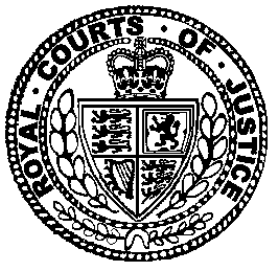

Neutral Citation Number: [2025] EWHC 3355 (Ch)

Case No: BL-2024-001746

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
BUSINESS LIST (ChD)

Rolls Building
Fetter Lane
London, EC4A 1NL

19 December 2025

Before :

MR JUSTICE FANCOURT

- -

Between :

YODEL DELIVERY NETWORK LIMITED	**Claimant**
- and -	
(1) JACOB CORLETT **(2) YDLGP LIMITED** **(3) SHIFT GLOBAL HOLDINGS LIMITED** **(4) GREGORY CRANE LIMITED** **(a company incorporated under the laws of the Isle of Man)**	**Defendants**
- and –	
MICHAEL JOHN HANCOX	**Third Party**
- and –	
CORJA HOLDINGS LIMITED **(a company incorporated under the laws of the Isle of Man)**	**Fourth Party**
- and -	
JUDGE LOGISTICS LIMITED	**Fifth Party**

- -
- -

Andrew Thompson KC, Ben Griffiths and Samuel Parsons (instructed by Herbert Smith Freehills Kramer LLP) for the **Claimant**
Stephen Nathan KC, Simon Johnson and James Freeman (instructed by Richard Slade & Partners LLP) for the **Third Defendant and the Fourth Party**

Hearing dates: 31 October, 3, 4, 5, 6, 7, 10, 12, 13, 14 November 2025
- -

APPROVED JUDGMENT

This judgment was handed down via remotely at 10.00 am on 19 December 2025 by circulation to the parties or their representatives and by release to the National Archives.

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Mr Justice Fancourt:

Introduction

1. By Order dated 11 June 2025, David Mohyuddin KC, sitting as a Deputy Judge of the High Court, directed an expedited trial of preliminary issues in this litigation, in the following terms:

> "the issue of whether the Claimant is obliged to allot and issue the following shares to Shift Global and Corja … and what relief (if any) the court should order….:
>
> (a) To Shift Global, 1,469,795,088 fully paid ordinary shares or 44% of the issued share capital in the Claimant on a fully diluted basis (whichever is the higher).
>
> (b) To Corja, 341,813,276 fully paid ordinary shares or such number as represents 10% of the issued share capital in the Claimant on a fully diluted basis (whichever is the higher)."

2. These preliminary issues are, essentially, the counterclaim of the Third Defendant, Shift Global Holdings Limited ("Shift") and the amended Additional Claim of the Fourth Party, Corja Holdings Limited ("Corja") against the Claimant. I shall refer to them as "the Counterclaims", as there is no relevant distinction to be drawn between the claim of Shift and that of Corja, save as to the number of shares in the Claimant, Yodel Delivery Network Limited ("Yodel"), to which they claim to be entitled. This is my judgment on the Counterclaims.

3. Yodel issued its claim against the Defendants on 5 December 2024, seeking various forms of relief in relation to alleged breaches by the First Defendant ("Mr Corlett") of statutory and fiduciary duties owed by him as a director of Yodel for the period between 13 February 2024 and 21 June 2024, and for procuring a breach of contract by the Second Defendant ("YDLGP"); relief against YDLGP for breach of a sale and purchase agreement made on 13 February 2024; various forms of relief against Shift in relation to a services and licence agreement made between Shift and Yodel dated 28 February 2024 ("the Licence Agreement") and payments made under it, and other relief; and relief against the Fourth Defendant in relation to a consultancy agreement dated 1 April 2024.

4. Mr Corlett is also the founder of and owns about 20% of the shares in Shift, which holds the shares of various group operating subsidiaries, which he founded or which were acquired by Shift. Mr Corlett is an entrepreneur in the logistics sector, specialising in the application of computer technology to commercial activities. He is only 31 years old but has considerable business experience in this sector already.

5. On 13 February 2024, YDLGP, of which Mr Corlett was the sole director and shareholder, acquired from Logistics Group Ltd and Logistics Group Management Ltd all the issued share capital in Yodel for the price of £1. On 21 June 2024, YDLGP sold all the issued shares in Yodel to the Fifth Party, Judge Logistics Ltd ("JLL"), for £1. Mr Corlett, through his ownership of YDLGP, therefore had control of Yodel for that short period of 4 months and a week.

6. The price paid twice for Yodel's shares reflects the fact that before, throughout and after the period of the two sales in 2024 it was balance sheet insolvent, though it continued to

trade and narrowly avoided being put into administration in June 2024, as I will explain later in the judgment.

7. Mr Corlett acquired Yodel with a view to merging the businesses of Yodel and Shift in a new structure. YDLGP was to purchase the shares in Shift, but with a company which was ultimately to be called Yodel Shift Group Limited as the holding company ("YSG") (it was incorporated on 26 May 2024). The merger of Yodel and Shift would, in Mr Corlett's judgement, have created considerable synergistic value. That view was apparently shared by Shift.

8. Corja is an Isle of Man company that was incorporated by Mr Corlett. It was created for the purpose of holding shares in YSG intended to be beneficially owned by Mr Corlett.

9. Contrary to the expectations of Mr Corlett and all at Shift and Yodel, the merger of the businesses never happened. An impending cash flow crisis in June 2024 and deteriorating relations with Yodel's principal secured lender, IGF Business Credit Ltd ("IGF"), made Yodel heavily dependent on an injection of £10 million from Pay Point plc ("PP"), one of Yodel's commercial partners, by 24 June 2024. On 19 June 2024, the CEO of PP, Mr Wiles, told Mr Corlett that he would not invest. As a consequence, Mr Corlett had the choice of selling Yodel to JLL (controlled by the Third Party, Mr Hancox) for £1 or seeing IGF put Yodel into administration on 22 June 2024.

10. Following the acquisition of Yodel by JLL on 21 June 2024, business relations between Yodel and Shift broke down. Yodel (then controlled by Mr Hancox) wrote Mr Corlett and Shift a letter of claim on 4 July 2024.

11. In January 2025, Shift and Corja purported to exercise rights to buy shares in Yodel (as identified in [1] above) at 0.01p per share, pursuant to warrant certificates and a warrant instrument allegedly created by Yodel on 19 June 2024, two days before the sale of the company to JLL, at a time when Mr Corlett was the sole director of Yodel. For reasons which will appear, I will refer to this warrant instrument as "the Second Warrant Instrument" and to the warrant certificates as "the Certificates".

12. If valid, the Certificates would give Shift and Corja between them a majority stake in Yodel, and so control of the company. In the sale and purchase agreement dated 21 June 2024 ("the SPA"), YDLGP as vendor of the shares in Yodel (for which Mr Corlett had signed the SPA) warranted that the shares sold represented the entire issued share capital of Yodel on a fully diluted basis.

13. Mr Hancox and JLL claim to have been unaware of the existence of the Second Warrant Instrument and the Certificates, even though a Certificate in favour of Mr Hancox was purportedly created and dated 19 June 2024, until they were first raised (in without prejudice communications) in December 2024 and then exercised in January 2025.

14. In response to the Counterclaims, in which Shift and Corja seek specific performance of the obligation to allot and issue them with over 1.8 billion shares in Yodel, Yodel disputed the authenticity of the Second Warrant Instrument and Certificates and put Shift/ Corja to proof that they had lawfully been created on 19 June 2024. By the date of the trial of the Counterclaims, following forensic examination, Yodel had a positive case that these instruments were false and that they were not created on or before 21 June 2024 (on which day Mr Corlett ceased to be a director of Yodel), as they purport to have been.

15. Yodel further asserts that, even if the Second Warrant Instrument was created to have effect from 19 June 2024 and the director's resolution of that date and a shareholder resolution dated 21 June 2024 are valid, the Second Warrant Instrument was nevertheless void or voidable on grounds that it was executed in breach of the statutory duties that Mr Corlett owed Yodel pursuant to sections 171 and 172 of the Companies Act 2006, or in breach of fiduciary duty, which breaches could not be ratified by shareholder resolution. The principal points here are that the director's resolution and the execution of the Second Warrant Instrument are alleged to be in breach of a duty that Mr Corlett owed Yodel's creditors, arising from its insolvency, and that they were acts done solely in the interests of Shift and Corja, not in the interests of Yodel.

16. Yodel also pleaded that if the execution of the Second Warrant Instrument on or before 21 June 2024 was defective, because Mr Corlett's signature was not witnessed by Ms Gregory (his mother, who is a practising accountant on the Isle of Man), it would not take effect as a deed, making it unenforceable for want of consideration moving from the warrant holders for the grant of the Certificates.

17. Yodel has further fallback arguments about the validity or lapse of the warrants, and contends that Shift and Corja do not come to the court with clean hands and so should not be granted specific performance in any event.

18. The principal disputes in this case are therefore factual ones: did Mr Corlett prepare and execute prior to 21 June 2024 the Second Warrant Instrument, with his signature on behalf of Yodel witnessed by Ms Gregory, and did he prepare and sign a director's resolution on 19 June 2024 relating to the Second Warrant Instrument?

19. Against this background, it is useful to identify the relevant facts relating to events in the period May to August 2024 that are not in dispute, or are self-evidently true based on the documentary record. I shall attempt to do that in the next section of this judgment. These facts are important for both the fact finding exercise in relation to the principal factual dispute and the question of whether Yodel was or was nearly cash flow insolvent on 19 June 2024, which is relevant to the extent of the creditor duty that Mr Corlett owed the creditors of Yodel on that date.

The Uncontentious Facts

20. The parties failed to agree a chronology before the start of the trial because Shift/Corja did not engage with attempts to do so. At the end of the trial, I required them to indicate which if any of the facts on Yodel's chronology were disputed. Shift/Corja wrongly took that as an opportunity to embed further submissions into Yodel's chronology (even after I had given them a further opportunity to respond in writing to Yodel's written closing submissions, which they took). From the response provided and on the basis of uncontentious documents, the following facts are nevertheless reasonably clear and not in dispute.

Following the acquisition of Yodel by YDLGP

21. Upon the acquisition of Yodel by YDLGP, Mr Corlett put in place temporary funding with Hundle & Partners Limited, which was needed for the sale and purchase to proceed, and then refinanced with IGF on 14 March 2024. IGF provided a revolving asset-based

facility of up to £25 million. The facility was secured against Yodel's receivables from time to time – which were substantial, as it had a turnover of about £40 million per month.

22. The terms included a significant payment in the event of termination of the facility before 36 months had passed: 3% of £25 million in the event of termination within a year; 1% of that sum in the event of termination within 2 years, and 0.5% in the event of termination before the expiry of 3 years. It contained substantial reporting obligations, on a daily, weekly, monthly, quarterly and annual basis, so that IGF would remain fully apprised of the amount of receivables, the state of Yodel's bank account and its debts and creditors. Yodel was required to maintain a monthly average minimum headroom of £1 million. Within 30 days, Yodel was required to pay all HMRC debts or enter into a time to pay arrangement, and within 60 days to produce cash flow forecasts up to 31 December 2026.

23. By clause 29, Yodel was obliged to allow IGF at all reasonable times on reasonable notice to enter its premises to conduct audits, inspect assets, and verify and copy accounting records and other documents, as IGF required. Clause 32.1 provides that upon or at any time after a Termination Event that is continuing, IGF can terminate the facility and, whether or not it does so, is entitled to (among other things) cease making payments, vary any limit applied, apply default interest rates, make a reserve to cover liabilities, demand payment of any liabilities, change any repayment terms, and "at the Client's cost, IGF acting reasonably may carry out or may instruct a third party to carry out an investigation of the Client's business and/or assets".

24. Mr Corlett and other executives and employees of Shift were working on the merger proposal. To that end, Corja was incorporated on 15 March 2024, as a vehicle to hold offshore Mr Corlett's shares in YSG. As part of the merger endeavour, Shift prepared to seek further capital from its own smaller investors, with a view to raising £5 million, in return for which those investors would be allotted shares in YSG in due course.

25. On 30 April 2024, Shift held a "board meeting" on Google Meet. These meetings were not a meeting of statutory directors (of whom there were only Mr Corlett and Mr Mark Fishleigh) but included also certain employees, funders and representatives of funders. During that meeting, Mr Hobden, the CFO of Shift and Mr Corlett exchanged text messages, which appear to record that Matthew Cureton, a small investors' representative, had suggested provision of investments to Shift but with warrants or call options into Yodel, and that Mr Hobden also made that suggestion offline to Mr Corlett. Shift/Corja rely on this as the first time that warrants to provide protection to investors was raised, and Yodel does not dispute that that is what the messages appear to show.

26. By the start of May 2024, Yodel was losing money at the rate of at least £500,000 a week, and its cash flow difficulties were frequently discussed by its management and Mr Corlett. By 1 May 2024, it owed HMRC £6.2 million for PAYE tax deductions. An email from Yodel's cash management department informed Mr Corlett and Mr Hancox on 1 May 2024 that IGF had requested that funds were only drawn where necessary.

27. At about the same time, Yodel was having discussions with business partners and commercial investors, seeking much larger investments in return for continued commercial relationships with YSG. Mr Corlett sent Mr Hancox a note detailing "investment conversations" with InPost, Royal Mail, TPA Capital, Cainiao, PP and Vecturis in the week of 29 April – 3 May 2024.

Funding difficulties

28. On 2 May 2024, IGF sent Yodel a first reservation of rights letter. It noted that Yodel had failed to enter into a time to pay agreement with HMRC or pay its arrears within 30 days of the facility agreement, and that Yodel had not paid a liability to HMRC due on 22 April 2024, making a total debt of £6.66 million. Each breach was alleged to have caused a Termination Event within the meaning of the facility agreement, entitling IGF to take any action specified in clause 32.1. Instead of enforcing its rights, IGF proposed that Yodel should work with Teneo Advisory to improve its financial position, and that no more payments should be made to Shift without IGF's written consent. At that time, both Mr Hancox and IGF had expressed concern to Mr Corlett about transfers of funds from Yodel to Shift.

29. On 16 May 2024, IGF emailed Mr Corlett and Mr Hobden proposing further work, to be conducted either by Teneo Advisory or Interpath Advisory ("Interpath"), at the expense of Yodel. This was to include a cash flow review of Yodel and Shift in the short and medium term. IGF also wanted advice on the benefit to Yodel of use of the Shift platform (for which Yodel was paying Shift large sums under the Licence Agreement), the likelihood of the fundraising exercise being successful and the risk of it failing, with potential recovery outcome options were Yodel to enter administration. IGF was therefore considering a contingency of administration from this time.

30. The investment by Shift's small investors was to be by means of an advance subscription agreement ("ASA"). It may have been discussed with some potential investors from an early stage of Mr Corlett's ownership of Yodel, as he said in his evidence – but it was not documented, in the form of a draft ASA, until later in May 2024. This was, perhaps, because it was not until early May that tax advice was sought from Claritas, who applied for tax clearance for the new structure on 10 May 2024. Clearance by HMRC was received on 16 May 2024.

The ASA and the first warrant instrument

31. On 16 May 2024, Mr Corlett's and Shift's solicitors, Harper Macleod LLP ("Harper Macleod"), sent Mr Corlett, Mr Hobden, Mr Fishleigh and Mr Moore a draft warrant instrument containing a draft warrant certificate referring to B Ordinary Shares in Yodel. This was prepared for use in connection with the ASAs.

32. An ASA made by Oxalyst Partners (of which Mr Fishleigh was a director), for the modest sum of £50,000, is dated 24 May 2024 and a number of other signed ASAs bear dates of around that time. It provides for payment of the subscription sum (not as a loan) in consideration of which Shift agreed to procure the issue of warrants for shares in Yodel, in the form annexed to the ASA. The ASA also provided for conversion of the subscription automatically into shares in YSG, at a ratio of one share per £187.50, after acquisition of Yodel's shares by YSG; and if that had not happened by 31 August 2024, the subscription would automatically convert into shares in Yodel. Upon the happening of either event, the ASA would terminate.

33. The forms annexed to the ASA include the draft warrant instrument prepared by Harper Macleod. The certificate records an entitlement for the holder to subscribe for a number of Ordinary Shares of £0.0001 in the capital of Yodel at a price of £0.0001 each. The conditions provide for exercise of the warrant during the Exercise Period, which runs

from the date of the first Exercise Event, which was the sale, listing or disposal of the whole or substantially the whole of the shares or assets of Yodel or its holding company other than the acquisition of the entire share capital in the Company by a subsidiary of YSG. The warrant would lapse upon that acquisition, or if Shift and that subsidiary became members of the same group of companies.

34. It can be seen, therefore, that the warrant instrument was intended to provide security for the small investors in Shift against the eventuality that the merger with Yodel into YSG did not occur. In those circumstances, the investors would not get their money back, or become shareholders of YSG, but they would instead be allotted shares in the unmerged Yodel. The aggregate shareholding of all 68 small investors who were intended to receive a warrant was about 2% of Yodel's share capital. Given the dates of the signed ASAs, it is apparent (and was ultimately not disputed) that the draft warrant instrument and associated documentation had been prepared by Harper MacLeod around the middle of May 2024.

The appointment of Interpath by IGF

35. In the event, it was Interpath that was appointed by Yodel to conduct further assessment of its financial position, after initial concern from Mr Corlett about the scope of work. However, it appears that they were not engaged by the end of May 2024. By this time, on 29 May 2024, IGF had written a second reservation of rights letter. It noted that a time to pay arrangement had been made with HMRC but identified further breaches of terms of the facility agreement that it said amounted to Termination Events. These were: first, failure to maintain sufficient cashflow to discharge its liabilities as and when they fell due and/or failure to provide adequate cashflow forecasts to 31 December 2026; second, failure to comply with monthly reporting requirements and pay VAT falling due in the previous month; and third, failure to pay remittances from a customer called "Vinted" into the designated trust account, and using them instead to pay drivers.

36. The second reservation of rights letter required (rather than requested) Yodel to work constructively with Interpath on the short and medium term fundraising and restructuring of Yodel and Shift, and required the preparation of an initial cashflow forecast and a longer term (minimum 13-weeks) forecast. It required Interpath to review the daily cash management and (among other things) produce an options paper, assessing possible outcomes in relation to Yodel and Shift depending on whether the fundraising was successful or not. IGF required complete transparency between Yodel, Interpath and itself and required no further payment to Shift without IGF's prior written consent.

37. Yodel (Mr Corlett) instructed Fieldfisher LLP to write to IGF. His instructions record that IGF had limited Yodel's facility to £22.4 million. Mr Corlett wanted that cap and the restriction on payments to Shift removed so that Yodel or Shift could make payments due on 31 May 2024. Fieldfisher protested against the requirement to use Interpath. In response, IGF instructed Shoosmiths LLP. A meeting between Yodel, Fieldfisher and Interpath was arranged for the morning of 3 June 2024.

38. At about this time, Shift paid Yodel's VAT liability that was due at the end of May 2024.

39. It is in this context that Mr Corlett says that he prepared and printed out in Yodel's Speke offices, at some time in the week beginning 27 May 2024, the warrant instrument and warrant certificates for each of the 68 ASA investors. It is not agreed by Yodel that this

warrant instrument was later executed, as Shift/Corja claim, but I will refer to it for convenience as "the First Warrant Instrument". Shift/Corja's case is that on the weekend of 1 and 2 June 2024, in Shift's offices in Plymouth, Mr Corlett also prepared and printed out 7 copies of the Second Warrant Instrument and warrant certificates for different stakeholders in the merger enterprise. These intended recipients were Shift itself, Corja (on behalf of Mr Corlett), Solano Partners Ltd (Mr Corlett's investment advisers), Mr Hancox, as CEO of Yodel, Mr James Moore (the COO of Shift Platform Ltd, a subsidiary of Shift), Mr Dan Hobden (the CFO of Shift) and Mr Timothy Sheppard (an acquisitions and mergers manager employed by Shift). As printed (and when they were printed is in dispute), these documents all bore the date 19 June 2024.

40. On 2 June 2024, Fieldfisher reiterated advice given to Mr Corlett and other officers of Yodel on 31 May that there were breaches of the facility agreement that entitled IGF to instruct Interpath to carry out an investigation into Yodel's business and solvency, and to restrict further drawdowns.

41. Following the meeting of 3 June 2024, Interpath was appointed and wrote to Mr Corlett and IGF setting out agreed revisions to its engagement letter. This included contingency planning for an administration of Yodel. The scope of this work was set out in considerable detail. It was given the code name "Project Lydeland".

Financial difficulties and the resignation of Mr Hancox

42. On 4 June 2024, Mr Hancox emailed Mr Corlett stating that he had written a resignation letter as director and employee of Yodel, but had not sent it to Yodel. That, he said, was because he did not want to cause the collapse of a pack of cards following the appointment of Interpath. Mr Hancox was the only other statutory director of Yodel. He offered to stay on to the end of the funding round, provided that Mr Corlett irrevocably committed to pay his overdue bonus on 1 August 2024. This was a bonus that Mr Hancox considered was due to him, which had been negotiated with Yodel's previous owners.

43. On 5 June 2024, Mr Wiles of PP sent Mr Corlett a WhatsApp as follows: "Morning Jacob, our finance team are chasing for the £2.8m overdue payment. Not great timing for me internally." Yodel had been due to pay PP £2.8 million by 1 June 2024 but had not done so. Mr Wiles as CEO of PP was hoping to persuade his board to approve an investment of £10 million in Yodel. The WhatsApp was forwarded to Mr Hobden who replied: "yeah, it's first to be paid today, but we are waiting on the IGF money to be approved and come in".

44. On the same day, Shift sent out to its shareholders a sale and purchase agreement and stock transfer form, providing for the transfer of their shares in Shift to YSG, in return for equivalent shares in YSG. This was the machinery for the merger.

