

# MR01

## Particulars of a charge



Companies House

A fee is payable with this form  
Please see 'How to pay' on the  
last page

You can use the WebFiling service to file this form online.  
Please go to [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

☒ **What this form is for**  
You may use this form to register  
a charge created or evidenced by  
an instrument

☐ **What this form is NOT**  
You may not use this form to  
register a charge where the  
instrument Use form MR02

This form **must be delivered to the Registrar for registration**  
**21 days** beginning with the day after the date of creation of the  
delivered outside of the 21 days it will be rejected unless it is accompanied by a  
court order extending the time for delivery



You must enclose a certified copy of the instrument with this form  
scanned and placed on the public record

COMPANIES HOUSE



A20 \*A2CXTKJT\* 19/07/2013 #98  
LD2 \*L2CN0VL5\* 15/07/2013 #118  
COMPANIES HOUSE

### 1 Company details

Company number 00199120

Company name in full MECHANICAL-COPYRIGHT PROTECTION SOCIETY LIMITED  
(MCPS)

For official use

#### → Filling in this form

Please complete in typescript or in  
bold black capitals

All fields are mandatory unless  
specified or indicated by \*

### 2 Charge creation date

Charge creation date 3 0 0 6 2 0 1 3

### 3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees  
entitled to the charge

Name PERFORMING RIGHT SOCIETY LIMITED ('PRS')

(Company number 00134396)

Name

Name

Name

If there are more than four names, please supply any four of these names then  
tick the statement below

☐ I confirm that there are more than four persons, security agents or  
trustees entitled to the charge

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**Description**

Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security.

**Continuation page**  
Please use a continuation page if you need to enter more details

Description

5

**Fixed charge or fixed security**

Does the instrument include a fixed charge or fixed security over any tangible or intangible (or in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box

☒ **Yes**

☐ **No**

6

**Floating charge**

Is the instrument expressed to contain a floating charge? Please tick the appropriate box

☒ **Yes** Continue

☐ **No** Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☒ **Yes**

7

**Negative Pledge**

Do any of the terms of the charge prohibit or restrict the chargor from creating any further security that will rank equally with or ahead of the charge? Please tick the appropriate box

☒ **Yes**

☐ **No**

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Trustee statement <sup>1</sup>

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

<sup>1</sup> This statement may be filed after the registration of the charge (use form MR06)

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Signature

Please sign the form here

Signature

Signature

X

*[Handwritten signature]*

X

This form must be signed by a person with an interest in the charge

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## Particulars of a charge

**Presenter information**

We will send the certificate to the address entered below. All details given here will be available on the public record. You do not have to show any details here but, if none are given, we will send the certificate to the company's Registered Office address.

Contact name

Company name

PERFORMING RIGHT SOCIETY LTD

Address

COPYRIGHT HOUSE

29-33 BERNERS STREET

Post town

LONDON

County/Region

Postcode

W 1 T 3 A B

Country

ENGLAND

DX

Telephone

020 7306 4028

**Certificate**

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.

**Checklist**

We may return forms completed incorrectly or with information missing

Please make sure you have remembered the following

- ☒ The company name and number match the information held on the public Register
- ☒ You have included a certified copy of the instrument with this form
- ☒ You have entered the date on which the charge was created
- ☒ You have shown the names of persons entitled to the charge
- ☒ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- ☒ You have given a description in Section 4, if appropriate
- ☒ You have signed the form
- ☒ You have enclosed the correct fee
- ☒ Please do not send the original instrument, it must be a certified copy

**Important information**

Please note that all information on this form will appear on the public record

**How to pay**

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper

Make cheques or postal orders payable to 'Companies House'

**Where to send**

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below.

**For companies registered in England and Wales**  
The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ  
DX 33050 Cardiff

**For companies registered in Scotland**  
The Registrar of Companies, Companies House,  
Fourth floor, Edinburgh Quay 2,  
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF  
DX ED235 Edinburgh 1  
or LP - 4 Edinburgh 2 (Legal Post)

**For companies registered in Northern Ireland**  
The Registrar of Companies, Companies House,  
Second Floor, The Linenhall, 32-38 Linenhall Street,  
Belfast, Northern Ireland, BT2 8BG  
DX 481 N R Belfast 1

**Further information**

For further information, please see the guidance notes on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

This form is available in an alternative format. Please visit the forms page on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)



**FILE COPY**

## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 199120

Charge code: 0019 9120 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 30th June 2013 and created by MECHANICAL-COPYRIGHT PROTECTION SOCIETY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 19th July 2013.

