Green Blazon have been a point of contention and extensive discussion between the two companies. Horizon has offered to purchase Green Blazon for a valuation of £12.5 billion. However, Green Blazon is estimating its valuation to be around £25 billion.

3. Financing secured by the Buyer

Acquitex is still unclear of Horizon's ability to finance this acquisition. The Shelby family intends to finance the acquisition wholly through debt taken from financial institutions. However, "ESG for All" an activist investor who has invested in Horizon's shares in the LSE and holds about

9.9% of the shareholding in Horizon, is while in-principle happy with the acquisition, has publicly expressed concerns about Horizon accumulating more debt at their recently concluded annual general meeting on 15 December, 2022. Horizon has failed to produce any near final or executed term sheet with any lenders.

4. Indemnity

Horizon endeavours to obtain a broad indemnity (with no caps to the financial obligations) from Acquitex and Aaliyah for the breach of any representations and warranties given in the share sale and purchase agreement for a period of 5 years from the date of signing.

5. Material Adverse Change

The signing of the Share Purchase Agreement is proposed to be held in March 2023 with the closing (completion) stated to occur by the end of June 2023. The relatively large gap between signing and closing is due to a number of factors, the main ones being: (i) to allow the receipt of the approval from the United Kingdom Competition and Markets Authority ["**CMA**"] to carry on the transaction, because of Horizon's whole ownership of Trinity; and (ii) to allow Horizon's shareholders to approve this acquisition (as a listed company in the UK, Horizon is required to obtain the approval of its shareholders for this acquisition). Noting this gap between signing and closing, and also the changing macro-economic scenario (with there being a recession in the UK), Horizon is strongly pushing for the inclusion of a material adverse change clause, which would enable them to walk away from this acquisition (without the payment of a break fee) if the broader global macro-economic conditions worsen.

In the present negotiations, Acquitex will be representing Aaliyah and itself.

ANNEXURE 1

Green Blazon's annual audited accounts have also been reproduced below:

Income Statement	March 2022	March 2021	March 2020
	£' million	£' million	£' million
Total Revenue	**7048**	**6504**	**6004**
Raw Materials	2485	1400	1992
Other Costs	5687	5143	4852
Total Operating Costs	**8172**	**6543**	**6844**
Interest	50	67	56
Hedge Ineffectiveness	407	-	-
Profit Before Tax	671	948	1611
Tax	22	63	161
Profit After Tax	**649**	**885**	**1450**

Balance Sheet	March 2022	March 2021	March 2020
	£' million	£' million	£' million
Non-Current Assets	10253	9447	8173
Gross Cash	3808	3195	3680
Current Assets	686	609	509
Total Assets	**14747**	**13251**	**12362**
Current Liabilities	5508	4097	3413
Non-Current Liabilities	4325	3939	4480
Shareholder Equity	4914	5215	4469
Total Liabilities	**14747**	**13251**	**12362**