45. On 7 June 2024, Fieldfisher advised Mr Corlett that:

> "When companies are in this 'stressed' position with the bank it's a good idea to have some corporate governance around decision making to protect the directors in case the worst happens. An administrator or liquidator will have to review the director's conduct in the lead up to any insolvency and will review what decisions were made and whether these are Insolvency Act compliant."

46. On the same day, Mr Wiles reported to Mr Corlett that the PP board had approved in principle an equity investment in Yodel, on a convertible loan note ("CLN") structure, subject to due diligence.

47. On 10 June 2024, Yodel held its first board meeting attended by Michelle Shean, an insolvency partner of Fieldfisher. The minutes record that she advised that Yodel had a very good chance of getting out of its financial difficulties and that there was no risk of wrongful trading at present, but warned that the position could change quickly. Ms Shean pointed out that Yodel would only receive £7 million, not £19 million, from The Very Group plc ("TVG") in 2024, and that Yodel was planning to raise £10 million from an equity partner and plug a £2.5 million gap in funding by delaying paying its landlords. Mr Corlett stated that the restructuring (through YSG), receipt of funds and equity deal would be completed by 21 June 2024.

48. On 10 June 2024 Ms Gregory flew from the Isle of Man to Manchester Airport. It is on the following day that Mr Corlett and Ms Gregory maintain that, over breakfast in Mr Corlett's flat in Liverpool, they executed the Second Warrant Instrument and the 7 Certificates, as well as one warrant certificate under the First Warrant Instrument in favour of Oxalyst Partners.

49. On 12 June 2024, following a meeting with TPA Capital, Mr Hancox advised Mr Corlett that he intended to resign without notice. He did so formally by his solicitors' letter to Harper Macleod LLP dated 14 June 2024. One principal reason emphasised in that letter was Yodel's failure to pay Mr Hancox's bonus. A second was unauthorised money transfers from Yodel to Shift; a third was Mr Corlett's tendency to exclude the board of Yodel when making decisions or pursuing funding.

50. Mr Corlett's response to that was to seek to agree terms through lawyers that would keep Mr Hancox at Yodel in the short term. This was to be kept confidential, internally and externally, to try to complete the funding round with Mr Hancox apparently still at the helm, and for him then to leave in an orderly way at the end of June 2024 or later. Negotiations took place, and at 4.21 pm on 17 June 2024 (a Monday) there was progress towards an agreement. Mr Hancox's solicitors sent proposed terms to Harper Macleod at 3.31 pm that day, which included substantial payments and other benefits to Mr Hancox in return for Mr Hancox providing up to 10 days of paid consultancy work over a maximum period of 3 months. Harper Macleod responded at 4.21 pm making extensive amendments to some of the terms and agreeing others. There were significant matters not agreed. The response took effect in law as a counter-offer.

51. In reply, Mr Hancox's solicitors made a further counter-offer, saying that in return for an immediate *ex gratia* payment of £30,000, payment in full of Mr Hancox's legal fees, and payment of the bonus of £535,432 in two equal instalments in July and September 2024, Mr Hancox would agree the other terms proposed by Harper Macleod. No response to that counter-offer was put in evidence, and no settlement agreement was reached.

The week of 17-21 June 2024

52. On 17 June 2024, Yodel held a further board meeting, attended by Ms Shean of Fieldfisher. This did not proceed because it was noted that Mr Hancox (presumed by Ms Shean still to be a director of the company) was not present. Mr Corlett and Ms Taylor, the company lawyer and secretary, knew that Mr Hancox had resigned, but no one told

Ms Shean. The meeting was adjourned to the following day, on the premise that Mr Hancox could be contacted and attend. Before that could happen, Yodel (at Mr Corlett's instruction) disinstructed Fieldfisher, without telling them why. Mr Corlett cancelled the board meeting the next morning.

53. On 18 June 2024, following a phone call between Mr Will Wright of Interpath and Mr Hancox in which Mr Hancox told Mr Wright that he had resigned the previous week, Mr Harrison of Interpath tried to contact Mr Corlett to discuss the matter. At that time, Mr Corlett was having dinner with Mr Wiles, to discuss PP's continued intention to support Yodel and the exigencies of Yodel's cashflow position. At that dinner and in a WhatsApp the following day, Mr Wiles expressed support for Yodel, on the basis that either the £10 million CLN transaction could proceed or emergency funding could be provided. Yodel was an important commercial partner for PP and it was greatly in PP's interests to ensure, if it could, that Yodel did not go into administration. There is a dispute as to whether Mr Corlett told Mr Wiles that Mr Hancox had resigned.

54. Also on 18 June 2024, Interpath produced a Project Lydeland cash update on Yodel. This made clear what assumptions were being made by Yodel's management about funding and the cash position into July 2024, and what would ensue if a debt or equity solution was not delivered soon. An annotated graph showed the base case assumed by Yodel, and a sensitised case in the event that the PP funding was delayed from 24 June 2024 to 12 July 2024. In both cases, it was assumed that (i) IGF would allow the full facility of £25 million to be drawn down, (ii) rental liabilities could be varied to payable monthly rather than quarterly in advance, (iii) a payment of £3.3 million to HMRC could be deferred from 21 June to 3 July 2024, and (iv) a settlement agreement with TVG was reached, which would enable Yodel to factor the second and third instalments of the TVG settlement for £15 million at the end of July 2024.

55. The graph in the Interpath report shows that if all these assumptions were fulfilled but the PP injection of £10 million was delayed until mid-July, Yodel would go into the red for the period 26-30 June 2024. In this period, it had to meet its payroll obligations and required those funds by 27 June 2024. If, in addition, IGF did not make the full facility available, Yodel would be in the red from 21 June to 11 July (and continuing thereafter, unless the PP capital was provided on 12 July).

56. On 19 June 2024, Interpath became aware that Fieldfisher was no longer attending Yodel board meetings. Mr Corlett told Interpath that MBM Commercial was now advising Yodel in Fieldfisher's place. Later that day, Mr Wiles was told by Mr Hancox that he had resigned as a director of Yodel. At 9.06 pm that evening, Mr Wiles emailed Mr Corlett to tell him that PP was unable to go forward as planned, and suggested a meeting at Solano's offices the next day.

57. It is on 19 June 2024 that Shift/Corja contend that the Second Warrant Instrument took effect, pursuant to a sole director's resolution signed by Mr Corlett that day, and that the First Warrant Instrument and its warrant certificates (save for the Oxalyst certificate) were executed by Mr Corlett and Mr Fishleigh the same evening.

58. On 20 June 2024, at Solano's offices, Mr Wiles told Mr Corlett that PP would not invest in Yodel while he remained in control of the company. Yodel's case is that Mr Wiles and Mr Hancox then met in the presence of Jon Edirmanasinghe of Solano, and the possibility of Mr Hancox buying the company with support from PP was discussed. At the same

time, Interpath was meeting Yodel's executive team (other than Mr Corlett) and began preparations to put Yodel into administration on 22 June.

59. At a meeting between IGF, Mr Wiles and Mr Hancox on 21 June 2024, IGF indicated that Yodel would be put into administration on 22 June 2024 unless a disposal of Yodel's shares was agreed. A sale and purchase agreement was then prepared whereby YDLGP would sell all the shares in Yodel to JLL for £1. Mr Corlett tried to negotiate terms beyond the 10% equity stake that Mr Hancox was willing to give him. These terms included "warrants in favour of Shift Holdings", as reported by Mr Hancox to Mr Wiles. Mr Corlett's demands were rejected and JLL was incorporated.

60. Mr Corlett flew to the Isle of Man from Bristol at about 3.15 pm. After signing at 3.16 pm on Docusign a shareholder special resolution ratifying all decisions previously taken by a sole director, Mr Corlett then signed the SPA (either on arrival in the Isle of Man, at about 4.30 pm, or before leaving Plymouth, at about 3.20 pm). On the same day, PP invested £10 million in Yodel in CLNs.

Events after the sale of Yodel to JLL: exercise of the warrants

61. On 28 June 2024, Mr Hancox spoke to Mr Fishleigh and Mr Pearson. It is agreed that there was a brief reference to "warrants" but that the conversation did not develop. No warrants or Certificates were sent to Mr Hancox.

62. On 4 July 2024, Fieldfisher sent Mr Corlett and Shift a letter of claim. Shift's "board" met to discuss it on 5 July 2024. A letter of response to the letter of claim was sent on behalf of Shift and Mr Corlett on 2 August 2024. It makes no reference to the Second Warrant Instrument or any of the Certificates said to have been issued to Shift, Corja or others, or indeed to the First Warrant Instrument and its warrant certificates.

63. On 21 August 2024, Mr Corlett met the CEO of InPost UK Ltd ("InPost"), Neil Kuschel. There is a dispute as to whether Mr Corlett told Mr Kuschel then that he and Shift were still effectively shareholders in Yodel. InPost's investment in Yodel started in August 2024.

64. No warrants, Certificates or warrant instruments were provided by Mr Corlett to anyone until, on 5 September 2024, he uploaded a PDF of the Second Warrant Instrument to a Google Drive that was shared with his solicitor, Mr Slade of Richard Slade & Partners LLP ("RSP"). The metadata on the PDF show that it was created on 24 August 2024. Previously, on 19 July 2024, Mr Cureton had sent to Ms Taylor at Yodel an unsigned ASA template warrant instrument, having told her that investors that he represented had been given warrants in Yodel.

65. On 16 September 2024, the final signed version of the resolution of Mr Corlett as sole director of Yodel bearing the date 19 June 2024 was scanned by someone using Adobe Scan. All the signed warrant certificates were scanned on the same day.

66. Yodel's claim in these proceedings was issued on 5 December 2024, with Particulars of Claim filed on 11 December 2024.

67. On 7 January 2025, Corja and Shift served notices on Yodel purporting to exercise their warrants. Others with warrants under the First Warrant Instrument and the Second Warrant Instrument purported to exercise their rights in the following days.

68. On 27 January 2025, in response to a letter of claim in relation to the warrants from Fieldfisher, RSP confirmed that Mr Corlett retained the original warrant instruments while acknowledging that they were the property of Yodel, and enclosed a copy of each of the sole director's resolution, the shareholder resolution and the Second Warrant Instrument, pointing out that the latter was not the same warrant instrument as the First Warrant Instrument.

69. On 5 February 2025, Shift filed its Defence and Counterclaim, which included a claim for specific performance of the rights and obligations in its Certificate. Yodel served its Defence to Counterclaim on 19 February 2025, putting in issue the validity of the Second Warrant Instrument and Certificates. Only by amendment of its additional claim, with permission granted on 11 June 2025, did Corja also claim to enforce its Certificate.

The Second Warrant Instrument

70. The authenticity of this document is very much in dispute. Its form is similar to that of the First Warrant Instrument and it is clearly based on the draft warrant instrument that Harper Macleod provided to Mr Corlett in mid-May 2024.

71. So far as material, it provides as follows:

> "2.1 The Company hereby grants to the Warrantholder an option to subscribe for such number of Ordinary Shares as represent the issued share capital of the Company as at the date of this instrument or as at the date of issue of the Warrant, whichever represents the lower shareholding, subject to the following conditions:
>
> - Corja Holdings Ltd: no less than 10% or 341,813,276 shares.
> - Michael Hancox: no less than 2.5% or 85,366,317 shares.
> - Solano Partners Ltd: no less than 8% or 273,450,621 shares.
> - James Moore: no less than 3.3% or 112,788,381 shares.
> - Daniel Hobden: no less than 2.8% or 95,707,717 shares
> - Timothy Sheppard: no less than 0.5% or 17,090,664 shares.
> - Shift Global Holdings Ltd: no less than 44% or 1,469,795,088 shares.
>
> Where the shareholding percentage or number of shares listed above applies, the higher value shall prevail."
>
> (The equivalent clause in the First Warrant Instrument provided only that the warrant holder had the option to subscribe for the number of Ordinary Shares as equalled the amount of the ASA funds divided by £0.20.)
>
> "3.2 A Warrant Certificate shall be issued to the Warrantholder, such certificate evidencing the Warrantholder's entitlement to the Warrant."

72. The Schedule to the Second Warrant Instrument contains, at Part 1, a form of warrant certificate; at Part 2, a form of Exercise Notice; and in Part 3, the Conditions. The Conditions define "Exercise Event" as:

> "… a Sale, Listing or disposal of the whole or substantially the whole of the shares or assets of the Company or its holding company or ultimate holding company, other than the acquisition of the entire issued share capital of the Company by YDL Technologies Ltd…"

"Sale" is defined as:

> "… the completion of any transaction whereby any person or group of persons acting in concert (as defined in the City Code on Takeovers and Mergers) acquires more than 75 per cent of the share capital of the Company other than a reorganisation for the imposition of a holding company with the same shareholders as the Company".

73. Condition 2 provides that a warrant may be exercised on any business day during the Exercise Period and that an Exercise Notice may only be issued during the Exercise Period. This is defined as:

> "… the period from the date of the first Exercise Event to occur to the date on which the Warrants are exercised or lapse in accordance with condition 5".

74. Condition 3.1.1 states that the Exercise Notice must specify the number of Ordinary Shares to be allotted and "a date for the allotment and issue of the relevant Ordinary Shares which is a date not less than 7 days nor more than 14 days after the date of the relevant Exercise Notice…". However, the specimen Exercise Notice, in Part 2 of the Schedule indicates that the warrant holder is required to specify a date not less than 14 days or more than 45 days after the date of the notice.

75. Condition 5.1 states:

> "The Warrants shall lapse on the earliest of the following dates:
>
> 5.1.1 the date on which a Warrantholder notifies the Company in writing of its desire to exercise the Warrant held by it;
>
> 5.1.2 upon completion of an Exercise Event (in the event that the rights of the Warrantholder have not been exercised in accordance with Condition 3 above) or, if later, the tenth Business Day after the Warrantholder shall have received notice of an Exercise Event under Condition 3.2; and
>
> 5.1.3 in the event that on or prior to an Exercise Event YDL Technologies Ltd ... and Shift Global Holdings Ltd ... have become members of the same corporate group."

These conditions are the same as the equivalent conditions in the First Warrant Instrument.

76. Condition 7.3 is the anti-dilution provision and states:

> "In the event that at the time of exercise of the Warrants the number of shares of the Company in issue has been varied from the number in issue as at the date of issue of this Instrument, the number of Ordinary Shares to which the Warrants entitle the holder shall be adjusted proportionately to ensure that the Warrantholder retains the same percentage ownership in the Company as intended at the time of issuance of the Warrants."

The equivalent provision in the First Warrant Instrument was less strong:

> "In the event that at the time of exercise of the Warrants the number of shares of the Company in issue has been varied from the number in issue as at the date of issue of this Instrument *other than by the issue of shares at arms length value or under existing warrants or loan notes the Subscription Price shall be adjusted to take account of such variation in the number of shares issued*." (*emphasis added*)

Shift and Corja's Case on Authenticity

77. Having identified the relevant facts that are not disputed, I will summarise Shift/Corja's case on execution of the warrants, and how it has evolved.

78. It was Shift that first advanced a detailed claim based on the Certificates. Its counterclaim pleads that the Second Warrant Instrument was executed as a deed and dated 19 June 2024, and was approved by Mr Corlett as sole director of Yodel by a director's resolution dated 19 June 2024 and by YDLGP as sole shareholder of Yodel by a member's resolution dated 21 June 2024. It relied on a certificate numbered 69 dated 19 June 2024 as establishing its entitlement to shares.

79. On 19 February 2025, Yodel filed its Defence to Counterclaim putting in issue the authenticity of the Second Warrant Instrument, the Certificates, and the two resolutions, and advancing other defences to the counterclaim (on which it still relies).

80. In a letter dated 17 March 2025 responding to sight of Yodel's original expert report, RSP asserted that they had incontrovertible evidence of authenticity of the Second Warrant Instrument, and that Mr Corlett had told them that he executed it on 12 June 2024 with an effective date of 19 June 2024.

81. In its Reply (served on 14 March 2025), Shift pleaded that:

    i) each of the Second Warrant Instrument, the Shift warrant certificate and the resolutions was authentic and was signed and executed "if there is any difference between these two terms" on or before the date that they bear (para 9);

    ii) the warrants were issued to reflect the anticipated post-merger capitalisation table "so that all parties who were expecting a position in that Cap Table were protected against the risk that the merger might not complete" (para 11.2);

    iii) the non-ASA warrant holders were granted share entitlements "due to their significant strategic or corporate contributions", and in the case of Shift because it

restructured its business and entered into the services and licence agreement with Yodel (para 11.3);

iv) the Warrant Instruments had been planned for several weeks (para 11.4);

v) Mr Corlett told Mr Wiles about the warrants between 19 and 21 June 2024 and Mr Pearson and Mr Fishleigh raised the ASA warrants with Mr Hancox on 28 June 2024 (para 11.6);

vi) the warrant certificates had all been executed on 19 June 2024 (para 11.7);

vii) (in response to the allegation of breach of statutory duty) the ASA warrants and the non-ASA warrants were issued in order to protect the warrant holders in the event of non-merger (para 13.1);

viii) undocumented agreements had been in place since the acquisition of Yodel in February 2024 and the warrants documenting those agreements had been planned for several weeks before 19 June 2024 (para 14.4).

82. On 9 May 2025, Mr Corlett made a first witness statement in support of an application for an injunction restraining Yodel from restructuring its business (following an announcement that InPost had acquired 95.5% of the issued share capital in Yodel). He says that work on the capitalisation table of YSG was formalised in the warrant structure, and that the idea of warrants was first mentioned at a Shift "board meeting" on 30 April 2024.

83. He then described how during the week beginning 27 May 2024 he prepared execution copies of the First Warrant Instrument and 68 warrant certificates, entering a date of 19 June 2024 so that there would be time for the subscribers to sign the ASAs. 19 June was a Wednesday, which was a day on which he and Mr Fishleigh would generally meet in person.

84. Following a call with Mr Moore on 29 May 2024, who was anxious about lack of documentation of his equity stake in YSG, Mr Corlett says that he had the idea of "adding all the parties who had equity committed into the warrant structure prepared for the ASA". So, on 1 June 2024, he prepared the Second Warrant Instrument by amending the warrant instrument that Harper Macleod had drafted.

85. Mr Corlett states that by 10 June 2024, the merger of Shift and Yodel was nearing completion. On 11 June 2024, however, he spoke to Mr Fishleigh and arranged to meet at Yodel's Speke offices on 19 June 2024 to execute the First Warrant Instrument and the warrants. On the same day, Mr Corlett says that he asked his mother, who was staying with him that day in his apartment in Liverpool, to witness the execution of the Second Warrant Instrument and the Certificates. He said that he had not planned to ask her to do this, but she was used to performing such tasks for him.

86. Mr Corlett forgot the arrangement he had made with Mr Fishleigh to meet him in Speke and so Mr Fishleigh had to travel to Mr Corlett's hotel in Hertfordshire on 19 June 2024, where in the evening they executed the First Warrant Instrument and the warrant certificates, which took an hour to complete. As he was the sole director of Yodel by that time, Mr Corlett says that he passed a board resolution that same day, and two days later

executed the shareholder resolution on YDLGP's behalf. Mr Corlett did not say when on those days he drafted and passed the resolutions.

87. Mr Corlett advanced, as an argument why the Second Warrant Instrument was authentic, an original electronic Word document "showing, through metadata, that the electronic document comprising the Second Warrant Instrument was last amended by me on 1 June 2024 and that I scanned it to form a PDF on 24 August 2025 [*the reference to '2025' is a mistake for '2024'*]". He said that this showed conclusively that Yodel's first expert report casting doubt on its authenticity was wrong. Mr Corlett was therefore saying that the Word document was the document that was printed out to create the Second Warrant Instrument and the Certificates.

88. On 28 May 2025, in his second witness statement in response to Yodel's evidence against the injunction, Mr Corlett again argues that there is evidence that the disputed documents were executed when he said they were, and refers to occasions on which "warrants" were referred to, and Mr Cureton's exchange with Ms Taylor about the ASA warrants. Mr Corlett said that although he printed out a warrant for Mr Hancox on 1 June, he became mistrustful of Mr Hancox by 11 June and so did not execute his warrant then. (In his evidence in chief, Mr Corlett sought to withdraw that statement, on the basis that an executed warrant bearing Mr Hancox's name had been found.) Mr Corlett said that RSP's letter of 17 March 2025 made a "slip" in referring to 12 June rather than 11 June 2024. He then asserts, with considerable emphasis, that he told Mr Wiles about the Second Warrant Instrument and warrants on 20 June 2024.

89. By its Amended Additional Claim dated 12 June 2025, Corja brought its claim against Yodel based on a warrant in its favour, which mirrors Shift's warrant claim.

90. In its Re-Amended Reply to Yodel's Defence, Corja denies forgery of the Second Warrant Instrument, the Certificates and the resolutions, and alleges that each document is authentic and was executed prior to the completion of the sale of Yodel on 21 June 2024. It is further pleaded that:

    i) all Ms Gregory's signatures on the Second Warrant Instrument, the 7 Certificates and the warrant certificate issued to Oxalyst are genuine (para 21.2.1);

    ii) the Second Warrant Instrument was made to cater for the situation where the merger did not proceed, and that in that event Yodel wanted to provide for the persons named in the instrument (which included Shift and Corja), to recognise the valuable benefits that Yodel was receiving from each of them (para 21.2.3);

    iii) the First Warrant Instrument was edited by Mr Corlett on 1 June 2024 to form the Second Warrant Instrument (para 21.2.4(a));

    iv) the grant of warrants to Corja, for Mr Corlett, was in consideration for his contribution to the formulation of the merger strategy, raising investment and finance, and pulling relevant management and employees together, save in so far as that work was chargeable to Yodel pursuant to a consultancy agreement made with the Fourth Defendant (para 21.3).

    Otherwise, Corja's pleaded case reflects that of Shift in relation to the authenticity of the disputed documents.