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Given at Companies House, Cardiff on 22nd July 2013



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES



Dated

30 June

2013

- (1) Mechanical-Copyright Protection Society Limited
- (2) Performing Right Society Limited

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**Fixed and Floating Charge**

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CERTIFIED A TRUE COPY OF ORIGINAL  
DOCUMENT PRODUCED AND SHOWN TO  
ME *MICHAEL FISHMAN*, THIS 12<sup>th</sup> DAY  
OF *July* 2013

*Kevin Lee*  
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London W1T 3AB

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**THIS FIXED AND FLOATING CHARGE** is entered into on 30 June 2013

Between the **Parties**:

- (1) **Mechanical-Copyright Protection Society Limited**, a company incorporated in England and Wales with company number 00199120, ("**MCPS**"); and
- (2) **Performing Right Society Limited**, a company incorporated in England and Wales with company number 00134396, ("**PRS**")

## 1. **DEFINITIONS AND INTERPRETATION**

### 1.1 **Defined terms**

<b>"Business Day"</b>	means a day, other than a Saturday or a Sunday, on which banks are open for general business in London
<b>"COMI"</b>	means centre of main interests (as that term is used in Article 3(1) of the EC Regulation).
<b>"Default Rate"</b>	means two per cent per annum above the highest rate of interest ordinarily applicable to any part of the Secured Obligations from time to time.
<b>"Delegate"</b>	means any delegate, agent, attorney or trustee appointed by PRS.
<b>"Discharge Date"</b>	means the date with effect from which PRS confirms to MCPS in writing that all the Secured Obligations have been unconditionally and irrevocably discharged.
<b>"Enforcement Party"</b>	means any of PRS, a Receiver or a Delegate.
<b>"Event of Default"</b>	means the occurrence of any of the events or circumstances set out in Schedule 1 ( <i>Events of Default</i> ).



**"Floating Charge Assets"**

at any time, all property and assets which is at that time the subject of any Security created under this Deed.

**"Intellectual Property Rights"**

means (a) all vested and future rights of copyright and related rights, design rights, database rights, patents, rights to inventions, trade marks and get-up (and goodwill attaching to those trade marks and that get up) domain names, applications for and the right to apply for any of the above, moral rights, goodwill (and the right to sue for passing off and unfair competition), rights in know-how, rights in confidential information, rights in computer software and semiconductor topographies, rights in data, and any other intellectual or industrial property rights or equivalent forms of protection, whether registered (or the subject of an application for registration) or un-registered, owned by MCPS or in which MCPS has an interest from time to time and (b) the benefit of MCPS's applications and rights to use such assets, in each case throughout the world now and in the future.

**"MCPS Loan"**

has the meaning ascribed to it in the Services Agreement.

**"MCPS Surplus"**

has the meaning ascribed to it in the Sale and Purchase Agreement.

**"Receiver"**

means any one or more receivers and managers or (if PRS so specifies in the relevant appointment) receivers appointed by PRS pursuant to this Deed in respect of MCPS or in respect of the Floating Charge Assets of MCPS.

**"Sale and Purchase Agreement"**

means the Sale and Purchase Agreement between MCPS and PRS under which MCPS sells its shares in The MCPS-PRS Alliance Limited to PRS.

**"Secured Assets"**

the assets referred to in Clause 3 of this Deed.

**"Secured Obligations"**

means the obligation on MCPS to pay to PRS.

(a) the Secured Sums,  
(b) the MCPS Surplus; and  
(c) all reasonable legal costs incurred by PRS in the enforcement of its rights under the Services Agreement, the Sale and Purchase Agreement and/or this Deed.

**"Secured Sums"**

has the meaning ascribed to it in the Services Agreement.

**"Security"**

means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**"Security Period"**

means the period beginning on the date of this Deed and ending on the Discharge Date.

**"Services Agreement"**

means the agreement entered into between PRS and MCPS on or about the date of the Deed, including any agreements or arrangements entered into pursuant to, or conditional upon the entry by the Parties into the Services Agreement.

**"Tax"**

means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

## 1.2 Definitions contained in Services Agreement

Unless a contrary indication appears, each term used in this Deed which is defined in the Services Agreement shall have the same meaning as in the Services Agreement

## 1.3 Construction

In this Deed.

1.3.1 unless a contrary indication appears, a reference to:

1.3.1.1 **"assets"** includes present and future properties, revenues, rights and interests of every kind and reference to an **"asset"** includes any part or parts of such asset;

1.3.1.2 **"guarantee"** includes any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to pay any deposit on behalf of, or make an investment in, or loan to, any person or to purchase assets of any person, where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;

1.3.1.3 **"indebtedness"** includes any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;

1.3.1.4 **"person"** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);

1.3.1.5 **"regulation"** includes any regulation, rule, official directive, request or guideline (in each case, whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

1.3.1.6 **"set-off"** includes analogous rights and obligations in jurisdictions other than England and Wales; and

- 1.3.1.7 the "**PRS**" or "**MCPS**" or "**Party**", shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- 1 3.2 where something (or a list of things) is introduced by the word "**including**", or by the phrase "**in particular**", or is followed by the phrase "**or otherwise**", the intention is to state an example (or examples) and not to be exhaustive (and the same applies when other similar words or phrases are used);
- 1 3 3 unless this Deed expressly states otherwise or the context requires otherwise, (a) each reference in this Deed to any provision of any statute or of any subordinate legislation means, at any time, the relevant provision as in force at that time (even if it has been amended or re-enacted since the date of this Deed) and (b) each reference in this Deed to any provision of any statute at any time includes any subordinate legislation made pursuant to or in respect of such provisions as in force at such time (whether made before or after the date of this Deed and whether amended or re-enacted since the date of this Deed),
- 1.3.4 each reference to this Deed (or to any other agreement, instrument or deed) means, at any time, this Deed (or as applicable such other agreement, instrument or deed) as amended, novated, supplemented, extended, or restated, at that time, provided that the relevant amendment, novation, supplement, extension, substitution or restatement does not breach any term of this Deed or the Services Agreement;
- 1.3.5 the index and Clause and Schedule headings are for ease of reference only,
- 1.3.6 an Event of Default is "**continuing**" if it has not been waived in writing by PRS or remedied to the satisfaction of PRS (which shall be confirmed in writing); and
- 1 3 7 references to any Security "**created ..... by this Deed**" are to be deemed to include such Security created, constituted, given, made or extended by, under or pursuant to this Deed