91. On 19 June 2024, Shift amended its Reply to plead that Mr Pearson and Mr Fishleigh raised "the Warrants" with Mr Hancox on 28 June 2024.

92. Shift/Corja's skeleton argument for this trial states as follows:

    i) The specific purpose of the First Warrant Instrument was to cater for the fall-back situation that would obtain if merger via YSG did not complete. It would entitle the grantees to subscribe for shares in Yodel, the enterprise to which they had contributed cash for Yodel's working capital requirements.

    ii) Other people, including Shift, Corja and Solano, also contributed to the merger endeavour. Mr Corlett decided that they too should be incentivised and should have the protection (and benefit) of the right to subscribe for shares in Yodel in case the merger did not proceed.

    iii) The purpose of the Second Warrant Instrument was to secure the continued commitment and services of the grantees towards the Shift-Yodel merger. Rather than using Yodel's working capital to pay for the grantees' services, Mr Corlett secured those services by committing irrevocably to the dilution of YDLGP's own 100% shareholding in Yodel.

    iv) On 1 June 2024, Mr Corlett edited the First Warrant Instrument to provide for them and produced the Second Warrant Instrument. He printed both warrant instruments that day and they were executed on 19 June and 11 June respectively.

93. Accordingly, prior to the start of evidence at the trial, Shift/Corja's case was that Mr Corlett took the initiative to use the warrant instrument drafted by Harper Macleod for other purposes as a means of protecting or incentivising or rewarding himself (Corja), Shift, Solano, Mr Hancox, Mr Moore, Mr Hobden and Mr Sheppard, and made changes to the First Warrant Instrument to that end. These were printed on 1 June 2024. Having prepared and printed them, Mr Corlett executed the Second Warrant Instrument and seven Certificates, and one warrant certificate under the First Warrant Instrument, on 11 June, which his mother, Ms Gregory, witnessed (although the pleaded case for the Certificates was 19 June), and then executed the First Warrant Instrument and 67 warrant certificates on 19 June 2024, which Mr Fishleigh witnessed. Having done so, Mr Corlett retained the instruments in his possession until January 2025 and did not provide any document or copy of a document to anyone until he provided a scan of the PDF document to Mr Slade on a Google Drive on 5 September 2024.

Yodel's Case on Falsity

94. Yodel's case on the authenticity of the Second Warrant Instrument, the Certificates and the resolutions has evolved from an initial position of suspicion, putting Shift/Corja to proof of authenticity, to one where, in its Amended Defence to Corja's Amended Additional Claim and then in its Amended Defence to Shift's Counterclaim, it pleads that each is a forgery, without legal effect, and that none was signed or executed on the dates that they bear. Beyond that, Yodel reserved its position pending full analysis of the documents by expert witnesses, but pleaded a number of matters that gave strong grounds, as it put it, for denying the authenticity of the documents. These included:

i) that if all the warrants issued under the Second Warrant Instrument are exercised, it would give the grantees 71% of the issued shares in Yodel;

ii) the timing of alleged execution of the Warrant Instruments, shortly before Mr Corlett lost control of Yodel and while it was suffering a cash flow crisis;

iii) the odd wording of the sole director's resolution, which was not with the statutory books of Yodel or known about prior to January 2025, when RSP disclosed them;

iv) the fact that none of the warrants were disclosed to JLL, despite the effect that they would have on its purchase of the shares in Yodel;

v) a warranty given by YDLGP in the SPA that the shares sold represented the entire issued share capital of Yodel on a fully diluted basis;

vi) the fact that no executed ASA, warrant instrument or warrant certificate was produced to Yodel until December 2024, some six months later, and in the case of the Second Warrant Instrument only in January 2025;

vii) the fact that warrant holders, including Mr Hancox and Mr Hobden, were unaware until December 2024 and January 2025 respectively that they were warrant holders;

viii) when purporting to exercise their warrants, neither Corja nor Shift produced a copy of the Second Warrant Insrument.

95. Its case by the start of trial was put more forcefully, on the basis that there was no documentary support at all for Mr Corlett's account, other than the 1 June 2024 Word document, whose metadata could easily have been falsified, and the agreement of the expert witnesses that the First Warrant Instrument was printed on different paper from the Second Warrant Instrument, except for one page of the First Warrant Instrument which was on the same paper as the Second Warrant Instrument; that the Certificates were printed on different paper from the Second Warrant Instrument itself, and that the supposed signature of Ms Gregory on various documents showed signs of having been forged.

96. Yodel's case is that Mr Corlett created the disputed documents after 21 June 2024 and backdated them to 19 June 2024, and to do so forged his mother's initials form of signature as an apparent witness for his signature on the Second Warrant Instrument and Certificates. Yodel contends that Mr Corlett's account of printing out the Second Warrant Instrument documentation on 1 June and executing instruments on 11 June is wholly untrue, and a manufactured account to support a case that the documents in question had effect before 21 June 2024.

97. While maintaining that it does not have to prove that the First Warrant Instrument documents equally are false instruments, Yodel does contend that it is untrue that the documents were printed out on 1 June, taken by Mr Corlett to Liverpool on 11 June, and were then with him in Hertfordshire on 19 June (when he was supposed to be in Speke instead), or that the documents were executed and witnessed on 19 June, as he and Mr Fishleigh contend that they were.

98. It follows that Yodel alleges that Mr Corlett is lying about the whole matter and, has created false documents to attempt to recover control of Yodel and deceive its directors and shareholders. In addition, Yodel alleges that Ms Gregory has lied to the Court about the signatures on the disputed documents being her signature, and about ancillary matters that she told the court in order to support that account.

The Purpose of the Second Warrant Instrument

99. I shall consider first the question of why Yodel might have created the Second Warrant Instrument in June 2024 and the evidence bearing on that.

100. It is not obvious why Mr Corlett, without reference to his co-director, Mr Hancox, would himself prepare documentation for warrants to be issued by Yodel for very large numbers of its shares in favour of (essentially) himself, Shift and others closely concerned in the proposed merger. Neither is it obvious why he would have done so in early June 2024. The position in early June 2024 was that considerable work done on the proposed merger had almost reached fruition. There was no further impediment to the merger proceeding, other than purely administrative matters and the agreement of IGF. As Mr Corlett said in his first witness statement, by 10 June 2024, the merger was nearing completion. I find that Mr Corlett himself was, throughout, optimistic (though unduly optimistic) that various lines of funding would all come good, that Yodel would not run out of working capital, and that the merger would proceed.

101. The proposed warrants would give the warrant holders together about 70% of the fully issued share capital in Yodel, if they were exercised. That would only happen if the merger did not proceed and YDLGP sold its shareholding or the assets of the company, or if it was listed. No one in Mr Corlett's internal team, who were working on the proposed merger, as distinct from external investors, considered that the merger might not take place. The assumption shared by all was that YSG would acquire the shares in Shift and Yodel and that Shift, Corja and the internal management team would acquire equity stakes in YSG.

102. The position of external investors was different. They had been asked by Shift to subscribe further money to help to progress the merger. The ASA made clear that the money was paid not as a loan but in return for shares in YSG at a later date. There was concern, articulated by Mr Cureton among others, as to the exposure of the investors if, for whatever reason, the merger did not happen. It was understandable, in those circumstances, for the external investors to seek some form of protection, or security, against the risk that the promised shares in YSG were not forthcoming. It was also understandable that Mr Corlett would wish to take care of his Shift investors and assuage their concerns. That is, doubtless, why, shortly after the possibility was raised on 30 April 2024, he instructed Harper Macleod to prepare documentation for that purpose.

103. It is not clear to me why Corja, Shift and the internal team needed similar protection. While it is doubtless true that steps had been taken to align the businesses of Shift and Yodel in anticipation of the merger, in other respects – such as the contractual Licence Agreement – their relationship remained on a commercial footing, rather than a joint venture. The large payments under the agreement being made by Yodel to Shift were part of IGF's concern about Yodel's use of funds. Even if the merger work proved abortive,

Mr Corlett had control of Yodel and (effectively) Shift and could deal with the consequences to his satisfaction.

104. The pleaded case is somewhat equivocal as to the reason for the Second Warrant Instrument. It alleges, on the one hand, that it was to provide protection, alongside the First Warrant Instrument; and on the other hand, to provide some reward for or recognition of the work that had been done towards the proposed merger. In the case of Shift, there seems to be a discrete reason given, namely as compensation for the restructuring of its business.

105. In his evidence, Mr Corlett came up with a different explanation, which was that the warrants were to incentivise those who were working on the proposed merger, including himself and Shift. He said that he himself needed to be incentivised to work for the merger. He explained that Yodel was very reliant on work that the intended warrant holders were doing, and that the business plan was reliant on that work. He also attributed the reason for preparing the Second Warrant Instrument to the concerns expressed to him by Mr Moore and Mr Hobden about the lack of clarity of what they would be getting out of the process:

> "James [Moore] certainly got to a breaking point where he explained to me quite clearly that he and Dan [Hobden] both felt the same way and without me putting in writing very clearly where their position was."

106. In his first witness statement, Mr Corlett said that he had the idea of the Second Warrant Instrument following a call with Mr Moore on 29 May 2024, and so prepared the instrument on 1 June 2024. In his evidence in chief, Mr Corlett said:

> "On 29 May 2024, Mr Moore called me regarding formalisation of the agreement reached through Mr Edirmanasinghe over his own equity. He was acutely aware that the merger had been delayed and that his equity was not documented, leaving him little to rely on. He had been at the meeting and knew that the Shift investors were going to receive the protection of warrants in Yodel. He told me that he and Mr Hobden, who shared his concerns, wanted the same protection for themselves. I sought to reassure him that I intended to honour his and the others' equity agreements and said that I would take it away and come back to him. It was at this point that I had the idea of adding all the parties who had equity committed into the warrant structure prepared for the ASA."

Mr Corlett said in cross-examination that Mr Moore and Mr Hobden were agitating for some sort of reassurance in relation to equity. Mr Sheppard, however, made it clear that he totally trusted Mr Corlett.

107. Mr Moore gave evidence for Shift/Corja, Mr Hobden did not. Mr Moore said in his evidence in chief that he was employed by Shift but moved over to Yodel to work on the practical aspects of the merger. He said:

> "Given that equity was allocated to me (ultimately granted via warrants) in the future group, I was extremely motivated to make this happen…".

The reference to equity allocation is to the developing "Cap Table" that Mr Corlett envisaged and created from the start of YDLGP's ownership of Yodel, on the basis that key players who would bring about the merger would be given an equity share in YSG ("At the time (February 2024) Jacob [Corlett] said to us that as we were the 'founding team' he would share some of the equity of the business with us"). This was indeed, as Mr Moore said, a strong motivation to work hard to bring the merger about. However, as Mr Moore explained, the equity shares had not been finalised, and he and Mr Hobden wanted clarity.

108. Mr Moore said that he was told by Mr Edirmanasinghe of Solano that his share would be 3.3% and that this was agreed in late May 2024, but that he and Mr Hobden needed their equity to be documented:

> "This culminated in a phone conversation between Jacob and myself in late May 2024, where I put to him – more assertively than I would usually speak to him as my boss – that Dan and I needed him specifically, not Jon [Edirmanasinghe], to act to formalise our equity."

109. In cross-examination, Mr Moore accepted that his concern was to see something in writing from Mr Corlett personally that confirmed his equity share. There was no mention of warrants in that phone conversation, nor did Mr Corlett confirm his equity share. Mr Moore said that a subsequent discussion about warrants was on the basis that he would get his equity stake ("warrants was the vehicle by which it would be delivered"). He said that the warrants were to be an alternative way of delivering the equity in the merged entity. Should the merger happen, he said, the warrants would fall away.

110. I will return later to the question of whether Mr Corlett discussed warrants with Mr Hobden and Mr Moore at Speke on 11 June 2024. For present purposes, however, what matters is that Mr Moore's concern as at the end of May 2024 was with seeking to have his equity stake confirmed in writing by Mr Corlett. Mr Moore was not seeking protection or security, much less asking for warrants: all he wanted was confirmation of the amount of the share to come formally from Mr Corlett, and that was how the conversation on 29 May 2024 was left.

111. It is therefore wholly unclear why warrants for shares in Yodel were a solution to the agitation that Mr Corlett faced. What was asked for, and required, was formal confirmation by him of the Cap Table in YSG, or an agreement to allot a certain number of shares in YSG. It is to be remembered that, at that time, it was only a short time before the expected merger took effect. Mr Moore wanted confirmation of what he was getting, in advance.

112. When asked whether issuing warrants for shares in Yodel might prove problematic for the funders that Mr Corlett was trying to persuade to inject capital at the time, he said that the issue of warrants in Yodel was not a problem because the merger was "imminent" at that time (he was referring to 19 June 2024). "It was going to happen: that was my view at the time". When asked why, in that case, it was necessary to incentivise the key players with warrants that would lapse on the merger, Mr Corlett struggled for a credible answer. He suggested that the documentation had been prepared almost a month before, and that one could not spend a month working on something and then decide not to do it on the basis that the merger is definitely going to happen. That would not be acceptable,

he said. He then accepted that there was no deal with the proposed warrant holders to grant warrants, but asserted that the fact that the merger was close was not a good reason not to produce the warrants. He then said that "imminently" could be a day, a week or a month.

113. Mr Corlett's suggestion that the Second Warrant Instrument was put in place in order to have the continued support of all the proposed warrant holders is not credible. No one other than the small external investors was focused at that time on the risk of the merger not happening. No one other than the external small investors was looking for security against that eventuality. The internal management team were highly motivated at that time, and they did not need incentivising. Mr Corlett admitted that much in relation to Shift ("But the purpose wasn't to incentivise them to continue pursuing the merger"), and he then suggested that it was to ensure that Shift continued to work with Yodel in the event that the merger did not happen.

114. The idea that Corja – which was Mr Corlett in reality – or Shift needed incentivising to take the final steps to complete the merger and unlock substantial synergistic value, which was the objective to which they were working, is unrealistic. It is nowhere pleaded by Shift/Corja that the management needed to be incentivised to continue to work on the merger: the pleaded case is about protection and reward. Incentivisation is first seen in their skeleton argument, and was then taken up by Mr Corlett only in cross-examination.

115. If the Second Warrant Instrument had really been about incentivising the warrant holders, one might have thought that they would have been given sight of their warrants on 11 June 2024, or on or shortly after 19 June 2024, but they were not, nor at any time before January 2025. Nor were the warrant holders being given an incentive to work with Yodel if the merger did not proceed: none of them had asked for that. What some of the management team did want was certainty about their equity stake in YSG before the merger took effect. It was not necessary or appropriate for Mr Corlett to create a new warrant instrument and issue warrants in Yodel to deal with this concern.

116. As to protection and reward, none of the management team had been seeking protection, and it was not explained why Corja, Solano or any of the individual warrant holders needed protection. There might be a plausible case for compensating Shift's shareholders, as Shift had changed its business operation in anticipation of the merger, but that is not the explanation that was advanced by Mr Corlett. As for reward, the reward for all the management participants in the merger attempt, including Solano, was the promised stake in a more valuable YSG. One would not expect those participants to be rewarded for a failed merger. Other than Solano, which appears to have been willing to forgo its usual charges in return for the promised stake in YSG, all the other individuals were being remunerated for their work.

117. Further, the explanation of incentivising work on the merger sits uncomfortably with the extent of the rights purportedly granted by the Certificates. In the event of the merger proceeding, Shift shareholders were to be allotted 44% of the shares in YSG, and Corja 10%. In the event of the merger not proceeding, Shift would be allotted 44% of the share capital of Yodel, on a fully diluted basis, and Corja 10%; but in that eventuality, Shift would also retain its own business, which had not merged with Yodel. So Shift shareholders would retain the entirety of Shift's business and also obtain a 44% stake in Yodel.

118. As Mr Corlett recognised, the warrants would only be valuable in the event of Yodel being a success story, which as an unmerged company it was not. If its fortunes did change, however, Shift's shareholders could be better off without a merger than they would have been if there was a merger, as a consequence of the Certificates.

119. Another question relating to the good sense of creating the Second Warrant Instrument in June 2024 was the impact that it might have on investors. If Yodel had to continue to stand on its own feet, the existence of share warrants with a strong anti-dilution clause could well create problems for, or at least delay, potential investors in Yodel on the preferred CLN structure. Yodel, it should be recalled, was balance sheet insolvent and was struggling to raise working capital. It was understood by Mr Corlett at the time that it needed £10 million urgently and at least £50 million within a year. Such investment would not come without immediate or future equity in Yodel, yet the Second Warrant Instrument would entrench Shift's and Corja's majority interest in the company.

120. As the creation of the Second Warrant Instrument therefore appears to make little business sense, in contrast to the First Warrant Instrument, and as Mr Corlett could not convincingly explain what its purpose was, I should scrutinise carefully the evidence that this is what Mr Corlett did at the time – without reference to anyone, without asking his lawyers to draft suitable terms, and without then providing the executed documents to anyone. That is because, first, there is no document whose genuineness is accepted that supports Mr Corlett's account, and second, there is credible evidence, provided by the handwriting expert witnesses and the ink dating expert witnesses instructed by the parties, that the Second Warrant Instrument and the Certificates were not prepared and executed in the way that Mr Corlett describes.

121. I will return to the expert evidence after considering the evidence from the documents and factual witnesses about (i) the way in which the Second Warrant Instrument and its Certificates were produced, and (ii) the claimed execution of those instruments and the Oxalyst warrant certificate in Liverpool on 11 June 2024.

The Preparation of the Second Warrant Instrument and Certificates

122. Shift/Corja's pleaded case is that the First Warrant Instrument and its 68 warrant certificates were prepared by Mr Corlett, based on a draft supplied by Harper Macleod, and printed out by him in the week starting 27 May 2024.

123. In his evidence in chief, Mr Corlett elaborated that account:

> "I carried out the work of preparing the execution copies in Yodel's Speke office, using Yodel's computers and printers. I had, on my Yodel e-mail, an electronic copy of the First Warrant Instrument, which had been prepared by Harper Macleod. I entered the date of 19 June 2025 onto the warrant instrument, on the basis that it would be a long-stop date for subscribers to sign and return the documents and send in their subscriptions…..
>
> The warrant certificate template appeared on page 7 of the electronic document. I entered the name, address and the number of shares for each subscriber from my spreadsheet and then pressed "print". I did that 68 times, over-writing the changes to the certificate each time. I cannot now recall whether I saved the electronic document onto the hard drive of the particular

> computer I was using. I may well have done. I printed the specimen warrant with its yellow highlighting separately because it contained colour. I have seen that the expert witnesses have stated that this page is printed on different paper. It is perfectly possible that it was.
>
> Once the printing had been completed, I ended up with about two reams of copier paper in my rucksack. I clearly recall that it was heavy to carry around."

124. It is notable that this account was prepared by Mr Corlett with the benefit of seeing the initial expert opinions of Mr Todd Welch and Mr Gerald LaPorte, which included the observation (which has never been challenged) that one page of the First Warrant Instrument was printed on different paper from the rest of the document. Later expert evidence has identified (and it has not been disputed) that this is the same paper as that on which the Second Warrant Instrument was printed. Mr Corlett explains that by reference to the need for colour printing. Further, the Certificates for Shift and Corja are not the same paper type as the paper on which the Second Warrant Instrument was printed.

125. The yellow colouring on one page of the draft warrant instrument, as prepared by Harper Macleod, is in Part 1 of the Schedule to that instrument, and comprises a warrant certificate. It bears "Certificate Number 1" in the top left hand corner, and the following wording:

> "This is to certify that [ ] [(registered number [ ])] of [ ] is the registered holder of a warrant (the **'Warrant**') entitling the holder to subscribe for up to [ ] Ordinary Shares of £0.0001 each in the capital of the Company at a subscription price of £0.0001 per Ordinary Share …..The Warrant was created pursuant to an instrument dated [ ] 2024 (the '**Instrument**')."

126. The First Warrant Instrument warrant certificates that have been signed, including the Oxalyst certificate, do not contain yellow highlighting, or blank spaces. Mr Corlett would therefore have completed the template, as he describes, replacing the blanks, brackets and highlighting with the individual details of the warrant holder, the number of shares and the date of the instrument.

127. The First Warrant Instrument, as purportedly executed by Mr Corlett and witnessed by Mr Fishleigh on 19 June 2024, contains a different version of the warrant certificate, both in form and content. In form, the certificate is wider, so that the operational content of the certificate is printed on 6 lines rather than 7 lines; in content, the references to shares in Yodel are not to "Ordinary Shares", as in the template version, but "B Ordinary Shares". It does however contain the yellow highlighting.

128. Mr Corlett's evidence in chief about the preparation of the Second Warrant Instrument and the Certificates was as follows:

> "On 1 June 2024, I prepared a second warrant instrument (the '**Second Warrant Instrument**'). I did this on my own laptop by amending the electronic document containing the first warrant instrument which Harper

> MacLeod had drafted. I took advice from Harper MacLeod by telephone as I was making the changes to ensure that I got it right ….
>
> The original electronic document has been provided to Yodel's solicitors in its native format. The document's metadata shows that I both created and last modified it on 1 June 2024. I have not tampered with the metadata in any way.
> ……
>
> I recall printing the execution copies of these documents that same weekend in Shift's Plymouth offices…. I did this in exactly the same way as I had done with the First Warrant Instrument, by editing the certificate with the relevant warrant holder's details and printing the entire 14 page document and then doing the same for the next one."

Accordingly, Mr Corlett said that he started again with Harper Macloed's draft and amended it first, before printing it. He emphasises that, in relation to the Second Warrant Instrument as in relation to the First Warrant Instrument, he completed the detail of the subscriber and then printed the entire document, before entering the details of the next subscriber and printing that one, and so on.

129. There are difficulties with Mr Corlett's account, even before his cross-examination:

    i) The Second Warrant Instrument template certificate refers to B Ordinary Shares in Yodel, which do not exist;

    ii) The 1 June metadated Word document that he asserts is the document used to print the Second Warrant Instrument is not the same document as the printed Second Warrant Instrument. The Exercise Notice in Part 2 of the Schedule is in materially different terms: in 3 places, the executed Certificates refer to B Ordinary Shares where the template refers to Ordinary Shares, and the time specified for allotting and issuing the shares is described as being a date "not less than 14 days nor more than 45 days after the date of this notice", as compared with "not less than 7 days nor more than 14 days after the date of this notice" in the template.

    iii) Not only are the Shift and Corja Certificates printed on different paper from the Second Warrant Instrument, contrary to what one would expect, given Mr Corlett's evidence about how they were printed, but they are in different form from the template certificate within the Word document (on account of the different width of the certificate, as previously explained).

130. Apart from the 1 June Word document, there has been no document disclosed as the document that Mr Corlett allegedly printed, either in Speke in respect of the First Warrant Instrument or in Plymouth in respect of the Second Warrant Instrument.

131. In cross-examination, Mr Corlett said that his account of printing the First Warrant Instrument was correct except that there might have been another reason why he printed page 7 (the template warrant certificate) separately, such as that the printed Second Warrant Instruments did not have a warrant certificate in it. However, he accepted he could not remember that. He then said that this evidence about printing the First Warrant Instrument and certificates in Speke might be wrong: it was reasonable for him to accept

that page 7 could have been on different paper, but that when making that statement he did not appreciate that the content and form of the certificate printed was different from the template.

132. As for the Second Warrant Instrument, Mr Corlett tried to explain that he must therefore have used a different, earlier version of the template that he was working on (though he could not explain why this would have included a reference to B Ordinary Shares, which the warrant template in the First Warrant Certificate also includes), and that he had used that without realising that it referred to B Ordinary Shares. No such document has been disclosed, nor was one referred to in the witness statements of Mr Corlett. Mr Corlett's explanation for how the Certificates under the Second Warrant Instrument, which he said that he signed on 11 June 2024 in Liverpool, were on different paper from the Second Warrant Instrument also signed on that date, was:

> "… It seems perfectly obvious to me that I must have printed at least one additional copy of the templated warrant instrument on 1 June alongside all of the second warrants and that because all of the paperwork was there, Mark Fishleigh and I, or potentially myself, went okay, well, we'll take this first one or one of the ones we'll, execute that and will slip in the templated form from the batch that was printed alongside the second warrant instrument. To me that's obvious the second I see this in the context of what we have just learned, in that there's a difference between the template on the ASA that's attached and the one that I then ended up executing."

133. Once again, this was not based on any recollection of Mr Corlett but, as elsewhere in his evidence, was no more than an attempt to reconcile what could not be reconciled on his original evidence of what he did to create the Second Warrant Instrument and the other instruments. Mr Corlett seemed to think that if there was a possible way of reconciling the facts put to him, however improbable it was, then that was what must have happened. His attempt did not, in any event, explain why the Shift and Corja warrants made under the Second Warrant Instrument were on different paper from the Second Warrant Instrument. What the evidence does clearly establish is that Mr Corlett's original account of how he came to prepare the documents in dispute is not correct: it does not explain the different page 7 in the First Warrant Instrument, the difference between the paper used for the Second Warrant Instrument and the Shift and Corja Certificates, or the fact that the 1 June Word document is in different terms and form from the executed versions.

134. As to the latter, Mr Corlett continued to attempt to justify its existence by claiming that he printed multiple copies of the Second Warrant Instrument and may have edited it during the process. However he admitted that:

> "that's not my evidence based on recollection but that – that's clearly what all of this points towards."

He suggested that the 1 June Word document was the final version, but an earlier version was probably used to print from. Or, after printing, he could have edited the document to remove the erroneous reference to B Ordinary Shares and then saved the corrected version. But this was hardly credible, as the reference to the B Ordinary Shares was, as he accepts, a mistake. If he had recognised the mistake and corrected it on the template, he would surely have reprinted the Second Warrant Instrument and the 7 Certificates so that the mistake was removed from the execution copies. Further, the metadata shows

that that document was finally saved one minute after it was printed. But this could not have been achieved if the document printed was the final version of the instrument with the warrant holder's details and number of shares inserted and no spaces and yellow highlighting, as all these are present.

135. It therefore appears that, in an attempt to rebut an allegation of producing a false instrument, Mr Corlett has advanced an original digital document, seeking to rely on the metadata that it contains as evidence that the Second Warrant Instrument was conceived and printed on 1 June 2024, but the document in question cannot be, and is not, the document from which the Second Warrant Instrument was printed as an execution copy, in the way that Mr Corlett described. There must therefore be other digital documents from which the First Warrant Instrument was printed in Speke and the Second Warrant Instrument was printed in Plymouth, if Mr Corlett's account is right, but none has been disclosed. Despite numerous requests, Mr Corlett has never produced his laptop for examination – which would have enabled an analysis of system metadata, which is more detailed than the embedded metadata in a single document. RSP say that the computers that he used were not retained by Mr Corlett.

136. Mr Thompson suggested to Mr Corlett that he had fabricated the 1 June document at a time after he had prepared the Second Warrant Instrument, to give the appearance of that document having been printed out on 1 June 2024. Mr Corlett denied that and said that he did not know how to do it. It was put to him that all that is required is to change the date and time settings of the internal clock of the device used to produce the document, and then produce it and save it. He said that he did not know that. As put to Mr Corlett, it was astonishingly easy to do for anyone who knows how to change the settings on a computer.

137. Shift/Corja's case in closing submissions was that the Second Warrant Instrument was created on Mr Corlett's laptop by amending the First Warrant Instrument, relying on his account in his trial witness statement, and that the First Warrant Instrument was prepared in the week commencing 27 May 2024, with the warrant based on the draft provided by Harper Macleod.

138. I am far from persuaded that the Second Warrant Instrument and Certificates were prepared and printed as Mr Corlett alleges. No document supports his account. It is highly improbable that no other document came into existence during this period of intensive preparation, if Mr Corlett's account is right. However, his account is in part contradicted by the solicitors who had produced the draft warrant instrument in mid-May 2024. Mr Corlett said that as he was working on the content of the Second Warrant Instrument on his laptop on 1 June 2024, he was in telephone contact with Scott Kerr at Harper Macleod to check that he was doing the changes in the right way.

139. This seems inherently implausible. First, given that there was no urgency, one would have expected Mr Corlett to have instructed Mr Kerr to produce a revised version. Second, given that there was no urgency, it seems unlikely that Mr Kerr would have been giving off the cuff advice on a Saturday afternoon or evening on such a potentially significant document, without there being any communication in writing between them.

140. Third, Harper Macleod have denied that they were involved in any way other than producing the original draft warrant agreement in mid-May 2024. By letter dated 7 March 2025, Fieldfisher wrote to Harper Macleod asking whether it was instructed by anyone

in connection with either of the warrant instruments, the warrant certificates or the resolutions in issue, and specifically whether the documents were prepared by Mr Kerr. The answer given by letter dated 25 March 2025 was that Harper Macleod were instructed to prepare a form of warrant instrument as a schedule to an advance subscription agreement to be issued by Shift, with the instruction coming from Mr Fishleigh, not Mr Corlett. The template document was prepared by Scott Kerr and "Harper Macleod LLP was not involved in any way with preparing any specific Warrant Document as referred to in your letter." Harper Macleod said that they were not instructed to prepare the director's resolution, and did not hold any documents other than scans attached to exercise notices, which they enclosed with letters giving notice of exercise of warrants.

141. There is no reason to doubt the careful and precise letter written by Harper Macleod, potentially against the interest of their client, Shift. It follows that Mr Corlett's account of the help that he received in connection with the drafting of the Second Warrant Instrument and the director's resolution is untrue.

The Alleged Execution of the Second Warrant Instrument and Certificates

142. Mr Corlett's case is that he had a conversation with Mr Fishleigh on 7 June 2024, in which Mr Fishleigh suggested that he could not execute the Oxalyst warrant or the Shift warrant, as he was a director of both companies. If that is true and if there were instruments prepared for execution, it meant that by 19 June 2024 Mr Corlett had to obtain board approval to execute the documents (as it is inconceivable that creating them was within the ordinary authority of a single director), and he had to find someone to witness his signature. There was no rush: Mr Corlett had 12 days before the date on the documents, and anyone at Yodel (other than a warrant holder) could have acted as witness, as Mr Corlett went about his ordinary business affairs. It was not necessary for the witness to read the documents, only to witness that it was Mr Corlett who put his signature on them.

143. Shift's original pleaded case was that the documents were executed on 19 June 2024, with no mention of any earlier signing. Its original case in evidence was that they were executed on 12 June 2024. Neither is now Shift/Corja's position, which is that the Second Warrant Instrument and its Certificates were executed on 11 June 2024 in Mr Corlett's Liverpool flat, having already been dated 19 June 2024 when printed.

144. Mr Corlett accepts that there was no prior plan to ask his mother to sign any documents. He said that it just happened when they met in his flat in Liverpool, over breakfast on 11 June 2024. Ms Gregory's initial evidence, in support of the injunction application, was that Mr Corlett signed the documents and then passed them to her to witness, and then he placed the signed documents in his backpack. She said: "The process was short, informal and entirely unremarkable", on account of the fact that it was "commonplace between us, due to the frequency with which I witness corporate documents for his companies". This was repeated in her trial witness statement.

145. If that is true, it is highly doubtful that Ms Gregory could positively identify the executed documents that she witnessed, though she said that Mr Corlett said that they related to the ownership structure of the Shift/Yodel group. Indeed, in cross-examination, she accepted that she could not positively say what the document that she witnessed

contained, though she relied on the number of them and the circumstances to support her assertion that it was the Second Warrant Instrument and the Certificates.

146. By the time of the trial, though not in her original trial witness statement, Ms Gregory had a more detailed account of how it happened that she was asked to sign, and how that proceeded. In her trial witness statement she simply confirmed that the signature purporting to be hers on the Second Warrant Instrument was her signature and denied that it was a forgery. Following the exchange of expert evidence, in which Mr Todd Welch, an expert handwriting and document analyst instructed on behalf of Yodel, explained that the signature in question had many characteristics of forgery, and following the amendment of Yodel's Defence to Counterclaim to allege forgery, Ms Gregory made a further witness statement, in which she says that she has no doubt whatsoever that the signature is hers.

147. Ms Gregory said that she came to England on a short business trip. She flew from the Isle of Man to Manchester Airport on 10 June 2024 and travelled by bus to Liverpool City Centre, and went to her son's flat, arriving in the evening and expecting to see him there (but he was not there). She intended to stay in Liverpool before leaving after breakfast the next day to attend an event at the National Exhibition Centre in Birmingham, where she had arranged to meet work associates at 10.00 am.

148. She saw Mr Corlett over breakfast between 7 am and 8 am on 11 June. In her third witness statement, she says that there was little time because she had to leave to get to the NEC:

> "For that reason, I was surprised and a bit angry when Jacob produced a sheaf of documents at breakfast and asked me to witness his signature. It was not an unusual request because we work closely together in connection with the business in which I am involved and I am used to signing documents, including signing as a witness. But, in this case, the sheaf of documents looked quite large and I was under some time pressure. I wanted to spend personal time with my son because I knew that he was under a lot of pressure in connection with the business of Yodel and I wanted to talk to him as his mother …
>
> I asked him whether we had to do it now. He said yes and that it was not as bad as it looked. There were only a few places where I had to sign. He signed and passed me the signature pages. I signed as witness. I did so, just using my initials. I did it that way because I resented having to do it at all because it was biting into my time with him. Looking at these signatures now, I am not proud of them. They are scrappy and show that I took no care over them. It has been suggested that they lack fluency. I am not in a position to comment on that. It may be that they reflect my mood at the time I made them. But they are my signatures. I wrote them. They are not my full signature, but, because I have to sign a lot of documents, I do, sometimes, sign with just my initials, which is what I did here."

149. In cross-examination, Ms Gregory explained further that the signature was not her usual signature – that she normally signs formal documents such as deeds with her long form signature, not her initials, and so this was unusual – and that the reason why she signed as she did was that she was "angry and upset". She confirmed that the signature pages alone were handed to her, that she did not write her name by her signature, but that she

signed 8 pages in total with her initials. The number she signed had varied, on her account, between 7 and 9 at different times, but it was never 14-18 pages, as it would have been if Mr Corlett had asked her to sign 7 to 9 different copies of a warrant instrument with the certificate inside it. Mr Corlett explained in his evidence that it was only Mr Fishleigh, on 19 June 2024, who pointed out to him that he had printed far too many copies, as only one warrant instrument needed to be signed and then the individual certificates for the warrant holders could be separately signed. He therefore did not know this – on his account – in Liverpool on 11 June 2024, and so would have asked his mother to sign each copy in two places, making at least 16 pages in total.

150. Ms Gregory was a very nervous and emotional witness. While one accepts that for a mother to appear as a witness in a trial in which her son is alleged to have falsified documents will be a pressured and unpleasant experience, Ms Gregory is also a professional person – an accountant by practice, though not a chartered accountant. The primary emotion displayed by Ms Gregory in the witness box was not anger or indignation, as one might expect if a professional person is being accused of lying about signing a document, but appeared to be guilt. Ms Gregory said she felt guilty that she had led her son into trouble, as a result of her not having done a better job of signing the documents.

151. I did not find Ms Gregory's account very persuasive, particularly when she tried to explain how it was that three different pens were used to sign the 8 documents, with one different pen with different ink being used for the signatures on each of the Second Warrant Instrument, the Oxalyst warrant certificate and the Shift and Corja Certificates (which the agreed expert ink analysis evidence establishes). She said that Mr Corlett never had a pen, so the notion that, with their being at the breakfast table, each of them used the same pen to sign the Second Warrant Instrument, then used a different pen to sign the Shift and Corja Certificates, and then used a different pen again to sign the Oxalyst certificate, is somewhat improbable – unless there was a particular explanation for that, which there was not.

152. There were travel documents produced to support Ms Gregory's journey to Manchester Airport, but nothing beyond that to explain how she might have got from a flat in Liverpool at 8 am to the NEC, east of Birmingham, by 10 am (which she accepted in cross-examination was not achievable, but then said that the arrangement to meet was a "loose" one).

153. Ms Gregory's account was corroborated by Mr Corlett, who said that he did not arrive back in his flat until late at night. He had travelled to Liverpool with a colleague and close friend, with whom, either by then or later, he had a relationship. He denied that he had spent the night with that person and had not been to his flat, but said that he arrived late and saw his mother in the morning. He too was unable to explain the different pens used.

154. Another curiosity about the account of the signing was that both Mr Corlett and Ms Gregory said that Mr Corlett had "reams" of documents in his backpack, with Mr Corlett confirming that these were the 67 copies of the First Warrant Instrument with completed warrant certificates (each of them 14 pages) that he had printed out for execution on 19 June 2024. If, as he said, he had spoken to Mr Fishleigh on 7 June and arranged to meet in Speke to execute them on 19 June, it is unclear why he would have been carrying 67 versions of a printed 14-page document around with him (which he recalled as being

heavy) on 10 and 11 June, when he had printed them in the Speke offices in the week beginning 27 May 2024.

155. Shift/Corja's case was that the signing took place as described by Mr Corlett, whose written and oral evidence was consistent. They submitted that the circumstances in which Ms Gregory was used to witness the instruments was entirely plausible and consistent with Mr Fishleigh's evidence that he could not sign two of the warrant certificates. They submitted that Ms Gregory's evidence was clear and that what happened was likely to be accurately recalled, as Mr Corlett produced documents one at a time from within a huge mountain of paperwork that he spread out on the sofa.

156. On the basis of their own evidence, I am left in real doubt about whether the documents were executed by Mr Corlett and witnessed by Ms Gregory on 11 June 2024 as they said. However, their own evidence is only part of the picture. I need to consider the probability of those matters, and of the production of the Second Warrant Instrument and Certificates on 1 June 2024, in light of the expert handwriting and document evidence, and evidence of what was said about and what was done with the allegedly executed documents after 11 June 2024.

The Expert Handwriting Evidence

157. In February 2025, Fieldfisher instructed Riley Welch LaPorte & Associates Forensic Laboratories ("RWLPA") to examine and report on 3 original documents: a sole director's resolution dated 19 June 2024 signed by Mr Corlett; the First Warrant Instrument; and the Second Warrant Instrument. RWLPA were also provided with examples of signatures of Mr Corlett and Ms Gregory on other documents. Both Mr Todd Welch and Mr Gerald LaPorte examined the documents and produced a first report.

158. Their conclusions were that:

    i) the signatures of Mr Corlett on the documents were written by him;

    ii) page 1 of the sole director's resolution may have been printed at a different time from page 2;

    iii) there was evidence that page 7 of the First Warrant Instrument had been substituted for the original page 7, and that pages 2 and 7 of the Second Warrant Instrument had been substituted for the original pages;

    iv) the signature of Mr Fishleigh on the First Warrant Instrument was probably written by him;

    v) The Tamara Gregory signature on the Second Warrant Instrument exhibited characteristics commonly associated with traced or simulated forgeries and so there was evidence that she did not sign that document;

    vi) There were indications that Ms Gregory did not write her manuscript printed name on the Second Warrant Instrument;

    vii) There was extremely strong support for the conclusion that the signatures on the Second Warrant Instrument were executed around or after 1 January 2025, not on 19 June 2024;

viii) There was evidence indicating that the 3 documents were not prepared simultaneously as multiple page documents on their purported dates, but portions of the documents were produced at different times.

159. That first report was sent to RSP on an open basis on 14 March 2025. The initial response of RSP by letter dated 17 March 2025 was to contend "with certainty" that the experts' conclusions were wrong, and the allegations of forgery were ill-founded. RSP provided the "genuinely incontrovertible evidence" of creation of the Second Warrant Instrument on 1 June 2024 and of the executed version of it being scanned by Mr Corlett on 24 August 2024. RSP sent Fieldfisher at that time the 1 June metadated Word document and a PDF scan of the executed Second Warrant Instrument, whose metadata indicate that it was created on 24 August 2024.

160. Shift/Corja's trial witness evidence was therefore prepared with that report and those documents in mind. Thereafter Mr Welch and Mr LaPorte each prepared CPR Part 35 compliant expert reports on handwriting and ink dating respectively, and these were exchanged with expert reports prepared by Mr John Welch (no relation) and Dr Aginsky on behalf of Shift/Corja. There were also IT data expert reports, but no relevant dispute between those expert witnesses had to be resolved at trial.

161. To prepare his Part 35 expert report, Mr Todd Welch was provided with samples of Ms Gregory's usual signature, which were available to Yodel from documents signed by her in these proceedings or from publicly filed documents. It is accepted that these samples were authentic samples of Ms Gregory's normal signature. Yodel was unaware at this stage that, on occasions, she allegedly used a shorter form initials signature, and so it did not provide samples of that to Mr Welch for his Part 35 report. Mr Welch was also provided with more original documents to consider, in particular the Certificates that Shift/Corja maintain were executed on 11 June 2024, and the Oxalyst warrant certificate.

162. Mr Todd Welch's conclusions were in line with his March 2025 report, and included the following:

i) "There is evidence that the Tamara Gregory signatures on the Second Warrant Instrument, Certificate 43 [Oxalyst], Certificate 69 [Shift], Certificate 70, Certificate 71, Certificate 72, Certificate 73, and Certificate 75 [Corja] were written by one and the same individual. Characteristics commonly associated with traced or simulated forgeries present in these signatures may preclude a positive identification or elimination of any writer."

ii) "It is highly probable that Tamara Gregory did not sign the Tamara Gregory signature on the Second Warrant Instrument, Certificate 43, Certificate 69, Certificate 70, Certificate 71, Certificate 72, Certificate 73, and Certificate 75 but rather appears to be an attempt by someone to simulate her natural signature style."

163. To the inexpert eye, the initials style of signature above the name Tamara Gregory on the disputed documents appears to be hesitant and be clearly different from Ms Gregory's usual and authentic longer form signature. Mr Welch was criticised in cross-examination by Mr Johnson for concluding that the disputed signature was an attempt to simulate her normal signature, on the basis that it was so different in style that it would not really have been someone's attempt to simulate the long form signature at all. It was put to Mr Welch that in previous testimony in the United States he had concluded that there were really

three different types of inauthentic signatures: traced signatures, simulated signatures, and hastily written marks that do not attempt authenticity at all. If the initials signatures of Ms Gregory were not authentic then they fell into the latter category.

164. Within its own narrow confines, there was, perhaps, something to say for this line of criticism, but it was rather artificial given that Ms Gregory's evidence was that it was indeed her hand that had written the disputed signatures. The only relevant question is whether that assertion was true, not which category of inauthenticity applied. The criticism was in any event overtaken by the content of Mr Welch's supplementary report, for reasons which will shortly appear. It seemed to me to be, in reality, only an attempt to cast some doubt on Mr Welch's consistency or reliability, rather than to undermine his conclusion that the disputed signatures bore the hallmarks of forgery, which was a conclusion with which his opposite number, Mr John Welch, agreed.

165. At the time of exchange of the Messrs Welch expert reports, it would have become apparent that something was going wrong with the process of preparing expert opinion evidence. Mr John Welch's report stated that, despite the disputed signatures bearing characteristics associated with forgery, his opinion was that there was "moderate evidence" to support a conclusion (and so, in his ranking of strength of evidence, on the balance of probabilities) that they were genuinely written by Ms Gregory.

166. However, Mr John Welch's opinion was undermined by two things. First, he had not been supplied by RSP with genuine copies of Ms Gregory's normal signature, as Mr Todd Welch had been. He had been provided with 17 documents with examples of a style of signature that looked very similar to the disputed signatures, only 9 of which he appended to his report. Although he had also been provided with a copy of RWLPA's March 2025 report, which included copies of the samples of Ms Gregory's normal signature, he had had only a very short time in which to conduct his examination and prepare his report, so had not read RWLPA's report. Second, he had been instructed to assume that the example signatures were Ms Gregory's genuine signature. The two experts had therefore been given completely different samples of comparator signatures and had not performed the same task.