#### 1.4 **Third Party Rights**

No person has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed, other than an Enforcement Party, which may do so, or any other person, to the extent that this Deed or the Services Agreement expressly provides for it to do so. No consent of any person

who is not a Party is required to rescind or vary this Deed at any time This Clause 1.4 does not affect any right or remedy of any person which exists, or is available, otherwise than pursuant to the Contracts (Rights of Third Parties) Act 1999.

**1.5 Incorporation of other terms**

The terms of the other documents under which the Secured Obligations arise and of any side letters between MCPS and PRS relating to the Secured Obligations are incorporated into this Deed to the extent required for any purported disposition of the Secured Assets contained in this Deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989

**2. COVENANT TO PERFORM**

- 2.1 MCPS, as primary obligor and not merely as surety, covenants with PRS that it will discharge, perform and pay the Secured Obligations on demand made on or at any time after the due date for payment provided in the Services Agreement or, as the case may be, the Sale and Purchase Agreement and in the manner provided in the same.

**3. FLOATING AND LIMITED FIXED CHARGE**

**3.1 Floating Charge**

As security for the payment, discharge and performance of the Secured Obligations, MCPS charges in favour of PRS, by way of first floating charge, all its assets and undertaking, wherever located, both present and future.

**3.2 Fixed Charge**

As further security for the payment, discharge and performance of the Secured Obligations, MCPS charges by way of first fixed charge in favour of PRS its entire interest in the balance due from time to time in the MCPS Loan. For the avoidance of doubt, MCPS may not at any stage during the Security Period, seek to assign its rights under the MCPS Loan.

**4. PROVISIONS RELATING TO THE SECURITY**

**4.1 Default interest**

Any amount which is not paid under this Deed on the due date shall bear interest (both before and after judgment) payable on demand at the Default Rate from time to time from the due date until the date of actual unconditional and irrevocable payment and discharge of such amount in full, save to the extent that interest at such rate on such amount and for such period is charged

pursuant to the Services Agreement relevant to that liability and itself constitutes part of the Secured Obligations.

#### **4.2 No withholding or set-off**

4.2.1 MCPS must not make any withholding on account of tax from any payment due to PRS or any receiver under this Deed, unless it is required by law to do so. If it is required by law to do so, it must increase the amount of the relevant payment so that, after the withholding, the payee receives the appropriate amount. It must notify PRS if these circumstances arise.

4.2.2 Save as expressly provided in paragraph 6.6 of Schedule 6 of the Services Agreement, MCPS will not exercise any right of set-off or counterclaim it might have in respect of any payment due to PRS or to any receiver under this Deed.

#### **4.3 Independent security and PRS's discretion**

4.3.1 The charges created under this Deed and the rights of PRS under this Deed are additional to the other Security arising pursuant to Schedule 6 of the Services Agreement.

4.3.2 In exercising its rights under this Deed, PRS shall have regard to the limitations set out in Schedule 6 of the Services Agreement.

#### **4.4 Continuing security**

4.4.1 The provisions of this Deed will apply at all times and constitute continuing security. This means that they secure the full amount of the Secured Obligations at any time even if, at some other time:

4.4.1.1 the amount of the Secured Obligations has been less than the amount at the relevant time, or

4.4.1.2 there have been no Secured Obligations outstanding.

#### **4.5 Crystallisation of floating charge (by notice)**

4.5.1 Clauses 4.5.2 and 4.5.3 specify cases in which PRS is entitled to crystallise the floating charge created under this Deed (converting it into a fixed charge or a number of fixed charges). Crystallisation will occur when PRS gives notice in writing to this effect to MCPS.

4.5.2 The first case is where an Event of Default has occurred which is continuing.

4.5.3 The second case is where, save in relation to (1) any court judgment obtained by fraud or (2) default judgment of less than £20,000 disputed by MCPS, PRS (acting reasonably) is of the view that:

4.5.3.1 such assets are in danger of being seized;

4.5.3.2 any legal process or execution is being enforced against of such assets;

4.5.3.3 such assets are otherwise in jeopardy; and/or

4.5.3.4 steps have been taken which would, in the reasonable opinion of PRS, be likely directly to lead to the appointment of an administrator or administrative receiver in relation to MCPS (or such administrator or administrative receiver has been appointed) or to the winding-up of MCPS.

4.5.4 By way of further assurance, MCPS shall within two Business Days of service of such notice upon it, execute a fixed charge over such assets and in such form as PRS shall require

4.5.5 If, at any time, PRS crystallises the floating charge in relation to just part of the relevant Charged Property, that will not prevent its exercising its powers under this clause 4.5 again.

#### **4.6 Crystallisation of floating charge (automatic)**

Clauses 4.6.1 to 4.6.2 specify cases in which the floating charge created under this Deed will automatically crystallise (without PRS having to give notice to MCPS). There are other circumstances in which, by operation of law, a floating charge will crystallise

4.6.1 The first case is where MCPS creates (or purports to create) any Security on or over any of the Charged Property without the prior written consent of PRS.

4.6.2 The second case is where MCPS convenes any meeting of its members to consider a resolution in relation to its winding up, or if a liquidator, administrative receiver, receiver, administrator or another similar officer is appointed in respect of MCPS or any of its assets

4.6.3 In each case, the floating charge will crystallise as soon as the relevant event occurs.

#### **4.7 Release of security**

- 4.7.1 MCPS may give notice to PRS requesting the release of the Floating Charge Assets from the charge created by this Deed. PRS, shall use all reasonable endeavours to comply with such a request, but only if
- 4.7.1.1 all the Secured Obligations then due for payment have been paid;
- 4.7.1.2 there are no other Secured Obligations which have not yet become due to be paid,
- 4.7.1.3 PRS is satisfied that there is no risk that, as a consequence of any insolvency proceedings (or analogous proceedings) or for any other reason, any payment previously made to PRS in respect of any Secured Obligations will be required to be repaid or will be void, set aside or otherwise affected; and
- 4.7.1.4 PRS is not obliged to enter into any arrangement under which MCPS might incur further liabilities to PRS
- 4.7.2 A release of Security under Clause 4.7.1 will not be effective until MCPS has paid all of PRS's reasonable costs in connection with such release.
- 4.7.3 If PRS does release any Security under Clause 4.7.1, that will not mean that PRS has waived any right it might then have, or any remedy it might then be entitled to, in respect of any past breach of this Deed.
- 4.7.4 The charge created under this Deed will not be discharged in any way other than in accordance with Clause 4.7.1.
- 4.7.5 If, at any time, there has been a release, settlement or discharge of MCPS's obligations under this Deed and, as a consequence of any insolvency proceedings (or analogous proceedings) or for any other reason, (a) any payment made to any person in respect of any of the Secured Obligations is required to be repaid and/or (b) any such payment or any Security (or other right) held by PRS in respect of any of the Secured Obligations (whether under this Deed or otherwise) is void, is set aside or is otherwise affected, then MCPS's obligations under this Deed shall continue in effect as if there had been no such release, settlement or discharge and as if the relevant payment had not been made and/or (as applicable) the relevant Security (or other right) had not been held by PRS; and accordingly (but without limiting PRS's other rights under this Deed) PRS shall be entitled to recover from MCPS the value which PRS has placed upon such Security or the



amount of any such payment as if such payment, settlement or discharge had not occurred.

**5. FURTHER ASSURANCE**

MCPS shall

- 5.1 promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as PRS may reasonably specify (and in such form as PRS may reasonably require) in favour of PRS or its nominee(s):
- 5.1.1 to perfect the Security created or intended to be created or evidenced by this Deed or for the exercise of any rights, powers and remedies of PRS provided by or pursuant to this Deed;
  - 5.1.2 to confer on PRS Security over any property or assets of MCPS located in England and Wales or any other jurisdiction equivalent or similar to the Security intended to be created, or expressed to be created, by this Deed; and/or
  - 5.1.3 to facilitate the realisation of the assets which are, or are intended to be, the subject of this Deed, and
- 5.2 take all such action as is available to it (including making all filings and registrations and the payment of all fees and Taxes) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on PRS by or pursuant to this Deed

**6. NEGATIVE PLEDGE AND DISPOSAL RESTRICTIONS**

- 6.1 During the Security Period, MCPS shall not without PRS's written consent:
- 6.1.1 create, extend or permit to subsist any Security over any of the Secured Assets; nor
  - 6.1.2 either
    - (a) execute, or agree to grant, vary, or accept any surrender of, any conveyance, transfer, lease, or assignment, or any other right of occupation or use, of the Secured Assets;
    - (b) create any legal or equitable estate, or other interest, in, over, or relating to, the Secured Assets;
    - (c) sell, transfer or otherwise dispose of any of its receivables on recourse terms;

- (d) enter into any arrangement under which money, debts or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts, or
- (e) enter into any preferential arrangement with any person, having a similar effect to any of the arrangements or transactions previously described in this Clause 6.1.2 in any case in circumstances where the arrangement or transaction is entered into primarily as a method of borrowing monies or otherwise raising indebtedness (whether actual or contingent and whatever the nature, structure or characteristic of the arrangement or transaction under which the relevant liability arises) or of financing the acquisition of an asset.

6.2 Clause 6.1 (*Negative pledge*) does not apply to the Security created or required to be created pursuant to this Deed, nor any Security arrangement or transaction to which PRS has given its written consent

6.3 Nothing in Clause 6.1 or elsewhere in this Deed shall, prior to the exercise by PRS of its rights of enforcement under this Deed, eliminate PRS's obligation to repay the MCPS Loan in accordance with the Sale and Purchase Agreement

## **7. REPRESENTATIONS AND WARRANTIES**

MCPS represents and warrants to PRS on the date of this Deed as follows:

### **7.1 Status**

It is a limited liability company, duly incorporated and validly existing under the laws of England and Wales and it, has the power to own its assets and carry on its business and other activities as they are being conducted

### **7.2 Binding obligations**

The obligations expressed to be assumed by it in this Deed are, and at all relevant times have been, legal, valid, binding and enforceable obligations (subject to the principle that equitable remedies are discretionary and subject to any applicable insolvency laws).