167. Mr John Welch's report notes that the potential indicators of forgery that are apparent in the disputed signatures are also present in some of the comparator signatures that he had been sent. He said in cross-examination, but not in his Part 35 expert report, that this caused him to question his instruction to assume that the comparators were genuine signatures. He described them as "a very unusual set of genuine signatures". RSP nevertheless confirmed the instruction and did not supply Mr Welch with samples of Ms Gregory's normal signature, and therefore Mr Welch proceeded on that basis. As a result, despite the presence of indications of forgery, he reached the conclusion that he did, on balance, in favour of genuineness, because of the similarity of the disputed signatures with the examples that he had been sent.

168. In cross-examination, he considered that it might not be proper for him to be asked questions on the basis that he was not to make any assumption about the authenticity of the samples with which he had been provided; but when reassured by the court that he could do so, he agreed with the proposition that it was more likely than not that the disputed signatures and the sample signatures were forgeries:

"Q. …What I am asking you to do is not make any assumption about Whether the samples were genuine or not –
A. **Yes**.
Q. --But do your best to come to your own view, to the extent you can, about that as well as the fundamental question of whether the questioned signature is genuine or not.
A. **Well, I would have to bypass the use of the words genuine or not; I would conclude that the second warrant instrument signature, there was evidence at some level it was written by the same person who had written the other signatures supplied to me**.
Q. But you would not be able to come to any view as to whether they were collectively, all of them, forgeries or not? Is that right?
A. **I would be suspicious of them but I do not see I could -- I would have the information available, as it were, to say these are all forgeries or these are all genuine. I would have a conclusion that they were written by one person. Whether that was the genuine user of signature or not, I wouldn't be able to say**.
Q. Just for completeness, I understand what you've just said and I can see that is a cautious view that one might come to, but would you not consider it actually likely that, in those circumstances, the questioned signature on the second warrant instrument was indeed a forgery on the balance of probabilities?
A. **If that was all I had in this hypothetical scenario, I would agree with you, yes**.
Q. Presumably, therefore, you would also agree that it was more likely than not, in that hypothetical scenario I have given you, that the sample signatures in group 3 were also likely to be forgeries?
A. **I thought that was the question I had just answered**.
Q. Well –
A. **Have I got things wrong**?
Q. The question you answered was whether you would think it likely, in my hypothetical scenario, that the questioned signature on the second warrant instrument was a forgery, and you said yes.
A. **Oh, I thought at that point you were talking about the second warrant signature and the other signatures**.
Q. That is fine, you have answered both my questions then. So thank you for that clarification, Mr Welch."

169. It was therefore made clear, in his final answer, that that if Mr Welch had not been instructed to assume that the comparator signatures were genuine, and if he had been provided with the disputed signatures and the comparators for his own unguided assessment, he would have concluded that they were probably all forgeries, on the basis of the indicia of forgery that they all demonstrate. The "group 3" signatures, referred to in Mr Thompson KC's question, are those set out in a table in Mr Todd Welch's supplementary expert report, and comprise all but three of the sample initial signatures provided by RSP to Mr John Welch for the purpose of his report. In that table, there is one "group 1" signature, which is agreed to be something of an outlier, authentic but "dashed off in a hurry", as Mr John Welch described it, and then two signatures in "group 2", which it is agreed are probably authentic and have similarities to Ms Gregory's long form signature.

170. Once it was apparent that Mr John Welch had worked off completely different samples from Mr Todd Welch, the latter was provided with the 19 examples of initials signatures (in the 17 documents) for his evaluation, though, obviously, without any requirement to assume that they were genuine signatures of Ms Gregory. His opinion of those signatures, and his conclusion as to the authenticity of the disputed signatures in light of that more complete evidential picture, are contained in his supplementary expert report.

171. Mr Todd Welch's conclusion is that it is highly probable that the sample signatures provided to Mr John Welch, other than the three that he identifies as group 1 and group 2, were not written by Tamara Gregory and should not be relied on as genuine signatures. He further opined that an expert instructed to consider them should, in circumstances where the signatures show indicia of forgery, have enquired as to where the samples came from. On that basis, he disagreed with the conclusion reached in his report by Mr John Welch and reaffirmed the conclusion reached in his initial Part 35 report about the genuineness of the disputed signature.

172. Mr Todd Welch was skilfully cross-examined by Mr Johnson but maintained his ground. He explained that the group 3 signatures and the disputed signatures were similar and were probably written by the same person, showing the same lack of fluency, slowness of execution, heavy pen pressure and other signs of simulation, and the same distinctive characteristics. The group 2 signatures, he said, were quite different, fluently written, and had marked similarity to characteristics of Ms Gregory's long form signature, including the shape of the initials and the identifiable presence of an "L" in the signature (Ms Gregory's middle name is Lea), which is absent from the group 3 signatures and the disputed signatures.

173. Shift/Corja's case, in closing, on the expert evidence was that the court should prefer the evidence of Mr Corlett and Ms Gregory to Mr Todd Welch's evidence because the court could not be satisfied that Mr Todd Welch was right in saying that all the group 3 signatures (including on the credit card and the Avery Law document) and the signature on the Second Warrant Instrument are forgeries. They submitted that the group 2 and group 3 signatures and the impugned signature on the Second Warrant Instrument were part of "a broad continuum of signing" that Ms Gregory effected, and that these were not comparable to her long form signature, and so the impugned signature could not be an attempt by a forger to simulate that signature.

174. I accept Mr Todd Welch's opinion, which is consistent with the opinion of Mr John Welch when stripped of the artificial constraint on his forensic examination that was first imposed and then reinforced by RSP. It is also consistent with what can readily be observed from the signatures with the benefit of the explanation of their features by the two experts.

175. The explanation given by Ms Gregory that she executed her normal signature poorly because of anger and upset at the time is not credible (and was in any event inconsistent with the evidence that she had originally given about a routine witnessing exercise that was unremarkable). Even if Ms Gregory was angry or upset with her son's conduct on 11 June 2024, she was, presumably, not angry or upset when all the other group 3 signatures were made on various different documents, which she says are her signatures. I consider that her explanation was invented as a means of trying to explain why a signature that was manifestly unconfident and not fluent, and appeared not to be hers, was a distorted version of her normal signature. Apart from the fact that she would have

used her longer form signature on a deed, as she accepted, the fluent, authentic short form initials signature is the group 2 signature, with group 1 being, probably, a hasty variant of it, and the group 3 signatures are not a variant. As Mr Todd Welch said, it is inconceivable that a person such as Ms Gregory would have two or more signatures that she used in different circumstances, that were fluently written, and a third (or possibly fourth) signature that was not fluently written and which bore the indicia of forgery. Mr John Welch said that he had not previously come across a case where a person had three different signatures, one of which has the features of a forgery.

176. One related question remains for consideration in this section, which is about the circumstances in which the group 3 signature documents were obtained and provided to Mr John Welch. This was and remains opaque. It is both extraordinary and unsatisfactory that Mr John Welch should have been provided with sample signatures that, on any view, were not (or did not include) samples of the normal signature of Ms Gregory. On top of that, Mr John Welch was asked to make an assumption about the genuineness of the samples provided to him rather than being left to make his own investigation and assessment. Those decisions inevitably skewed the conclusion that Mr John Welch reached in his written report and undermined the value of it, once the full picture had emerged.

177. More detail about the sample signatures started to emerge in Ms Gregory's third witness statement. In it, she exhibits copies of documents from her files. She explains that she was asked to produce 10 to 20 examples of her initials signature, and that she searched in numerous boxes of documents and produced on 22 September 2025 the 17 documents exhibited to her statement. These were the examples supplied by RSP to Mr John Welch. Of these, only three are original "wet ink" signatures. The copies were, she explained, copies of front pages of documents that she had formally filed (e.g. with Companies House or HMRC) but retained a copy of the front page, on which she made a note to record that it had been filed, and added her initials.

178. Of the wet ink signatures, one was on a credit card, which she said is a spare card that she kept at home in case she lost any of her other cards, and that she signed it only with initials in order to distinguish it from other cards (on which she used her normal signature). The second document was a document "evidently prepared by Avery Law, which I signed in relation to the sale of a company. I signed each page with my initials." The pages in the exhibit were, however, only pages 2 and 13 of the document. The third document was a vehicle order form, which contained an original short form signature resembling that in Mr Welch's group 1. The other documents, she explained, were copies of single pages that she retained on her files, on which she had added an annotation and initials.

179. Ms Gregory was pressed in cross-examination about how she found or selected these documents. She said that she searched and initially only found 3 documents that had her initials signature on them in about 15 boxes of documents. The fact that she was able to find so few seems to demonstrate that it was not her normal practice to add her initials to documents. She then explained that her son came up at the weekend to assist in the process of finding evidence of her initials signature, having told her how serious the matter now was – and that as a result of an extensive search, "going through every single scrap of paper", they were able to find only the 19 examples of initials signatures that were provided to Mr Welch. In the end, she volunteered that she only used her initials "on rare occasions. Most of my files would just have Tam, Tamara, T, it's – it could have

[been] anything". When asked why it appeared that the initialled documents were signed with a different pen from the pen used to write the note, as they appeared to be in some cases at least, and therefore presumably at a different time from the note, she gave no coherent explanation.

180. When Ms Gregory was asked what the Avery Law document was, she was unable to say. She did however confirm that she thought that the whole document existed, and that she would be able to produce the whole document. Yodel required production of this document later in the trial because both Messrs Welch, who examined pages 2 and 13, confirmed that they could see the impression of a similar signature that had been applied to other documents on top of these two pages. Despite the obvious urgency of the matter, the original document did not arrive to be considered in court, but a PDF of the missing pages of the same document (which had been scanned at 9 am the previous day) was produced to the court at about 1 pm on the last day of the hearing. This appeared to show that the document was an unsigned draft of an agreement by Ms Gregory to sell her shares in a Shift company to a French citizen. Because of the unjustifiably late production of a copy of the document, Yodel was deprived of the opportunity to cross-examine Ms Gregory and Mr Corlett about why an unexecuted draft contract was signed with initials on every page. There was no explanation of why this document was not previously produced. Its existence undermines Ms Gregory's evidence that the only examples of initials signatures that could be found after a lengthy search were provided.

181. The circumstances in which the 19 examples of the initials signature were provided and the original documents or other documents were not produced are in my judgment highly suspicious. If Ms Gregory had, and used, a short form of her signature, one would expect examples of it to be readily available. If the explanation for the shaky form of the signature on the Second Warrant Instrument and Certificates, suggestive of forgery, was that on 11 June 2024 Ms Gregory was angry and upset, or in a hurry, one would not expect other examples of her initials signature, if used at all, to be similarly shaky and suggestive of forgery, particularly when other forms of her signature are not shaky or suggestive of forgery but are fluent and natural.

182. In my judgment, putting together the conclusions drawn from the expert evidence and the factual evidence, the obvious conclusions are that Ms Gregory did not witness the signature of Mr Corlett on the Second Warrant Instrument, and that it was not executed as he described on 11 June 2024.

Events after 11 June 2024

183. If, as Mr Corlett and Ms Gregory assert, the Second Warrant Instrument and its Certificates were executed on 11 June 2024, albeit forward dated to 19 June 2024, one would have expected there to be some documentary evidence of that having happened, or at least that someone other than Mr Corlett would have seen the executed documents, or that those with a particular interest in them would have been told about them and what was to be done with them.

184. There is no such documentary evidence before 24 August 2024. For the reasons that follow, if the Second Warrant Instrument and Certificates had been executed on 11 June 2024, it is most improbable that no such documentary record exists, and that (apparently) no one saw the executed documents or received any of them after 19 June 2024, so as to be able to appreciate what they were.

185. If, as Mr Corlett suggested, the purpose of the Second Warrant Instrument was to incentivise those in need of an incentive to continue to work hard towards the intended merger, and to reassure them that all was not lost from their perspectives if the merger did not proceed, it is, to say the least, curious that the signed Certificates were not provided to Shift's board, Mr Hancox, Mr Moore, Mr Hobden, Mr Sheppard and Solano either on execution or on 19 June 2024. Unlike with the First Warrant Instrument certificates, where confirmation of receipt of subscriptions was needed and so the instruments were forward dated to 19 June 2024, there was no reason not to hand out the Certificates on 11 June 2024. Mr Corlett's suggestion that he was cautious, because the documents had not taken effect yet, was unpersuasive in circumstances in which such documents were considered to be needed as a matter of some urgency. Nor does it explain why they were not provided on or after 19 June 2024.

186. There are live disputes about whether the existence of these documents was even mentioned by Mr Corlett or anyone else, in passing, on various occasions, namely:

    a) when meeting Mr Hobden and Mr Moore in the Speke office on 11 June 2024;

    b) in a conversation with Mr Fishleigh on 11 June 2024;

    c) in a conversation with Mr Sheppard at some time in June 2024;

    d) when meeting Mr Fishleigh at a hotel in Hertfordshire on 19 June 2024;

    e) when discussing with Mr Wiles and Mr Edirmanasinghe on 20 June 2024 the terms on which YDLGP's shares in Yodel might be sold;

    f) in negotiating terms for that sale on the morning of 21 June 2024 and before signing the SPA of that date with a warranty that YDLGP's shares were the entire issued share capital in Yodel;

    g) by Mr Fishleigh when in discussion with Mr Hancox on 28 June 2024;

    h) at a Shift board meeting on 5 July 2024, when considering the appropriate response to Yodel's letter of claim; and

    i) in the response to Yodel's letter of claim.

    I will address these disputes below.

<u>Meeting in Speke offices on 11 June 2024</u>

187. Mr Corlett's evidence is that he mentioned the Certificates in a meeting with Mr Hobden and Mr Moore in Speke later the same day. These were the two individuals who had been agitating for documentary proof of their entitlement, and Mr Moore said that he had had to confront Mr Corlett about it, in a way that he would normally have considered inappropriate towards his boss. Mr Corlett said in his trial witness statement that he:

> "told them that I was going to issue the warrants in their favour … to reassure them and alleviate growing concerns within the group. I answered a few

> questions. They said that they were content to leave me to ensure that the warrants were delivered to them in due course."

However, on WhatsApp the same evening, Mr Moore was asking Mr Corlett to approve a Yodel employment contract for him increased from £175,000 p.a. to £250,000 p.a., stating:

> "I'd like to get this resolved asap as I am a bit vulnerable if the business goes into a pre-pack/firesale and I don't have a formalised contract …. I'd like this formalised".

This not only contradicts Mr Moore's evidence that he was concerned to have an equity share in Yodel if the merger did not take place, but also contradicts Mr Corlett's evidence that the warrants were a kind of compensation for Mr Moore not being paid a higher salary.

188. In cross-examination, Mr Corlett said that he remembered explaining in detail how the warrants would work, and the structure that would be put into place ("I sat them down, and I talked them through what they get and why – and how it worked"), but that he did not tell Mr Moore and Mr Hobden that he had executed them that morning. Then he said that he may have said that, but that was not his recollection. Mr Moore said that he recalled an informal meeting in a small meeting room in the Speke offices ("Jacob informed Dan and me that the equity was being issued as warrants directly in Yodel to afford us the same protections as the investors were receiving"). In cross-examination, he accepted that his focus was on getting clarity directly from Mr Corlett about the extent of his equity in the merged company (YSG). He accepted that, at the time of his direct conversation with Mr Corlett in May 2024, there had been no mention of warrants for him. As at 11 June 2024, everyone thought the merger was going to happen. It became apparent that Mr Moore was referring to warrants as being the way of giving him that equity, and he believed that Mr Corlett had referred to them as warrants.

189. I consider that Mr Moore is probably misremembering this conversation. It was clear that he did not have a proper understanding of what Mr Corlett was going to do, despite Mr Corlett's evidence that he explained how it would work. What Mr Moore wanted to hear was about the quantity of his equity stake in YSG. He accepts that was what primarily mattered to him and that he wanted to hear it directly from Mr Corlett, whom he trusted. He did not expect to hear anything about warrants for him (or Mr Hobden) because these had never been mentioned previously, except in the context of protection for external investors. Mr Corlett was concerned to get the warrants for external investors in place, and the focus was on the merger, not on the failure of the merger and its possible consequences. It is, as Yodel submits, quite implausible that if warrants for the likes of Mr Moore and Mr Hobden had been intended to provide comfort to them, they would not at least have been shown the warrants that, on Mr Corlett's account, had been executed that very morning.

Conversation with Mr Fishleigh on 11 June 2024

190. Mr Corlett said in his witness statement that he told Mr Fishleigh in a conversation on 11 June 2024 that he had executed the Second Warrant Instrument and the associated Certificates and the Oxalyst warrant certificate. That evidence is not supported by Mr Fishleigh. Mr Fishleigh said that he had a conversation with Mr Corlett towards the end

of May 2024 in which Mr Corlett told him that he intended to use the same warrant structure (as under the First Warrant Instrument) to give to the internal stakeholders who were working on the merger proposal. That evidence does not tally with Mr Corlett's explanation that he only thought about using the draft warrant instrument for internal stakeholders on 31 May 2024. Mr Fishleigh's evidence was that a week or so before 19 June 2024, he had arranged with Mr Corlett to meet him in Speke on that day to execute the First Warrant Instrument and its warrant certificates, and Mr Corlett identifies the date of that conversation as 7 June 2024. However, Mr Corlett does not say that in that conversation he told Mr Fishleigh about the Second Warrant Instrument.

191. The evidence is therefore inconsistent, and Mr Corlett's evidence is unsupported. I do not accept Mr Corlett's evidence that he told Mr Fishleigh on 11 June 2024 that he had executed the Second Warrant Instrument or Certificates. Had he done so, Mr Fishleigh, as a statutory director of Shift, would have asked to see it, or a copy of it, or Shift's Certificate.

Conversation with Mr Sheppard in June 2024

192. The evidence about Mr Corlett having spoken to Mr Sheppard about the execution of the Second Warrant Instrument is equally unconvincing. Mr Corlett said only that he had regular informal calls and in-person meetings with both Mr Hancox and Mr Sheppard, and that he "made them both fully aware of the warrant structure under the ASAs and my proposed idea to include them". Mr Hancox denies ever having been told that he would be granted a warrant. Further, since Mr Corlett claims to have had the idea of the Second Warrant Instrument on 31 May 2024 and then prepared and printed the execution copies on 1 June 2024, it is not obvious at what stage he would have discussed with either man his "proposed idea" of including them. On his own evidence, he simply went ahead on behalf of Yodel, without consulting anyone.

193. What Mr Sheppard said was that in March 2024 Mr Corlett offered him equity in the proposed merged business, to his delight, and that he kept in touch with Solano about that. Then:

> "In June 2024, Jacob confirmed to me in a call that he had signed a warrant for shares in Yodel favouring me. He explained that this was not intended to be my shareholding. Rather, it was an interim measure, by which I would have the right to subscribe for shares in Yodel pending completion of the merger of Yodel and Shift, at which point I would be allotted shares in the new ultimate holding company of the group."

That account is not supported by what Mr Corlett said, and Mr Sheppard did not have a clear recollection of it, or a clear understanding of what a warrant was. His interest, he accepted, was in his equity share in YSG, and he had never requested any interest in Yodel in case the merger did not proceed, which he, like all others, assumed that it would. Mr Sheppard accepted that from June to December 2024, after Mr Corlett lost control of Yodel, he had not asked anything about where his warrant was.

194. In my judgment, Mr Sheppard is genuinely mistaken in thinking that, at some time in June 2024, Mr Corlett called him to tell him that he had signed a warrant in his favour. It is wholly unclear why Mr Corlett would have done so, at a difficult time with Yodel's

finances and attempts to bring the merger to fruition, especially prior to 19 June 2024 when, on his own evidence, he was being cautious about talking about the warrants.

Meeting in Hertfordshire on 19 June 2024

195. Mr Fishleigh said that on 19 June 2024, after signing the warrant certificates and the First Warrant Instrument, Mr Corlett told him that he had also issued the non-ASA warrants (i.e. the warrants under the Second Warrant Instrument). Mr Fishleigh said that:

> "While I was completing the task of witnessing his signatures, Jacob mentioned that he had also issued the Non-ASA Warrants and showed me those documents together with the Oxalyst warrant, which he had with him. As I was focused on getting my signatures finished, I only looked at those documents briefly. They looked similar to the documents I was signing."

Mr Corlett did not say in his witness statement or in the witness box that he said that to Mr Fishleigh on 19 June 2024.

196. Mr Fishleigh was in some ways a good witness: he was direct and spontaneous in answering questions; he stuck to the questions and tried to answer them. He seemed confident in his answers and I consider that, mostly, he was trying to give an honest recollection – until Mr Thompson reached questions about whether on 19 June 2024 he saw or was shown the executed Second Warrant Instrument and Certificates. At that point, he suddenly looked discomposed, became hesitant in his answers, and looked down at the table or his hands instead of at me or Mr Thompson during the following exchange:

> "Q. What did he do, Show you a folder with documents in it?
> A. Well, it was not as organised as a folder, it was a pile of paper with documents that were similar - similar look and feel to the ones that we were working on.
> Q. Look and feel. So did you read them?
> A. No.
> Q. Had you any way of telling what they really were?
> A. Well, as I - as I say, I kind of glanced at the titles and the paragraph structure of the first pages looked similar, but - what it was – yeah, I didn't look at the detail of them. It was really just Jacob saying, 'I've done these ones too'. And I took his word for it. I didn't check them.
> Q. What was the point of him showing you documents rather than just telling you he'd signed them?
> A. Because I think they were out, I think he had them with him, they were just lying on the side next to all the other documents.
> Q. So you no more than glanced at them?
> A. Correct.
> Q. So you had no way of telling exactly what they were, did you?
> A. No."

197. Mr Fishleigh, as a director of Shift, does of course have a substantial interest in the question of whether the Second Warrant Instrument and its Certificates were validly executed, as if so they will give Shift and Corja control of Yodel. In my judgment, Mr Fishleigh did not believe the answers that he gave about those documents; I consider that

he could not recall a conversation with Mr Corlett about an executed Second Warrant Instrument and Certificates, nor looking at any of these documents on that occasion, whether cursorily or otherwise. I conclude that he has persuaded himself that that might have happened, and then stated that it did, when he has no such clear recollection.

198. Whether the meeting on 19 June 2024 in a hotel in Hertfordshire took place at all is an issue that I do not need to decide. There are distinct oddities about the account given by Mr Corlett and Mr Fishleigh about how it came about. The First Warrant Instrument is not directly in issue in this claim. The suggestion that it and 67 warrant certificates were executed on that occasion is, it is true, part of the factual narrative of matters that have a bearing on the validity of the Counterclaims – but even if the First Warrant Instrument and its warrant certificates were prepared and then executed in the strange circumstances described by Mr Corlett and Mr Fishleigh, I am quite satisfied that the Second Warrant Instrument had not been prepared and executed by then and was not seen by Mr Fishleigh.

Meeting with Mr Wiles on 20 June 2024

199. The next occasion on which Mr Corlett said that he disclosed the existence of the executed Second Warrant Instrument and Certificates was at the meeting with Mr Wiles and Mr Edirmanasinghe at Solano's offices, on 20 June 2024. I categorically reject the contention that he did so. Having seen and heard Mr Wiles give evidence, I have no doubt at all that, if such a matter had been mentioned by Mr Corlett, Mr Wiles would have picked up on it immediately. This is because his proposal was that a company controlled by Mr Hancox should buy all the issued share capital in Yodel, with PP's financial support, and he would have required full details to be provided. Mr Wiles is a very experienced director of a substantial PLC, with 25 years' prior experience as a fund manager, corporate broker and investment banker in the City. He was extremely astute and had a detailed and clear recollection of his various exchanges with Mr Corlett, and precise notes to back them up. It was one of several low points in Mr Corlett's case when he first suggested that Mr Wiles might not have known what a warrant was, and then suggested that he probably did know but was pretending not to, and then, as a third explanation, that Mr Wiles was untroubled by the suggestion that share warrants in Yodel had been issued on the basis that that was just a detail that someone else could take care of afterwards.

200. This is highly significant, in my view. If Mr Corlett really had caused Yodel to issue share warrants that, if exercised, would have given the holders 70% voting control of Yodel, he surely would have mentioned that fact at this time: it would have been an obvious impediment – or, if not an insurmountable impediment, at least a major disincentive – to PP supporting Mr Hancox taking over the company. At that time, Mr Corlett was desperate to retain control of Yodel, even if PP would no longer invest with the company in his control. It would have been an obvious negotiating tactic to scare off Mr Wiles from backing Mr Hancox with disclosure of the warrants, in the hope (however forlorn in the circumstances) that he could persuade other investors to come to his rescue. But he did not mention the Certificates. The obvious inference to draw, which I do draw, is that they did not exist. I do not accept the suggestion, made by Counsel in closing but not by Mr Corlett, that it would have been pointless to do so given that the only choice at that stage was administration. First, Mr Corlett believed that others, including Accrete Capital and Fuel Ventures, were keen to invest or lend money to Yodel. Second, it would not have prevented him from using the warrants as a lever to obtain better terms on any sale to JLL.

The negotiations on 21 June 2024

201. Indeed, the following day, Mr Corlett apparently raised through his solicitors in this context the possibility of Shift being granted warrants, as one of the terms of settlement that he requested. This is recorded in a WhatsApp from Mr Hancox to Mr Wiles at 7:51 am on 21 June 2024. Mr Corlett said that he could remember no discussion at that stage and could not recall how the points in the WhatsApp came about, but speculated that "maybe the interpretation was to respect the warrants or to not form a structure that … would require the warrants to be removed". I reject the suggestion that in negotiating the terms of the sale Mr Corlett raised the existence of warrants under the Second Warrant Instrument. What he was seeking, through his solicitors, was a variety of concessions, in addition to the 10% of equity that Mr Hancox was willing to give him, which included the grant of share warrants for Shift, so that Shift would obtain some benefit that it did not otherwise have.

202. Mr Moore suggested that in the chaos of this day Mr Corlett had a rushed phone conversation with him in which the execution of warrants was mentioned. I do not consider that there was any such conversation relating to the Certificates.

The conversation on 28 June 2024

203. The next occasion is on 28 June 2024 when Mr Hancox, Mr Fishleigh and Mr Pearson of Fuel Ventures had a conversation on the telephone, or a video conference call, about whether Yodel would continue to use the Shift platform or otherwise have a business relationship, and whether Fuel Ventures would invest in Yodel on that basis. Mr Fishleigh's witness statement says that he raised the existence of "the Warrants" towards the end of the call, but there was limited time to discuss them, as Mr Hancox was late for his next appointment. It had been Mr Fishleigh's intention to remind Mr Hancox of the warrants and the rights they conferred, but, implicitly, he did not get that far. However, he asserts that, based on what he did say, Mr Hancox was aware of their existence. In his witness statement, Mr Fishleigh otherwise refers to "the ASA Warrants" and the "Non-ASA Warrants" as separate items. What "the Warrants" are is not expressly defined in that statement.

204. In cross-examination, Mr Fishleigh accepted that the purpose of the meeting was to discuss continuing business relationships, not warrants, and that warrants were not referred to in contemporaneous emails. Mr Fishleigh accepts that his reference to "Warrants" was non-specific, that he was meaning to refer to all of them, and that there was no further explanation given. He thought that Mr Hancox had said that he didn't know much about that and would need to look into it. Mr Fishleigh accepted that sorting out the external investors' warrants was part of it, and he expected there to be a follow-up conversation, which did not happen. Mr Fishleigh suggested that he was not keen to go into warrants at that time, as he was trying to maintain a constructive relationship.

205. Mr Hancox, when cross-examined about his evidence, said that he accepted that Mr Fishleigh said "what about the warrants" at the end of the call. There was in the end therefore consensus between Mr Hancox and Mr Fishleigh about what happened. There was no mention of the warrants under the Second Warrant Instrument specifically, just "warrants", very briefly, a lack of understanding on the part of Mr Hancox, and no time for any explanation.

206. I find that what Mr Fishleigh was referring to was the warrants under the First Warrant Instrument. That is because, if they had been validly executed, they entitled the investors to shares in Yodel in the events that had happened on 21 June 2024. Mr Fishleigh, as a Shift director, was conscious of his responsibilities to Shift's investors. Mr Hancox rightly said that he knew nothing about them, and there the matter was left.

The Shift board meeting of 5 July 2024

207. The next significant event was the letter of claim that Yodel sent Shift and Mr Corlett on 4 July 2024. It made serious allegations against them in relation to misappropriation of Yodel's funds and breaches of Mr Corlett's statutory and fiduciary duties to Yodel. The "board" of Shift met the next day. This included the statutory directors, officers and a number of Shift's financial backers and those associated with them. Present, among others, were Mr Corlett, Mr Fishleigh, Mr Moore, who appeared to be chairing the meeting, Mr Pearson and Mr Cureton. An imperfect transcript of the discussion made contemporaneously by AI was available in evidence, and is revealing. This was a meeting of all relevant persons that addressed, among other things, what to do about Yodel's threatened claim.

208. The initial focus of the meeting was on business development and finances, following the separation from Yodel, and it is evident that cash flow was tight. After 12 minutes, Mr Moore said "obviously, the letter from yesterday is, you know, is context that we didn't have", and "if they're going aggressive on us on a legal front on another matter, that's a context that we didn't have". It was then described as "an aggressive actions letter from Yodel" and Mr Moore proposed a discussion of it as a board. There was some disagreement between Mr Corlett and Mr Moore about whether Yodel had a case for asking for the return of £4 million that had been paid to Shift.

209. The following comments and exchanges are recorded as having taken place (with timings indicated running from the start of the meeting):

> "19:01
> Mark Fishleigh
> If I set this out at a top level. They've put in their first claim. They've thrown a kitchen sink at it. We need to put in a counter claim. Yeah. They've actually caused shift a lot of damages by the actions that they have taken recently.
> ….
> 19:17
> Jacob Corlett
> I can take you on because it's really important that everybody understands the full situation …. We can say it's nothing to do with us with a shift, with our shift hats on in our shift response, YDLGP will never be able to pay it because it's got zero assets, because they bought the assets of the company for a ******* pound. They can't have it both ways.
>
> …..
> 25.23
> Mark Fishleigh
> I think the other thing in our counterclaim, because this is the way that these things always play out, right? There's a claim that's a counterclaim. You have lots of arguments for a while and then you come to a certain. That's the way

it always works in our counterclaim. It's really important that we have the wider context of the merger that we're all working towards and the damage that they have caused to the business by renaging on a binding contract that had no break laws.

[discussion about which law firm to instruct]

28:18
Mark Fishleigh
…There's a local Plymouth firm we've used previously. They might be a bit outgunned by fresh fields, so we need to assess whether we'll go for this.

28:27
James Moore
Yeah, I mean, I think you need a big firm.
…
28:36
Mark Pearson
Yeah. But now is the time to counter it, as we all agree. Right. We got to fight the cannon. Unfortunately, we're going to have to fire back ******* harder.

28:43
James Moore
Shall I ask Stevenson, Harwood as well? It's up to you guys.

….

29:12
James Moore
Well, maybe you don't go to Stevens and I would, then they're a big firm. But the problem is you don't want to get outgunned by a big firm, which is what we've got against us.

29:20
Mark Pearson
It's only hundreds of thousands if it goes on for months and months into court. Right. But it depends if we get that far.

29:29
Mark Fishleigh
So, I mean, occasionally, you know, you can throw. You can throw enough in the kitchen sink stuff out there on the first counterclaim that everyone realizes this is going to be scorched earth and there's really no point.

29:40
Matthew Cureton
They haven't got any money. And that's true. And if they realize that we haven't got a 4.1 million, what's the point? Yeah, genuinely, what is the point?

….

32:04
Stan Williams
I think the problem is if you just go into a call but you haven't laid out your stance and position clearly in a letter that's been reviewed by lawyers, you look quite weak.

32:24
James Moore
I agree.

32:25
Mark Fishleigh
I agree with that sequencing. I think the other thing to consider, but it may not be something we do straight away, is whether, as well as us having a counter claim, some of our investors go after them directly as well.

32:28
Matthew Cureton
Yeah. In terms of the. What. In terms of the warrants and all that. Jaz, or do you mean. Do you mean this thing about the wider context and the. Renee Don, an agreement and possibly both.

32:51
Mark Fishleigh
But to be worked out, have they.

32:53
Matthew Cureton
Come back at all about these. These warrants?

32:57
Mark Fishleigh
Not yet.

33:00
Matthew Cureton
and out of interest, who. Who is that?

33:03
Jacob Corlett
they shouldn't move right now. Just. Just so that, you know, they shouldn't know about the warrants. Well, Scott's advice was not to bring it to their attention.

33:14
Mark Pearson
Why?

> 33:16
> Jacob Corlett
> Because of the timing. We haven't. There was. There's a whole set of different things that we need to do. And his advice was not to go to. To them. I don't know. This advice was given to Mark, not to me. But then Scott relayed it to me later in the day.
>
> 33:33
> Mark Fishleigh
> That doesn't quite reflect what my conversation with Scott was. Let's pick it up offline.
>
> 33:39
> Mark Pearson
> It's likelihood that we'll lay in the warrants into this letter, right?
>
> 33:43
> Mark Fishleigh
> Absolutely, we will.
>
> 33:44
> Jacob Corlett
> Yeah.
>
> 33:44
> Mark Pearson
> So at least we'll get to it sooner. Sooner than later.
>
> 33:47
> Mark Fishleigh
> They are absolutely aware of the warrants. Mark and I told Mike directly about them. Dan Hobbes is aware of them. Jon from Solano has acknowledged it as well, in writing. So they can't claim lack of awareness…."

210. What can be extracted from that discussion are the following points:

i) The board had seen or been notified of the contents of Fieldfisher's letter of claim.

ii) The board acknowledged the need to provide a hard-hitting response. This principle encompassed both the reputation of the firm of lawyers that would be instructed to write the letter of response, the denial of the allegations (on which point Mr Corlett was firm but others less confident), and the making of a powerful counterclaim.

iii) The strategy was in principle to hit back hard and then enable a negotiated resolution, to put an end to the use of expensive lawyers.

iv) A claim brought by Shift's investors too could add weight to the response.

v) That claim might be brought upon the warrants, though Mr Corlett considered that the warrant holders should not move straight away, based on advice that Mr Fishleigh thought that Mr Corlett might have misunderstood.

vi) Yodel had been told about the warrants by Mr Fishleigh and Mr Pearson.

211. Mr Corlett and Mr Fishleigh were both asked why, if it was not just Shift's investors who had a claim under their warrants to about 2% of the equity in Yodel, but Shift itself, allied with Corja, who had a claim under a different set of warrants to 54% of that value, of which Shift was well aware, no one at the meeting mentioned the Shift/Corja warrants. They would have been an extremely strong basis for counterattack against the Yodel allegations, or at least would have been acknowledged at the meeting as a potential basis of counterattack.

212. Three different answers were given to the question. First, that the discussion should be interpreted as including the Shift/Corja warrants in the reference to "warrants". Second, that although everyone knew about the Shift/Corja warrants, it was not an appropriate occasion to discuss the assertion of those rights, and that discussions also took place on other occasions, as the board of Shift at this troubled time met on an almost daily basis. Third, that it might not have been sensible to assert the existence of the warrants at that precise time, while attempts were being made to resolve matters. None of them was advanced with very much confidence – and the second is unsupported by any document disclosed by Shift and Corja.

213. I have no hesitation in rejecting these explanations, which seemed to me to be advanced more as theoretical possibilities than with any degree of confidence based on actual recollection. From reading the whole transcript in sequence, it is self-evident that the warrants that are referred to are the external investors' warrants, not the Certificates supposedly executed pursuant to the Second Warrant Instrument. The context is a suggestion that not just Shift but some of Shift's investors might assert a claim against Yodel, and therefore the reference to warrants is to the rights that they had. It is unlikely that Mr Fishleigh would have suggested a supportive claim by the external investors, who had only a small share in Yodel's equity (if their warrants were validly issued) without mentioning a claim that Shift and Corja between them had to a majority share of Yodel.

214. As far as other board meetings are concerned, it is reasonable to expect that they would have been similarly documented, or noted in some form, but no documents supporting any such meetings in which the Second Warrant Instrument or the Certificates were mentioned have been disclosed by Shift/Corja. As I mention further below, Shift/Corja's disclosure in this claim has been most unsatisfactory, and I have no confidence that all relevant documents have been searched for appropriately and then disclosed. What can confidently be assumed, however, is that if there were a documentary record of an occasion shortly after 21 June 2024 in which the Second Warrant Instrument or its Certificates were mentioned, Shift/Corja would have found it and disclosed it, because of its potentially determinative evidential value on the question of whether at any time before about 24 August 2024 those instruments had come into existence. There is no such document.

215. As for the suggestion that the existence of the powerful negotiating weapon that the Second Warrant Instrument constituted was held back on 5 July 2024 because it could have damaged the attempt to repair relations between Yodel and Shift, this is not credible either. Relations had broken down, as demonstrated by the existence of the letter of claim. Mr Fishleigh says that he previously mentioned the warrants in conversation with Mr Hancox (and that is the basis for his assertion in the 5 July 2024 meeting that Yodel was "absolutely aware" of them), though I have found that there was no reference other than

to warrants in general. But if he had been right in saying that the Certificates had been disclosed on 28 June 2024, when Mr Fishleigh was trying to maintain a continued commercial relationship with Yodel, it is impossible to understand why, following a letter of claim and the perceived need to hit back hard, Shift would have thought the time unpropitious to mention the Certificates.

Further communications and the response to the letter of claim

216. There are further communications between certain members of Shift's "board" by WhatsApp on 10, 11, 19, 22 and 29 July 2024, which I should address briefly.

217. On 10 July 2024, Mr Fishleigh raised the matter of investor communications, for discussion at the next board meeting, and Mr Cureton agreed, saying that he was being questioned daily and that they were becoming concerned by silence. This was clearly a reference to the investors, to whom Mr Fishleigh had alluded. 16 minutes later, Mr Cureton asked: "…can you confirm if you signed the warrants pls?" Mr Corlett replied: "On docusign i signed the Advance subscriptions that have the attached documents and I signed a board resolution to that affect", later adding, apparently as an unprompted afterthought: "They might have been wet signed if that's what i was instructed to do at the time … I work on autopilot when asked to sign 100 things". The context of the continuing discussion is obscured by redactions that Shift/Corja claimed, implausibly, were irrelevant and confidential, or privileged, but the next day Mr Cureton asked: "How do we find out what the stays of these warrants is pls? Re signatures." (The word "stays" is presumably a mistyping of "status".) Everything that follows was then redacted, over many pages of transcript.

218. At a late stage of the trial, after its witnesses had finished giving their evidence, Shift/Corja produced unredacted versions of the same documents, which showed that Mr Cureton's question was not answered.

219. Mr Corlett's explanation of these equivocal comments and the silence was that he needed to take legal advice, so was being cautious in what he said. What he did say, however, makes it clear that it was the First Warrant Instrument to which he was referring. It is, as Yodel submits, very curious that Mr Corlett could not recall, 3 weeks after the rather elaborate and prolonged signing session in the Hertfordshire hotel, that he had signed each of 67 warrant instruments on that occasion, if that did indeed happen. Given Mr Corlett's concern to protect Shift's investors, which was the very reason for preparing the First Warrant Instrument, it is surprising that he was not willing to tell Mr Cureton, who represented certain investors and who had told Mr Corlett in this exchange about their increasing concerns, that he had signed them, if he had.

220. In further messages on 19 and 22 July 2024, Mr Cureton asked for the signed First Warrant Instrument warrants but got no reply. When his request was repeated on 16 August 2024, Mr Corlett replied: "Can we discuss this via a phone call later?". There was no evidence of such a discussion taking place.

221. Then on 29 July 2024, there were further WhatsApp exchanges between members of the Shift "board", in which a representative of investors, Mr Knight, asked: "Does anyone have the signed warrant documents? Jacob did you sign them? If so can we have them please?". This clearly related to the external investors' warrants. Mr Corlett said that he would look into it as a matter of priority, but did not say – at any stage – that he had

signed the warrants. There was no reference either to the Second Warrant Instrument or Certificates, of which, according to Mr Corlett, Shift was well aware.

222. On 22 August 2024, Mr Cureton again asked Mr Corlett for the "paperwork". Mr Corlett replied by email to Mr Cureton, though addressing Mr Fishleigh who was copied in, stating: "Mark can you advise on what to send through? Is this scanned version of the warrant certificate sufficient?". Attached was a scan of a certificate in favour of Mr Cureton for 101,813 Ordinary Shares in Yodel, dated 19 June 2024 and apparently signed by Mr Corlett and witnessed by Mr Fishleigh. Mr Fishleigh replied: "I would suggest that plus a signed copy of the warrant instrument itself." This is the first contemporaneous documentary evidence of a signed certificate under the First Warrant Instrument.

223. Later in the day, Mr Corlett sent a WhatsApp saying that he just wanted to ask for the calculation under which warrant numbers were calculated (again, a reference to the investor warrants), and another: "I'm looking through things at it works out to 2.2% of yodel on fully diuluted basis – which is low" [sic]. As Yodel submitted, that percentage was about right if the Second Warrant Instrument Certificates were left out of account, but wrong if they were taken into account – as "on [a] fully diluted basis" would have required. The proportion would then have been 0.66%. This is further evidence that Mr Corlett had not executed the Second Warrant Instrument and Certificates at that time.

224. Further, in the letter of response to the letter of claim, written by Harper Macleod on 2 August 2024, there had been no mention of warrants. Mr Fishleigh was unable to explain the omission.

225. One further factual issue is the conversation that Mr Corlett alleges that he had with Mr Kuschel on 21 August 2024, when he said that he and Shift were still effectively shareholders. Mr Kuschel denied that any such comment was made. I prefer Mr Kuschel's account to that of Mr Corlett. At a time when Mr Kuschel's company was considering whether to invest in Yodel or deal with Shift, I do not consider that he would have failed to pick up on a suggestion by Mr Corlett that, despite selling his entire interest in Yodel to JLL, he and Shift were effectively shareholders of Yodel.

The SPA Warranty

226. If Mr Corlett had indeed caused Yodel to execute the Second Warrant Instrument, and had signed a sole director's resolution to that effect and then purported to ratify it on the very day on which YDLGP sold its shares in Yodel, the warranty given by YDLGP in the SPA was a serious misrepresentation. Mr Corlett ultimately did not contend that he understood that the words of a relatively standard warranty ("the Sale Shares represent the entire issued share capital of the Company on a fully diluted basis") in an agreement to sell all the issued shares of a company does not include a right to shares held under warrants. What he said, and was then advanced by Counsel on his behalf, was that he signed the SPA virtually blind, and was unaware of the warranty. But this was inconsistent with other evidence that he gave, namely that at the time of execution and at trial he believed the warranty to be true. He then gave a further explanation, which was that both sides were aware of the Certificates and that they would be negotiated away the following week, or some time in the future.

227. I reject the assertion that Mr Corlett was unaware of the warranty and am unable to accept his explanations. Mr Corlett was advised by MBM Commercial in relation to the

transaction. Although it was drafted and happened swiftly, the terms were not unusual and Mr Corlett would not have signed it without looking at its terms or obtaining advice on them. Though I can accept that he was in a state of shock, given what was happening, he was too experienced an operator in this type of transaction to sign blind an agreement that he knew would contain seller's warranties, despite the purchase price being only £1. The warranty knowingly given is further support for the proposition that no Second Warrant Instrument existed at the time, as that instrument and the Certificates would have prevented the purchaser, JLL, from enjoying full control of Yodel.