### **7.3 Non-conflict with other obligations**

The entry into and performance by it of, and the transactions contemplated by, this Deed do not and will not conflict with or result in any breach of any law or regulation applicable to it or any agreement or instrument binding upon it.

### **7.4 Power and authority**

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Deed and the transactions contemplated by this Deed.

**7.5 Validity and admissibility in evidence**

All Authorisations required or desirable (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Deed, and (b) to make this Deed admissible in evidence in England and Wales, have been obtained or effected and are in full force and effect.

**7.6 No Event of Default**

No Event of Default has occurred or is continuing or might reasonably be expected to result from the execution of this Deed or from effect being given to its provisions and no person who holds any Security over any asset of MCPS has enforced or given notice of its intention to enforce such Security.

**7.7 Commercial benefit**

It enters into this Deed in good faith and for the purposes of the promotion of the success of its business and has given due consideration to the terms and conditions of the documents evidencing the Secured Obligations and of this Deed and has satisfied itself that there are reasonable grounds for believing that by executing this Deed it will derive commercial benefit.

**7.8 Priority of Security**

The Security created by this Deed constitutes first priority Security over the assets which are expressed to be subject to such Security and those assets are not subject to any other Security.

**7.9 Centre of main interests**

For the purposes of the EC Regulation its COMI is situated in England and Wales

**7.10 Repeated representations**

Each of the representations and warranties set out in this Clause 7 (other than Clause 7.7 (*Commercial benefit*)) shall be deemed to be repeated on each day during the Security Period.

**8. UNDERTAKINGS**

Throughout the Security Period, MCPS undertakes to PRS the terms of the following provisions of this Clause 8.

**8.1 Perform**

It will at all times comply with the terms (express or implied) of this Deed.

**8.2 Observe laws**

It will not do or omit to do or allow anything to be done in relation to the Secured Assets which would infringe any laws affecting (whether directly or indirectly) the Secured Assets and will comply with all notices, orders, injunctions and mandatory proposals served on it, issued or made by any local or other authority or governmental agency, or by its landlords relating to any of the Secured Assets or its use of them, and will serve within any relevant time limit any counter-notice necessary or desirable to preserve the value of any such Secured Assets

**8.3 Effect registrations**

It will effect all registrations, make all filings or applications and pay all Taxes, rents, fees or dues necessary to keep in full force and effect, and where necessary to renew or extend, all the Secured Assets and MCPS's right to make full use and enjoy the full benefit of the Secured Assets.

**8.4 Proceedings**

At its own cost and expense, it will use its all reasonable endeavours to enforce, institute, continue or defend all proceedings affecting the Secured Assets, their state or condition or continued use or value so as to preserve to the fullest extent the value to PRS of the Security created by this Deed.

**8.5 Insurance**

In respect of its business, and such of the Secured Assets as are of an insurable nature, it will obtain, maintain and renew (all at its own expense) insurance, indemnity or similar cover with reputable, independent, United Kingdom incorporated insurance companies or underwriters, against those risks and to the extent as is usual for companies carrying on the same or substantially similar business, provided that (a) if required by PRS, in respect of all or any of the Insurances required by this Deed, it will procure and promptly produce to PRS evidence satisfactory to PRS that PRS is named as sole loss payee in respect of all claims under such Insurances and (b) it will promptly pay all premiums and other sums necessary to effect and maintain the Insurances required by this Deed and will, on demand, produce to PRS such Insurances and evidence that such premiums and other sums have been paid

**8.6 Maintain Intellectual Property Rights**

It will (a) observe and perform all covenants and stipulations from time to time affecting its Intellectual Property Rights or the way they are used or enjoyed, (b)

make all payments, carry out or seek all registrations, grants or renewals of its Intellectual Property Rights, or of any licences or other interests affecting its Intellectual Property Rights, (c) generally take all such steps as may be necessary to preserve, maintain and renew when necessary or desirable (and in any case promptly following a request by PRS for it to do so) all of its Intellectual Property Rights, present or future, and (d) not do (or fail to do) anything nor permit anything to be done, if that might infringe any Intellectual Property Rights owned or used by it or affect the existence or value of any such Intellectual Property Rights or its right or ability to use it.

#### **8.7 Access**

It will permit PRS and its professional advisers, agents and contractors and, where required by PRS, independent valuers free access at all reasonable times and on reasonable notice and for all reasonable purposes (including carrying out physical inspections, valuations and/or the preparation or making of inventories and/or schedules and/or other records or copies) (a) to the premises, assets, books, accounts and records of MCPS and (b) to meet and discuss matters with such senior employees as PRS may reasonably require, and will provide and will procure that any occupiers of such premises and such employees provide all reasonable assistance to PRS and such other persons in connection with the access obligations imposed by this Clause 8.7.

#### **8.8 Change of business**

It will procure that no substantial change is made to the general nature of its business from that carried on at the date of this Deed.

#### **8.9 Centre of main interests**

It will not move its COMI outside England and Wales.

#### **8.10 Power to remedy**

Subject to the terms of the Services Agreement, if MCPS fails to comply with any of the covenants and undertakings set out or referred to in Clauses 8.1 (*Perform*) to 8.10 (*Power to remedy*) it will allow (and irrevocably authorises) PRS and/or such persons as PRS nominates to take on behalf of MCPS such action (including the making of payments) as is necessary to protect any relevant assets against the consequences of such failure to comply and/or to ensure compliance with such covenants and undertakings.