The Purported Sole Director's Resolution dated 19 June 2024

228. On 19 June 2024, Mr Corlett was the sole director of Yodel, as Mr Hancox had resigned. The board of Yodel had not authorised the execution of the Second Warrant Instrument and Certificates. Yodel's articles of association required it at that time to have two directors and a quorum of two at a board meeting.

229. Shift/Corja seek to rely on a document that purports to be a resolution of a sole director dated 19 June 2024. The resolution states that its main purpose is to approve the issue of warrants to ASA investors, but it records that "other agreements to grant shares have been entered in to both formally and informally with partners including the company's management and investment partners". The operative clause then states:

> "After considering all of the above and to protect all parties in the case of a none merger event, the sole director resolved that the Company issue all warrants as referred to in the ASAs (over the number of shares required for the warrant to be equivalent to the value of the sum invested by each investor), alongside a warrant granted to SGH [Shift] resulting in a similar holding to that under which shift shareholders would have in the proposed merger (43% of the company), alongside any further warrants reflecting the agreements that have taken place formal and informal with other parties and take all such action necessary to do so".

It is signed by Mr Corlett.

230. Despite the claimed execution of 7 warrants on 11 June 2024, this is a resolution to issue warrants, and does not identify the Second Warrant Instrument or the Certificates. It only refers to a warrant granted to Shift for a 43% holding and "any further warrants".

231. There are two further versions of this document, each bearing the same date and having been signed by Mr Corlett.

i) A (first) version that does not refer to other agreements that have been entered into, formally and informally, with management and investment partners but only to the ASA investors, and where the resolution is to issue all warrants as referred to in the ASAs;

ii) A further version that adds a reference to Shift with the additional words in the resolution: "alongside a warrant granted the SGH resulting in a similar holding that shift shareholder would have in the proposed merger (43% of the company)" [sic].

This is clearly an earlier version of the document on which Shift/Corja now seek to rely, and a later version of the first version.

232. Mr Corlett's explanations of these was that the first version was produced following legal advice, but then he said that it was likely produced by him to give comfort to an ASA warrant holder and then he would have gone to Mr Kerr at Harper Macleod to ask if he had done the right thing. He then produced the further versions on the same day, 19 June 2024, taking advice from Mr Kerr at the time, and signing each of them successively.

233. As Yodel submitted, the three documents show an evolution in thinking that is inconsistent with the versions having been prepared, printed and signed on the same day, 8 days after Mr Corlett had allegedly executed the Second Warrant Instrument. The first version would not have been prepared in the form that it was if the account of the Second Warrant Instrument is true, as Mr Corlett would have had fully in mind – if he addressed the matter on 19 June 2024 at all – that he needed a resolution for the First Warrant Instrument and the Second Warrant Instrument. In any event, there is no evidence of any draft or instruction having been sent to or from Harper Macleod, and on 25 March 2025 Harper Macleod confirmed that they were only instructed (by Mr Fishleigh) to prepare the draft warrant instrument for ASA investors and did not prepare the executed instruments, certificates, sole director's resolution or shareholder's written resolution.

234. Mr Corlett's account of the origin of the sole director's resolution on which Shift/Corja relies is therefore false, and in any event makes no sense. I conclude that the resolution was not prepared and signed on 19 June 2024. It was created and signed at some later time, probably at about the same time as the Second Warrant Instrument was created and signed.

Conclusions

235. A conclusion that the Second Warrant Instrument is a false instrument, because it was created at some later date and then backdated, and that Mr Corlett forged his mother's signature on it is a serious matter for Mr Corlett. Although the standard of proof for such serious allegations remains the balance of probabilities, the court does not lightly make such findings. It requires credible evidence in support of them, first because the matters alleged do not ordinarily occur in business, and so could be considered to be unlikely to have happened; and second, because the consequences of making those findings can be serious for those involved. I have borne those principles fully in mind in reaching my conclusions.

236. I have reached my conclusion as to what probably happened without, as is often done, expressing my views about the reliability of each of the witnesses at an earlier stage of my judgment. In a case such as this, with serious allegations made, it is right to weigh all the relevant evidence carefully before reaching a conclusion on the truthfulness of a witness, rather than being influenced by an overall impression of their reliability.

237. Having done that, and concluded that the Second Warrant Instrument and the Certificates are false instruments and the signatures of Ms Gregory are forgeries, I can state that I found Mr Corlett to be a most unsatisfactory witness. On almost all the important factual disputes, he was not telling the court his honest recollection, however imperfect, but was attempting to find an explanation of what he might have done, which fitted all the factual circumstances that were put to him in cross-examination (see [133]-[134] above). In

aggregate, these facts became increasingly difficult for him to manoeuvre around, and he ultimately failed to come up with a credible explanation. On one occasion, he accepted that he was simply giving an explanation that appeared to make sense – that the evidence that he gave was not his recollection, but that it was entirely logical that what he said must have happened and so it was what had happened.

238. Mr Corlett is clearly highly intelligent and has the mental agility to think quickly and formulate an alternative explanation that seems to fit the facts. However, ultimately, he failed to produce a credible explanation for a number of matters, which I have already addressed and which are summarised in [244] below. His evidence faced the additional difficulty that his trial witness statement was seriously non-compliant with Practice Direction 57AC, in that it does not give only the first-hand evidence that he could have given in examination in chief, is not written in his own words, and contains elaborate commentary on documents, argument and opinion. The certificate of compliance from the relevant legal representative, as required by para 4.3, was not included in the witness statement, but was only provided as a separate composite document for multiple witnesses after I raised this with Mr Nathan at an early stage of the trial.

239. It is relevant to my conclusions about Mr Corlett's honesty to record evidence that was given about the Licence Agreement that I have previously described. It bears the date 28 February 2024, but, as admitted in Shift's Defence, it was only executed by Mr Corlett on 29 April 2024. This had come about because IGF had expressed concern about large payments being made by Yodel to Shift. Mr Hobden sent Mr Corlett a WhatsApp containing a draft email to IGF, explaining that the payments were made pursuant to a Licence Agreement and that he had requested a copy to send to IGF. Further WhatsApps in the same exchange are a discussion of what date to put on the Licence Agreement to give the impression that it had been in place long before the IGF finance agreement was signed, but in error had not been provided to them:

> "[Hobden] What do you think? Could go with a few weeks after the deal completed?
> [Corlett] Can you tell me a date? First payment date maybe?
> [Hobden] We got the facility on 14 March, first transfer 18 March so let's say 7 March maybe as the date - means it was there in advance of the facility and not rushed through before we moved funds - depends how much audit they could do of the process.
> [Corlett] Surely we want it dated before … The facility … So that it looks like this was a mistake not to give them.
> ….
> [Hobden] … I was going 7th March as before the first payment. If you want it earlier, then just go 28 Feb perhaps.
> [Corlett] This okay with you?
> [Hobden] perfect, looks good. are you able to share the whole document then I can ping it over to them?".

240. As appears from an email from Ms Taylor to Mr Corlett on 26 April 2024, this was clearly a discussion about the date that the Licence Agreement was to bear, not the date from which it was expressed to have effect:

> "I have inserted the effective date of 28th February 2024 but please let me know if you'd like the agreement to take effect from a different date.

> …..
> The date space on the front of the agreement is for the date that the agreement is made i.e. the date that the agreement is signed by both parties. You should not backdate this date as it would be factually incorrect. You should just leave it blank as the important date is the date that the agreement is effective, which is as per the above bullet point currently drafted as 28 February."

Notwithstanding this clear advice, the document was in fact dated 28 February, as a result of the exchange between Mr Hobden and Mr Corlett.

241. Mr Corlett advanced in cross-examination a number of discreditable explanations of these exchanges, which were untrue and, characteristically, moulded to try somehow to fit the indisputable facts. First, he suggested that instructions were given to him by Ms Taylor to backdate the document, and that he did it for that reason, there being no advantage to him in backdating it. That is manifestly untrue, as the above exchanges demonstrate. Then, confronted with the unambiguous terms of Ms Taylor's legally correct advice, he suggested that he must have misunderstood her advice, as the logical thing to do would have been to leave the date blank – picking up on the wording of her email. Then he suggested that what was happening was that IGF were anxious for the arrangement whereby funds were passing from Yodel to Shift to be properly documented. This was ridiculous as well as false: IGF did not want Yodel to be paying large sums to Shift, as it was causing real cash flow problems. IGF did not want there to be a watertight obligation to do so. Finally, Mr Corlett suggested that he was not trying to mislead anyone, just raising with Mr Hobden the right way to approach the effective date of the document.

242. It is notable that Mr Corlett did not appreciate, or at least acknowledge, that there was anything reprehensible in what he was doing, which was unquestionably an attempt to mislead IGF into believing that an obligation regularly to pay large sums to Shift had arisen prior to IGF's facility agreement. This evidence is only one part of the evidence in the case, and I do not place undue weight on it, but it is additional evidence that supports the conclusion that I have reached.

243. My conclusion is accordingly that Mr Corlett and Ms Gregory have lied to the court about production and execution of the Second Warrant Instrument in June 2024. It is a conclusion supported by strong expert handwriting evidence. Ms Gregory's account of signing the documents was an attempt by a loving mother to help her son, who was in a very difficult position of his own making, but as a practising accountant she should have known better. Whether she was approached by Mr Corlett for help in August 2024 is not a matter that was broached in cross-examination, but I am entirely satisfied that Ms Gregory did not attest Mr Corlett's signature on the Second Warrant Instrument and the Certificates on 11 June 2024 by writing her initials, as she claims. I find that the documents had not been produced by then, or by 21 June 2024, and that the 1 June Word document is not a document that was genuinely printed and saved on 1 June 2024.

244. Although there is no direct evidence of the original documents in question first having been created in August 2024 rather than on 1 June 2024, there is a considerable volume of evidence of circumstances that make Mr Corlett's account of execution on 11 June 2024 extremely improbable. Assessed together, this evidence makes it impossible to accept that the documents are probably genuine. The circumstances are that:

i) documents allegedly created in Speke in the last week of May 2024 contain one page of paper that was allegedly used to print different documents in Plymouth on 1 June 2024;

ii) the 1 June Word document is in a materially different form and terms from the documents allegedly printed on 1 June 2024 one minute before the Word document was saved;

iii) the Certificates that were printed out on 1 June 2024 as part of the Second Warrant Instrument (on his account) are on different paper from the Second Warrant Instrument itself;

iv) the 7 (or 9) pages of documents allegedly executed on 11 June 2024 in informal circumstances over breakfast were signed using three different pens, one pen in common for each type of document;

v) Ms Gregory was unable credibly to explain why she signed documents with her initials, in a hesitant and uncharacteristic way, when she knew that the documents were formal documents that were important for her son's business and she regularly witnessed or signed documents to help him;

vi) Ms Gregory had extreme difficulty in finding other examples of her use of such a signature;

vii) there was no good reason for there to be created warrants for such a large number of shares in mid-June 2024 in favour of those who were working towards a merger of Yodel and Shift, who believed that the merger was imminently about to happen;

viii) no one was subsequently provided with an executed warrant, at any time before January 2025, and no copy of the Second Warrant Instrument was provided to anyone until September 2024;

ix) Mr Corlett's explanation of the alleged preparation and signature of the sole director's resolution on 19 June 2024 was contradicted by his solicitors, and did not explain why there were three signed resolutions in different terms;

x) the terms of the warranty in the SPA were inconsistent with the existence of any such warrants;

xi) no one mentioned the existence of warrants executed on 11 June 2024, of which they were supposedly aware, in circumstances in which it would have been natural to rely on them as against Mr Hancox and Yodel, or at least to discuss them as a possible negotiating lever;

xii) when pressed repeatedly to provide the warrants on behalf of investors, Mr Corlett did not do so, and fobbed off Mr Cureton with a copy of the original draft produced by Harper Macleod and promises to address the matter;

xiii) there is no reference to the warrants in Shift's and Mr Corlett's formal letter of response to Yodel's letter of claim; and

xiv) perhaps most tellingly, there is no genuine document disclosed by Shift/Corja that evidences the creation of any warrant instrument or warrant certificate before Mr Corlett's email to Mr Fishleigh and Mr Cureton dated 22 August 2024.

The conclusion to be drawn from this evidence is reinforced by the evidence of the handwriting expert witnesses, which was to the effect that the signatures on the documents in dispute were suspicious, showed many signs of forgery, and probably were forged.

245. To this can be added the failure of Shift/Corja to give appropriate disclosure. At the PTR which I conducted, and at the start of the trial, Yodel drew my attention to serious failings in the disclosure process. These included:

a) failure to do key word searches in accordance with the approved Shift Disclosure Review Document ("DRD"), by imposing unapproved additional limitations or filters on results, which had not been proposed in the DRD or raised with the court;

b) Mr Corlett and Corja failing to explain in correspondence the approach that they had taken, leading to an assumption that they took the same restricted approach as Shift;

c) failure by Shift/Corja's legal representatives to remedy the issue by re-running the searches in time for the trial, as Shift's previous solicitors had committed to do;

d) denial of access to any electronic devices used by Mr Corlett for examination of metadata on the devices;

e) failure to produce the original Shift and Corja Certificates until 23 July 2025;

f) deletion after court proceedings were likely of a GoogleDrive shared folder, in which documents were provided by Mr Corlett to RSP in September 2024;

g) manifestly excessive and erroneous redaction of disclosed documents, which only came to light during the trial.

246. As to the last of these, at the PTR I ordered a review of the redactions made for confidentiality and relevance by a specified date. RSP did not complete that task (or ask for an extension of time) until 8 days later, which was 3 days before the trial started. The exercise that had been done then appeared dubious, as it emerged that redactions previously made on the basis of confidentiality were now being asserted on the basis of privilege. RSP were ordered to review the privilege claims, and I ordered a sample of documents where redactions on the basis of confidentiality were maintained to be provided to Yodel's solicitors for them to review the reliability of those redactions. As a result, extra volumes of trial bundles were belatedly produced in the middle of the trial, when Yodel's cross-examination of Shift/Corja's witnesses, in particular Mr Corlett, had concluded.

247. Following the cross-examination of Ms Gregory as to why only pages 2 and 13 of the important Avery Law document had been produced, it emerged that the entire document

was available, and that each page of it contained a similar initials signature to pages 2 and 10. This was contrary to the repeated evidence that the only initials signatures that could be found by Mr Corlett and Ms Gregory were the 15 previously provided to RSP. Production of the whole document was ordered, but it only arrived in court in the last minutes of the trial.

248. No attempt was made by Shift/Corja in closing submissions to rebut any of the criticisms of disclosure that had been made in Yodel's opening, or properly to explain the delay in complying with the court's orders, or to explain why the entire Avery Law document had not been disclosed. It is evident that RSP and their predecessors as solicitors for Shift (RSP having acted throughout for Corja and Mr Corlett) did not have sufficient control of their clients' document repositories, or sufficient regard to the importance of complying with court orders. Shift/Corja's failures in my judgment give rise to a legitimate inference that had disclosure been properly performed on time, Yodel would have been likely to obtain further evidence to support its case.

The Alternative Bases of Yodel's Defence

249. Yodel defended Shift/Corja's Counterclaims on the basis that even if the Second Warrant Instrument and the Certificates were executed on 11 June 2024 and the sole director's resolution and shareholder resolution were signed on 19 and 21 June 2024 respectively:

    i) they were executed in breach of Yodel's articles and Mr Corlett's statutory duties as a director of Yodel, in particular in breach of the duty that Mr Corlett owed Yodel (by reference to the interests of its creditors), which breaches could not be ratified by the shareholder given Yodel's insolvency, and so the warrants are not binding on Yodel;

    ii) On the true interpretation of the Second Warrant Instrument, the warrants had lapsed before Shift and Corja purported to exercise their warrants in January 2025;

    iii) Alternatively, on the true interpretation of the Second Warrant Instrument, the warrants are invalid because no register of the warrants has been maintained by Yodel;

    iv) Specific performance of the warrants should be refused in any event, on a discretionary basis, because Shift/Corja do not come to court with clean hands, in view of the terms of YDLGP's warranty, their knowledge of the share warrants and of Yodel's ignorance of them, and the delay in exercising the warrants until a time when others had invested significantly in Yodel believing JLL to be its sole shareholder.

250. Given the conclusion that I have reached about the falsity of the Second Warrant Instrument and the Certificates purportedly issued under it, it is not necessary to decide these questions in order to resolve the Counterclaims. However, I will make factual findings, where needed, and then indicate briefly the conclusions that I would have reached, all on the assumption (contrary to my finding) that the Second Warrant Instrument and the Certificates were authentic documents.

Insolvency

251. It is common ground on the statements of case that Yodel was balance sheet insolvent at all relevant times. Although Mr Nathan KC produced in oral submissions a theory as to why that might not have been the case by 19 June 2024 (because of capitalisation of intra-group debt in February 2024), Yodel was in my judgment right to maintain that that case was not open to Shift/Corja at trial, in view of the unwithdrawn pleaded admission. In any event, Mr Corlett accepted in cross-examination that he knew in June 2024 that Yodel was balance sheet insolvent (though he denied realising that this meant that a creditor duty arose, on the basis that that depended on other factors).

252. Yodel contends that, as a matter of law, in light of the judgments of Lord Reed PSC, Lord Briggs and Lady Arden in the Supreme Court in BTI 2014 LLC v Sequana SA [2022] UKSC 25; [2024] AC 211 ("*Sequana*"), balance sheet insolvency is sufficient to give rise to a creditor duty on the part of the directors of Yodel. Mr Corlett was in breach of that duty because he gave no thought to the risk to the creditors when executing the Second Warrant Instrument to come into effect on 19 June 2024. Further, Yodel submits, the Second Warrant Instrument, creating a possibility of change in control of Yodel and significant dilution of any third party investment without itself providing a significant capital injection, was manifestly contrary to the interests of the company and its creditors, because it was likely to make it harder for Yodel to obtain the urgent funding that it needed for working capital and thereby avoid the risk of administration or insolvent liquidation.

253. In my judgment, Mr Thompson is correct in submitting, on the authority of *Sequana*, that either balance sheet insolvency or cash flow insolvency on its own is sufficient to trigger the creditor duty; however, the Supreme Court explained that the burden of the duty that exists is on a sliding scale, depending on the risk of an insolvency process that would be adverse to the creditors' interests. It is not unusual for a company to be balance sheet insolvent and yet trading successfully, with adequate funding and unquestioned ability to pay its debts as they fall due. In such a case, the duty to consider the interests of creditors would exist but it would be lighter than in a case where, in addition to being balance sheet insolvent, the company was in a cash flow crisis and at serious risk of commercial insolvency too. That is because the circumstances in which the creditors' interests may be adversely affected are much more likely to arise.

254. Accordingly, it is relevant to consider whether Yodel was, or was close to being, cash flow insolvent on 19 June 2024 (that being agreed to be the relevant date for this purpose) in addition to being balance sheet insolvent.

255. As background, Yodel had had to negotiate a time to pay arrangement with HMRC in early May 2024, as it had been unable to pay liabilities of £6.6 million due on 22 April 2024. It was late in doing so. Yodel had been unable to pay its VAT liability at the end of May 2024, and this was discharged, late, by Shift. Then at the start of June 2024, Yodel was at least 5 days late in paying a trade debt of £2.8 million to PP. It is therefore evident, by the start of June 2024, that Yodel was struggling to pay its debts as they fell due, and at times – until helped out, or given time, or unless debts were rescheduled – had been unable to do so.

256. It is not in dispute that IGF had placed a restriction on Yodel's facility, in view of concerns about management of its finances, and that £2.6 million of the £25 million

facility was unavailable in June 2024. Yodel's strategy was to seek to release that additional tranche of IGF finance and (very optimistically in circumstances where two reservation of rights letters notifying default had been sent) increase that facility to £30 million. In parallel, Mr Corlett was confident (in my judgment, unjustifiably so save in the case of PP) that he could obtain substantial capital injections from others, including trading partners such as Fuel Ventures and PP, investors such as Accrete Capital, and by obtaining debt funding on debts resulting from a settlement agreement to be negotiated with TVG. None of this was achieved with Yodel under Mr Corlett's control. PP's £10 million was the closest that Mr Corlett came, but that remained at all times subject to PP's due diligence, unless Mr Wiles could persuade his board to lend the money unsecured as emergency funding.

257. In addition, there was a proposal to negotiate a deferral of PAYE and VAT liabilities of £3.3 million due on 21 June 2024 and to negotiate a change in property rents from quarterly in advance (presumably due next on 24 June 2024 or 1 July 2024) to monthly in advance. On 16 June 2024, Mr Corlett advised Mr Fishleigh that if he was going to contract with Yodel, he should invoice Yodel in advance so that if Yodel "does end up going at least you have funds on account". At this time, it is common ground that Yodel was losing at least £500,000 a week, though it could have been much higher.

258. In this context, Interpath was instructed to advise IGF about the likelihood that Yodel would remain cash flow solvent. The report that it produced is the best evidence of the true solvency position facing Yodel, stripped of Mr Corlett's unrealistic expectations of large investments from outside.

259. The report produced by Interpath shows a rather dismal picture, which I briefly summarised in [54]-[55] above. It made clear that continued solvency depended on 5 matters happening within a few days: PP's CLN investment by 24 June 2024, IGF agreeing to release the additional £2.6 million of facility, rents and HMRC liabilities being rescheduled, and an agreement reached with TVG that would enable Yodel effectively to factor the future debts payable under it. The expected TVG settlement did not make much difference to the amount of money that Yodel would receive in the short term, at the end of June 2024. The base case assumed that the TVG deferred payments scheduled for 12 and 24 months later could be used to obtain £15 million of funding at the end of July 2024 – but this depended on the future payments being unconditional on future performance by Yodel, which TVG had not agreed.