#### **8.11 Indemnity**

It will indemnify PRS and will keep PRS indemnified against all reasonable costs, Taxes, losses and liabilities incurred by PRS as a result of any default by MCPS:

(i) in the payment of the Secured Sums and / or (ii) in the performance of any of the obligations expressed to be assumed by it in this Deed and in connection with the exercise by PRS under of its rights contained in Clause 8.10 (*Power to remedy*). All sums which are the subject of this indemnity will be payable by MCPS to PRS on demand.

## **8.12 General prohibition**

8.12.1 As well as complying with the specific prohibitions and restrictions in other Clauses, MCPS undertakes to PRS in each case so far as applicable to MCPS and to the Floating Charge Assets that it will not do anything that could:

8.12.1.1 reduce the value of all or any part of the Floating Charge Assets;

8.12.1.2 have an adverse effect on all or any part of the Floating Charge Assets; or

8.12.1.3 jeopardise PRS's position,

and it must not permit any other person to do so.

8.12.2 The prohibition in Clause 8.12.1 does not apply:

8.12.2.1 where the action is required or permitted by this Deed, and

8.12.2.2 where PRS gives its prior written consent.

## **8.13 Dealing with bank accounts and receivables**

8.13.1 In this Clause 8.13, the word "receivables" is used to refer to MCPS's book debts and other debts due to it (other than in respect of credit balances on bank accounts) and its rights and interest in guarantees and other security relating to those debts.

8.13.2 Unless Clause 8.13.3 applies, MCPS:

8.13.2.1 may operate its bank accounts in the ordinary course of its day-to-day business;

8.13.2.2 must realise and (if applicable) enforce payment in respect of its receivables in the ordinary course of its day-to-day business; and

8.13.2.3 may apply the proceeds of its receivables in the ordinary course of its day-to-day business.

8.13.3 This Clause 8.13.3 applies if the floating charge is crystallised in respect of MCPS's bank accounts or its receivables (Clauses 4.5 and 4.6 deal with crystallisation). With effect from the date of crystallisation, MCPS:

8.13.3.1 must realise and (if applicable) enforce payment in respect of its receivables only as agent of PRS;

8.13.3.2 must credit all money received by it in respect of its receivables to a bank account specified by PRS for this purpose (or arrange for debtors to make payment directly to such account); and

8.13.3.3 must not debit any money to that or any other bank account (except with PRS's prior written consent).

8.13.4 Both before and after crystallisation, MCPS must not deal with the receivables (or attempt to do so) in any way other than as provided by this Clause 8.13

## **9. PROTECTING PRS'S POSITION**

### **9.1 Power of Attorney and delegation**

9.1.1 MCPS appoints PRS as its attorney to do whatever MCPS is (or may be) required to do in order to perfect the Security created under this Deed. MCPS must ratify any action taken by PRS in its capacity as attorney

9.1.2 The power of attorney in Clause 9.1.1 is irrevocable and given by way of security. Therefore, the Powers of Attorney Act applies. This means that MCPS cannot revoke the power of attorney without PRS's consent and that it will not be revoked by MCPS's winding-up or dissolution.

### **9.2 PRS's calculations**

PRS's calculation of the amount payable by MCPS under this Deed at any time will be conclusive (unless it has made an obvious mistake).

## **10. PROVISIONS RELATING TO ENFORCEMENT**

### **10.1 When the security is enforceable**

For the purposes of all powers implied by the Law of Property Act 1925 or any other applicable legislation, the Secured Obligations shall be deemed to have become due and payable and this Deed will become immediately enforceable and the powers of PRS and any receiver will become exercisable on the date of this Deed, but, as between PRS and MCPS, the power of PRS to enforce the Security

created by this Deed shall be exercisable only upon the occurrence of an Event of Default and for so long as it is continuing (unless there has been a request from MCPS to PRS for the appointment of a receiver / administrator, in which case it will be exercisable at any time following the making of such request).

## **10.2 Powers exercisable**

10.2.1 At any time after an Event of Default has occurred and for so long as it is continuing, PRS may subject to the limitations set out in Schedule 6 of the Services Agreement:

10.2.1.1 take possession of the Floating Charge Assets; and/or

10.2.1.2 in its absolute discretion enforce all or any part of the Security created by this Deed in such other lawful manner as it thinks fit

## **10.3 Appointment of administrator**

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created under this Deed. This means that, subject strictly to:

10.3.1 the limitations set out in Schedule 6 of the Services Agreement, and

10.3.2 the occurrence of an Event of Default,

PRS may appoint an administrator over the assets of MCPS.

## **10.4 Appointment of receiver**

10.4.1 At any time after an Event of Default has occurred and for so long as it is continuing, PRS may, subject to the provisions of, and limitations within, Schedule 6 of the Services Schedule and . . . of the Sale and Purchase Agreement:

10.4.1.1 appoint any number of receivers in respect of the Floating Charge Assets;

10.4.1.2 appoint alternative or additional receivers in respect of the Floating Charge Assets; and

10.4.1.3 remove from office any receiver.

## **10.5 General provisions relating to receivers**

10.5.1 At any time after PRS's power of sale has become exercisable, PRS may, without further notice, (a) appoint one or more than one person to be Receiver in respect of the Secured Assets or any of them and, if



more than one person is appointed as Receiver, such appointees may act jointly and severally or individually, (b) take possession of the Secured Assets, and/or (c) in its absolute discretion enforce all or any part of the Security created by this Deed in such other lawful manner as it thinks fit. PRS may remove any person from appointment as Receiver and may appoint another person as Receiver. PRS may also appoint an additional Receiver.

10.5.2 Only PRS may fix the terms of each receiver's appointment. Section 109(6) of the Law of Property Act 1925 restricts the amount of a receiver's remuneration but that section does not apply to this Deed.

10.5.3 Each receiver will be MCPS's agent. MCPS must pay to each receiver his reasonable remuneration. Only MCPS will be responsible for each receiver's acts and defaults. Save to the extent that it has been negligent, PRS will have no liability in respect of the acts or defaults of any receiver or otherwise in relation to the appointment of any receiver (except as may be agreed between PRS and any receiver).

10.5.4 MCPS must indemnify each receiver on demand in respect of all reasonable expenses, losses and liabilities incurred by him in connection with this Deed.

10.5.5 MCPS appoints each receiver as its attorney to do whatever MCPS is (or may be) required to do under this Deed. Each receiver, in his capacity as attorney, may act independently of each other attorney appointed by MCPS and need not act jointly with them. MCPS must ratify any action taken by a receiver in his capacity as an attorney.

10.5.6 Each receiver may delegate to any other person the exercise of his rights and powers in connection with this Deed, including his rights and powers as MCPS's attorney.

## **10.6 Powers of receivers**

In connection with the enforcement of the charge created by this Deed, each receiver may do whatever he considers appropriate in relation to MCPS and its business and the Floating Charge Assets. In this respect, each receiver has all the powers conferred on receivers by the Law of Property Act 1925 (even if he is not appointed under the Law of Property Act 1925) and all the powers conferred on administrative receivers by the Insolvency Act 1986 (even though he is not an administrative receiver).

## **11. PAYMENTS, ACCOUNTS AND APPLICATION OF PROCEEDS**

### **11.1 Right of appropriation**

Subject to the provisions of Clause 11.5 (*Recoveries by Receiver*), PRS is entitled to appropriate money and/or assets to the Secured Obligations in such manner or order as it thinks fit and any such appropriation shall override any appropriation by MCPS.

**11.2 No set-off by MCPS**

MCPS shall not exercise any right of set-off or counterclaim which it might have in respect of any payment due to PRS under this Deed

**11.3 PRS's rights of set-off**

PRS may, at any time after this Deed has become enforceable, and without notice (a) combine or consolidate all or any of MCPS's then existing accounts with, and liabilities to, PRS, (b) set-off or transfer any sums standing to the credit of any one or more of such accounts, and/or (c) set-off any other obligation owed by PRS to MCPS (whether or not matured at such time), in or towards satisfaction of any of the Secured Obligations; and if any amount is in a different currency from the amount against which it is to be set-off, PRS may convert either amount (or both) at any reasonable time and at any reasonable rate. PRS shall notify MCPS in writing that any such transaction has taken place.

**11.4 Calculations**

PRS's calculation of any amount payable by MCPS under this Deed at any time will be conclusive (unless it has made an obvious mistake)

**11.5 Recoveries by Receiver**

The proceeds arising from the exercise of the powers of the Receiver will, subject to any claims ranking in priority to the Secured Obligations, be applied by or at the direction of the Receiver in or towards discharging or satisfying the following amounts in the following order of priority: (a) the costs, charges and expenses of and incidental to the Receiver's appointment and the payment of his remuneration; (b) any costs, charges, expenses and liabilities of or incurred by any Enforcement Party in the exercise of any of its powers including all rents, Taxes, rates and outgoings whatever affecting the Secured Assets, all premiums on Insurances properly payable under this Deed or any applicable legislation, the cost of executing necessary or proper repairs to the Secured Assets, and the payment of annual sums or other payments, and the interest on all principal sums, having priority to the Secured Obligations, (c) the remaining Secured Obligations, in accordance with the provisions of the Services Agreement; and (d) the claims of those persons entitled to any surplus

**11.6 Insurances**

All Insurance Proceeds shall be paid to PRS (or if not paid by the insurers directly to PRS shall be held on trust for PRS) and shall (subject as otherwise provided in the Services Agreement) be applied in replacing or reinstating the property or assets destroyed, damaged or lost (any deficiency being made good by MCPS) or (if an Event of Default has arisen which is continuing) as PRS otherwise directs.

**11.7 Currency of payment**

No payment to PRS (whether under any judgment or court order or otherwise) shall discharge the obligation or liability of MCPS in respect of which it was made unless and until PRS shall have received payment in full in the currency in which the obligation or liability was incurred. To the extent that the amount of any such payment shall, on actual conversion into such currency, fall short of such obligation or liability expressed in that currency, PRS shall have a further separate cause of action against MCPS and shall be entitled to enforce the Security created by this Deed to recover the amount of the shortfall

#### **11.8 Currency conversion**

All money received or held by PRS or any Receiver under this Deed may be converted into such other currency as PRS considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Obligations.