260. Mr Corlett considered that there was some leeway, even on Interpath's base case modelling, if, for example, the additional tranche of the IGF facility could not be released, or if the landlords' rental liabilities could not be restructured. That might have been so, as on the base case the lowest closing cash balances are about £3 million on 21 June and about £5 million on 28 June 2024. But if more than one of the 5 events failed to materialise, Yodel was then certainly in the red. On the sensitised case scenario modelled by Interpath – which was that there was delay until 12 July 2024 in PP providing £10 million – Yodel was in the red from 26 June 2024, even if by then (which appeared most unlikely) IGF had released the additional tranche of funding.

261. It ultimately matters not whether Yodel was cash flow insolvent on 19 June 2024 or was at very serious risk of becoming cash flow insolvent within days, as it clearly was. Yodel was teetering on the brink. PP's £10 million, which had been promised, was not enough on its own. There was still a chance that Mr Corlett might keep Yodel afloat, but it was

a diminishing one. In both cases, the director(s) of Yodel owed a strong creditor duty, which involved having primary (if not sole) regard to the interests of its creditors, ahead of the interests of its shareholders.

Breach of duty

262. I find that Mr Corlett, who from 14 June 2024 was the sole director, did not give Yodel's creditors as a body any thought at this time. His evidence was that although he knew that Yodel was balance sheet insolvent, he did not think that that triggered the creditor duty, and he did not consider that Yodel was unable to pay its debts. He would not therefore have reminded himself to consider the creditors' position. His evidence that he nevertheless did so was unconvincing.

263. Mr Corlett's sole concern at the time was keeping Yodel afloat in order to be able to achieve the merger that he and others had worked hard to achieve, and which he considered would significantly alter its financial prospects and enrich them. He was waiting only for IGF approval and for the "drag along" of Shift shareholders who had not signed up to the sale of their shares to be documented (the right to drag them along had accrued). His plans involved deferring payment of creditors and rescheduling liabilities. On 17 June 2024, Yodel had cancelled the direct debits for payments of rent on its properties. Mr Corlett's hyperbolic assertion that he thought only of the company's creditors at that time is clearly untrue, except to the extent that Shift and other related companies and associates such as Solano Partners were creditors and would directly benefit from the merger. But trade creditors, landlords and HMRC were in my judgment not given a moment's thought beyond how they could not be paid in full the money due to them. Their interests had to make way for the merger that was perceived to be in the interests of the shareholder and other stakeholders.

264. Ms Shean gave advice at the board meeting on 10 June 2024 that the directors were not at that time at risk of wrongful trading. Her advice was to the effect that it was not clear at that time that Yodel could not reasonably avoid insolvent administration or liquidation, which is a different test from the test for the application of the creditor duty. She did, however, note that the position can change very quickly. Similar advice was not given on 17 June 2024, doubtless because the intention was that the meeting would be reconvened, with Mr Hancox present, the following day. Mr Corlett was, I find, comforted Ms Shean's advice, but he was not advised, nor did he seek advice, about the duty to consider the interests of creditors.

265. Mr Corlett acted in breach of the creditor duty because he did not even consider the position of creditors as a body. If he had done so, and had nevertheless decided to authorise the Second Warrant Instrument on 19 June 2024, that decision was in my judgment a breach of the duty owed to creditors because it was manifestly not in their best interests. If it was to avoid entering an insolvency procedure, Yodel urgently needed significant funding. That was likely to come in the form of convertible loan notes, from companies such as PP. The presence of contingent rights to a controlling share of Yodel would inevitably cause a problem with investments of that kind, given that the value of Yodel if the merger failed was close to zero. Mr Wiles backed away from investing when he heard that Mr Hancox was no longer a director and I consider that he would have done exactly the same if he had been told about the Second Warrant Instrument.

266. Mr Corlett insisted, to the contrary, that by clever legal drafting, loan notes could be created that would sidestep the rights of the warrant holders (whose warrants contained strong anti-dilution provisions, as drafted by Mr Corlett), and so lenders or investors would not necessarily be deterred. I was not persuaded by his optimism, which here, as elsewhere, was misplaced. It would at the very least cause a real problem for anyone considering advancing large sums of money in the very short term, which is what Yodel urgently required. It therefore made swift provision of rescue finance much less likely, and was therefore contrary to the interests of creditors, who needed Yodel to stay afloat and continue to trade in the short to medium term.

267. Even apart from the interests of the creditors, the impact on funding that I have just described made the Second Warrant Instrument contrary to the interests of the company itself, because it made it less likely that Yodel would by some means pull through its cash flow crisis. The execution of the Second Warrant Instrument and the Certificates by a sole director was also contrary to the articles of Yodel, which required decisions of that kind to be taken by its board of directors. Mr Hancox, who was a director when the instruments were (on this hypothesis) executed, knew nothing about them and there had been no resolution. Mr Corlett's sole director resolution on 19 June 2024 was itself contrary to the articles, which required the company to act by at least two directors and a board meeting required a quorum of two.

268. Mr Corlett was aware that, as the sole shareholder of YDLGP, which was the sole shareholder of Yodel at the time, he could always authorise a breach of the articles, and he then purported to do on 21 June 2024, minutes before YDLGP sold the shares in Yodel. I can accept that Mr Corlett subjectively believed that what he was doing was in the best interests of the company, because he did not consider the matter with the benefit of legal advice and he considered that what he wanted to do was necessarily in its best interests.

269. Beyond the breach of the creditor duty, there was therefore probably no breach of the statutory duty in s.172 of the Companies Act 2006 to act in a way that Mr Corlett considered would be most likely to promote the success of the company, but there was a breach of the duty in s.171 of the Act. First, Mr Corlett did not act in accordance with the company's constitution, and second, the power to allot and issue shares (including share warrants) was not conferred by the articles to give priority to certain stakeholders in the company if the company was sold, but rather to raise capital for the company, or to reward or incentivise employees' (including directors') performance. The Second Warrant Instrument, if it was executed on 11 June 2024, was not executed for that purpose. It was executed to preserve a majority share of the value of the company to Shift and Corja in the event that YDLGP had to sell its shares.

270. As to the breaches of duty, Mr Corlett relies on the shareholder resolution that he claims was signed on 21 June 2024, at about the time that he boarded the plane from Bristol to the Isle of Man (which is the same time, within a few minutes, that he contended that he signed the SPA with JLL). However, Yodel being at least balance sheet insolvent and the creditor duty existing, the shareholders could not ratify the unauthorised board resolution or the breaches of duty: *Sequana* at [5], [37], [91], [125], [149] in particular.

271. Mr Nathan submitted that where a breach of duty was only non-compliance with the articles of the company, the shareholders had the right to ratify the breach. He referred me to the judgment of Sir Terence Etherton C in in Re Charterhouse Capital Ltd [2015]

2 BCLC 627, which concerned, among other questions, whether an amendment of the company's articles of association made in good faith was unfairly prejudicial to minority shareholders. The principles explained by the Chancellor do of course recognise that a breach of the company's articles can be ratified by its members, either formally or informally by unanimous agreement. But that case did not address the position where the company is insolvent, which Mr Nathan recognised was different. He, however, characterised this as a case where there was non-compliance with the articles because the board did not decide on the execution of the Second Warrant Instrument, not a breach of the creditor duty.

272. For reasons that I have already given, I disagree: it was both. While the shareholders acting in good faith in the interests of the company can ratify a breach of the articles, they cannot do so if the company is insolvent, because then the question is (or includes) what is in the interests of the creditors, which the members do not have authority to decide. This was emphatically decided by Street CJ in Kinsela v Russell Kinsela Pty Ltd (1986) 4 NSWLR 722 at 732 ("*Kinsela*"), which was approved by the Supreme Court in *Sequana* at [37]:

> "Where, however, the interests at risk were those of creditors, there was no reason in law or logic to recognise that the shareholders could authorise the breach. Once it was accepted that the directors' duty to a company as a whole extended in an insolvency context to not prejudicing the interests of creditors, the shareholders did not have the power or authority to absolve the directors from that breach."

It is clear that Lord Reed accepted that proposition.

273. Mr Nathan then submitted that in a case where the particular breach of duty did not affect the creditors' interests, the power remained with the members to ratify the technical breach. Only at the point of insolvent liquidation, when the members had no interest, was that not the case. If the creditors were unaffected, there would be no breach of the creditor duty but only an excess of power on the part of the director. Mr Nathan referred to the decision of Morritt V-C in Bowthorpe Holdings Limited v R.J Hills [2002] EWHC 2331 (Ch), where he described as an exception to the principle that the shareholders could approve an act intra vires a company, that:

> "… the transaction so authorised must not be likely to jeopardise the company's solvency or cause loss to its creditors."

and referred approvingly to a decision of Cooke J in the New Zealand Court of Appeal, Nicholson v Permakraft (NZ) Ltd [1985] 1 NZLR 242 at 250, where that judge held that in those circumstances the unanimous consent of the shareholders is not enough to justify a breach of duty to the creditors.

274. Mr Nathan argued that this dictum correctly states the principle, which is that the limit on the members' ability to ratify a breach only arises where a transaction will in fact affect the creditors or cause the company to become insolvent. Conversely, if there is no impact on creditors, then there is no reason why the shareholders cannot ratify. He suggested that if there was a sliding scale on which directors had to take into account creditors' interests, there was similarly a sliding scale for shareholders' ability to ratify.

275. I am unable to agree that the shareholders can ratify an excess of power of the directors in a case where the creditor duty has arisen. That would amount to the shareholders effectively conferring extra power on the directors to act beyond the company's constitution at a time when the directors should be considering the interests of the creditors. It cannot sensibly be for the shareholders to evaluate, on a sliding scale, the extent (if any) to which creditors' interests were affected by excess of power. That conclusion is consistent with all the judgments in *Sequana*, even with Lady Arden's judgment, in which she declined precisely to align the existence of the creditor duty and the ratification principle. Her Ladyship considered that the limits on ratification sometimes went further than the constraint imposed by the creditor duty.

276. In any event, Mr Nathan's submissions assumed that the Second Warrant Instrument was merely an excess of power and not, as I have held it to be, a breach of the creditor duty and indeed of duties owed to Yodel.

277. The consequence of the unratified excess of power and breach of the creditor duty is that the Second Warrant Instrument and Certificates are void. The warrants in the hands (belatedly) of Shift and Corja are not saved by s.40 Companies Act 2006 because neither of them was a party to an act or otherwise dealing with Yodel in good faith, within the meaning of that section. The Second Warrant Instrument and the Certificates were unilateral acts of Mr Corlett as a single director of Yodel, intended to benefit Shift and Corja. Alternatively, if Shift at least was a person dealing with Yodel in good faith in relation to the Second Warrant Instrument, its Certificate is voidable by Yodel under s.41 of that Act owing to Mr Corlett's c. 20% shareholding in Shift.

Interpretation of the Second Warrant Instrument

278. I will deal shortly with these two arguments, which are unnecessary for Yodel to succeed on its claim.

(1) Lapse of the warrants

279. The first argument is that the warrants to which Shift and Corja were entitled under their Certificates and the Second Warrant Instrument lapsed 14 days after the sale of the shares in Yodel to JLL. If the warrants were executed on 11 June 2024, the rights were in principle triggered by the sale of the shares by YDLGP on 21 June 2024, which was an "Exercise Event" as defined in Part 3 of the Conditions.

280. Condition 3.2 of the Conditions requires Yodel promptly to notify the Warrantholder of the principal terms of any proposed Exercise Event not less than 15 business days before the event in question. The terms on which the warrants lapse are contained in Condition 5.1, set out in full at [75] above. The relevant one is "completion of an Exercise Event … or if later the tenth Business Day after the Warrantholder shall have received notice of an Exercise Event under Condition 3.2". Condition 3.4 states that:

> "Provided that each Warrantholder has been given notice in accordance with Condition 3.2 any rights of the Warrantholder which have not been exercised on completion of an Exercise Event shall automatically lapse upon completion of such Exercise Event and shall have no further effect from such date."

281. The Conditions clearly assume that the Warrantholders will know about the Exercise Event in advance, so that they have at least 10 business days in which to decide whether to exercise their rights. If they receive notice more than 15 business days before the Exercise Event and do not exercise their rights, the rights lapse upon the Exercise Event. If they were given late notice, the rights can be exercised for up to 10 business days from the date of notice, even after the Exercise Event. Then they lapse.

282. No one had or was able to give at least 15 business days' notice of the sale of YDLGP's shares on 21 June 2024. The question is what happens in such circumstances, when no notice as such is given. It is contrary to common sense that the parties will have intended the rights to lapse if a sale went ahead without notice. The Company could still give notice after the event, and then time for exercise could run from that date, for 10 business days. But what if notice was not given at all but the Warrantholder was aware of the sale? Are the rights not triggered until notice is duly given by the Company, or does knowledge on the part of the Warrantholder suffice to start the clock running?

283. If the former is correct, it is accepted that the rights had not lapsed when Shift and Corja purported to exercise them, in January 2025. If the latter is correct, it is accepted that the rights did lapse, because Mr Corlett knew of the principal terms of the sale and the identity of the purchaser on 21 June 2024.

284. The answer is not clearly to be found in the express terms of the Conditions. Yodel submits that it is sufficient that Shift and Corja, through Mr Corlett, knew of the relevant information in relation to the Exercise Event. A notice from Yodel is not required, it argues.

285. I disagree with Yodel that "notice" in Condition 5.1.2 is to be equated with knowledge of the main terms of the event in question. What is required is that the Warrantholder "….shall have received notice of an Exercise Event under Condition 3.2". It is not the Exercise Event that is "under Condition 3.2", it is the notification of the principal terms of a proposed Exercise Event, and therefore what condition 5.1.2 is referring to is the giving of notice by the Company (i.e. Yodel). The distinction between the giving of notice by Yodel of an Exercise Event and the Warrantholder otherwise becoming aware of it is made clear in Condition 3.3.

286. Shift's and Corja's rights therefore did not lapse on completion of the Exercise Event. The date of lapse is within the control of Yodel, which can give notice late, thereby preventing the rights from continuing indefinitely. Although the Conditions contemplate that notice will be given well ahead of an Exercise Event, for the reasons that Yodel advanced in argument that cannot be obligatory. There is nothing in principle to prevent notice being given after an unexpected Exercise Event, thereby limiting the time for exercise to 10 further business days. Yodel's argument, dependent on knowledge, would make lapse of the warrants dependent on facts known only to the Warrantholder, which strikes me as very uncommercial and unlikely to be the objective intention of the Conditions.

(2) Failure to keep a register of warrants

287. The second argument is that Yodel was obliged by the Second Warrant Instrument to keep a register of warrants. "Register" is defined as "the register of Warrantholders kept by or on behalf of the Company in accordance with clause 4", and "Warrantholder" is

defined as "a person whose name is entered and appears in the Register as a holder of any Warrants".

288. Clause 4.1 is an obligation on Yodel:

> "… at all times [to] maintain a register in the United Kingdom showing the entitlement to the Warrant, the details of the Warrant held by the Warrantholder, the date of issue of the Warrant Certificate together with the name and address of the person entitled to be registered as the Warrantholder."

289. If Yodel kept no Register, its argument goes, there can be no Warrantholders and no valid warrants, and accordingly no such person, including Shift and Corja, was entitled to exercise their warrants. Until registered in the Register, there was no entitlement under the Second Warrant Instrument.

290. Shift/Corja contend that a spreadsheet prepared by Mr Corlett is the Register. Yodel makes no admission to when it was prepared, but contends that it cannot be the "Register" in any event because it does not contain the date of issue of any warrant certificate, as required by clause 4.1, nor was it kept by Yodel. Mr Corlett said that, if he had not lost control of Yodel two days after he says that it was prepared, he would have sent it to Yodel's legal department with instructions to prepare a register.

291. I am not attracted by Yodel's argument. The argument seems to me to be circular: only Warrantholders who held warrants should be registered, but only registration made them Warrantholders. The right position seems to me to be that warrants validly issued by Yodel, taking effect on 19 June 2024 (if they did) conferred rights on their holders from that date, Yodel was obliged to keep a register of the warrants issued, and if it did, the persons entered on the register were thenceforth the Warrantholders.

292. Once the Register was in existence, it was conclusive as to who the Warrantholders were. But until then, its absence did not mean that warrants were not validly executed and issued. If it did, Yodel could defeat the purpose of the Second Warrant Instrument and the rights of the holders of the Certificates by the simple expedient of not creating a Register. On the true interpretation of the Second Warrant Instrument, the parties did not make the validity of the warrants issued dependent on the performance by Yodel of its obligation in clause 4.1.

293. As to the Excel spreadsheet, I find that this was not a Register, as defined, for the reasons advanced by Yodel, namely that the spreadsheet did not contain the information that a Register was required to contain, and that it was not a record maintained by Yodel but a spreadsheet held by Mr Corlett (who from 21 June 2024 had no connection with Yodel) of which Yodel was unaware.

Specific Performance: Clean Hands

294. The final defence of Yodel was this: even if the Second Warrant Instrument and the Certificates were validly executed on 11 June 2024, and even if that was not a breach of duty by Mr Corlett and the excess of power was ratified by YDLGP on 21 June 2024, the court should not order specific performance of the obligation to allot and issue 1.8 billion shares in Yodel, in the exercise of its discretion, because Shift/Corja do not come to the

court with clean hands. Alternatively, the court should not order specific performance because, as a result of a bona fide change in the articles of association of Yodel, made on 15 November 2024, before it was aware of the existence of the Second Warrant Instrument and Certificates, Yodel does not have corporate power to allot and issue those shares.

295. Yodel accepts that, for the court to decline to order specific performance, it must establish that Shift/Corja engaged in some form of reprehensible conduct and that there is a nexus between that conduct and the relief sought, such that the wrong relates to that which is sought to be enforced. It is then a matter for the court to evaluate the seriousness of the conduct and whether it justifies refusal of specific enforcement.

296. The reprehensible conduct on which Yodel relies is the non-disclosure of the Certificates, which came into existence only days before a sale in which YDLGP warranted (in effect) that there were no such interests, but which would give control of Yodel to the warrant holders; and that this was kept concealed for a period of 6 months, knowing that Yodel was unaware of the existence of the instruments, while the purchasers of Yodel invested and arranged a financial rescue of the company.

297. Evaluation of the conduct of Shift/Corja is a somewhat artificial exercise, on the hypothetical basis on which I must approach it, as the non-disclosure (indeed, lack of any reference to these warrants) was one of the factors leading me to my conclusion that they were not genuine documents. If, on the other hand, they were genuine instruments, one would have expected them to have been referred to much sooner, for reasons that I have already given. If my factual findings on authenticity are so wide of the mark that they should be replaced by findings that the warrants were indeed executed on 11 June 2024, my findings that Mr Wiles, Mr Hancox and Mr Kuschel were not told about them at any stage may also be unsound. If correct, the real reasons for not disclosing them might have been different.

298. Accordingly, I do not consider that it is a worthwhile exercise for me to address this final issue on the basis of certain assumed facts.

299. I do however make the following findings of fact that would be relevant to the exercise. First, Yodel was wholly unaware of the existence of the warrants until December 2024, when they were raised in without prejudice discussions (the content of which I otherwise do not know, for obvious reasons). Second, if Mr Corlett, Shift and Corja did not tell anyone about the warrants, as I have concluded to be the case, they must have known, and did know, that Yodel was unaware of them. Third, Shift and Corja knew, through Mr Corlett, that YDLGP had warranted that the shares sold to JLL were all of Yodel's shares, on a fully diluted basis. That does not make them liable for the misrepresentation, but it does mean that they were aware of the false basis on which Yodel was proceeding to attempt to restructure and rescue its business. Fourth, that Shift/Corja sought to exercise their warrants in January 2025 rather than earlier because, by then, Yodel's finances had improved, under the stewardship of Mr Hancox and with the financial support provided by PP and InPost.

300. As for refusing specific performance because of the absence of power in Yodel to issue the shares that Shift/Corja counterclaim, the articles, as amended, provide that Yodel cannot allot shares without the prior written consent of JLL. JLL has not consented and would not do so.

301. Shift/Corja contend that it is implicit that JLL's consent cannot be refused arbitrarily, irrationally or capriciously, but is a power that must be exercised in good faith in the interests of Yodel. I disagree. It is clearly a power given to JLL as majority shareholder to enable it to protect its position. I cannot see any basis on which a term that consent could not be unreasonably withheld should be implied.

302. That being so, the court would not in my judgment order Yodel to do something that it was unable to do. The court cannot change the terms of Yodel's constitution, contrary to the interests of its majority shareholder, JLL. Nor is there jurisdiction to order JLL to give its consent, as the articles were amended by it in good faith. That may have left Shift/Corja with a claim for damages, for breach of their warrants, or for damages in lieu of a mandatory injunction, but the claim for specific performance would have been refused.

Disposal and Concluding Rremarks

303. It follows that I will dismiss the Counterclaims, as I have called them, principally because the Certificates and the Second Warrant Instrument relied on as the basis of them are not genuine documents.

304. I wish to record my thanks to the efforts of Counsel to present this case in an orderly way, despite the (perhaps excessive) speed with which this expedited trial was brought on and the difficulties on Shift/Corja's side with disclosure. In particular, I would like to pay tribute to the contributions of the first junior counsel on each side – Mr Griffiths, who I suspect did a great deal of work behind the scenes to prepare admirable written closing submissions for Yodel while Mr Thompson focused on the oral advocacy, and Mr Johnson, who took on a substantial part of the oral advocacy for Shift/Corja and performed to a high standard, despite the difficulties in his clients' case.

305. The parties should seek to agree and provide a draft order prior to the electronic hand down of this judgment, and if any terms are in dispute I will resolve those on the basis of written submissions (or, if necessary, on request, an oral hearing) in January 2026. The order that I make will include a timetable for written notes on consequential matters.