#### **11.9 Miscellaneous provisions relating to enforcement**

11.9.1 Any right or power exercisable by a receiver appointed for the purposes of this Deed may be exercised by PRS at any time after this Deed has become enforceable in accordance with Clause 10.1 (*When security is enforceable*), whether or not it has appointed a receiver.

11.9.2 Sections 99 and 100 of the Law of Property Act 1925 contain provisions as to the grant and surrender of leases. To the extent that those sections would otherwise restrict PRS's (or any receiver's) exercise of its (or his) powers or rights in respect of the Floating Charge Assets, they do not apply

11 9 3 If PRS (or any receiver) enters into possession of any part of the Floating Charge Assets, it (or he) will not be liable to account as mortgagee in possession.

11 9.4 PRS and each receiver will not be liable to each other (except as may be agreed between them), to MCPS or to any other person for

11.9.4 1 any expense, loss or liability relating to the enforcement of any mortgages or charges created under this Deed or to the realisation of any Floating Charge Assets; or

11 9.4.2 any expense, loss or liability arising in any other way in connection with this Deed

However, this exclusion of liability does not apply if the expense, loss or liability arises from the negligence, fraud or wilful misconduct of PRS or (as applicable) the relevant receiver

11.9 5 Any person dealing with PRS or any receiver (or the agents or delegates of any of them) may assume that:

- 11.9.5.1 the Secured Obligations have become payable;
- 11.9.5.2 a valid demand has been served upon MCPS;
- 11.9.5.3 an Event of Default has occurred and is continuing;
- 11.9.5.4 any power being exercised has arisen and become exercisable and is being properly exercised, and
- 11.9.5.5 any money received by PRS or any receiver will be applied in accordance with law and with the terms of this Deed.

## **12. PROVISIONS RELATING TO THIS DEED**

- 12.1 If PRS (or a receiver) fails to exercise any right or remedy under this Deed or delays its exercise of any right or remedy, this does not mean that it (or he) waives that right or remedy
- 12.2 If PRS (or a receiver) exercises a right or remedy once, this does not mean that it (or he) cannot do so again.
- 12.3 If PRS (or a receiver) partly exercises a right or remedy, this does not mean that it (or he) cannot exercise that right or remedy again
- 12.4 The rights and remedies provided in this Deed are in addition to (not instead of) rights or remedies under the law
- 12.5 PRS may at any time assign or otherwise deal with its rights under this Deed.
- 12.6 If the Parties execute this Deed in separate counterparts, this Deed will take effect as if they had all executed a single copy.
- 12.7 This Deed is intended to be a deed even if either Party's execution is not in accordance with the formalities required for the execution of deeds
- 12.8 If, at any time, any provision of this Deed is or is found to have been illegal, invalid or unenforceable in any respect under the law of any jurisdiction, this does not affect the legality, validity or enforceability of the other provisions of this Deed, nor the legality, validity or enforceability of the affected provision under the law of any other jurisdiction.
- 12.9 This Deed is in addition to, and does not operate so as in any way to prejudice or affect, or be prejudiced or affected by, any other Security or guarantee which PRS may now or at any time after the date of this Deed hold for or in respect of the Secured Obligations.
- 12.10 This Deed and every counterpart is the property of PRS

## **13. COMMUNICATIONS**

### **13.1 Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed are specified in the Services Agreement.

### **13.2 Delivery**

13.2.1 Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective (a) if by way of fax, when received in legible form, or (b) if by way of letter, when it has been left at the relevant address, or 5 Business Days after being deposited in the post, postage prepaid, in an envelope addressed to it at that address, and, in any case, if a particular department or officer is specified as part of its address details provided under Clause 13.1 (*Addresses*), if addressed to that department or officer.

13.2.2 Any communication or document to be made or delivered to PRS will be effective only when actually received by PRS and then only if it is expressly marked for the attention of the department or officer identified in accordance with Clause 13.1 (*Addresses*).

### **13.3 Notification of address and fax number**

Promptly upon receipt of notification of an address and fax number or change of address or fax number pursuant to Clause 13.1 (*Addresses*) or changing its own address or fax number, PRS shall notify MCPS.

### **13.4 Communications in writing**

Any communication to be made under or in connection with the Security Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter

### **13.5 English language**

Any notice given under or in connection with any Security Document must be in English.

## **14. GOVERNING LAW**

14.1 This Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

## **15. JURISDICTION**

15.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence,

validity or termination of this Deed) and any non-contractual obligations arising out of or in connection with it (a "**Dispute**"). The Parties agree that the courts of England are the most appropriate and convenient courts to settle any Dispute and accordingly no Party will argue to the contrary.

**THIS DOCUMENT** is executed as a deed and delivered on the date stated at the beginning of this Deed


Executed as a deed by  
**PERFORMING RIGHT SOCIETY LIMITED**  
acting by  
**GUY FLETCHER**

)  
)   
)  
)

Director

in the presence of


Name of witness: **HADLEIGH GRAVEL**

Signature of witness: 

Address: **29-33 BERNERS STREET, LONDON W1T 3AB.**

Occupation: **SOLICITOR.**


Executed as a deed by  
**MECHANICAL-COPYRIGHT PROTECTION  
SOCIETY LIMITED**  
acting by  
**PETER CORNISH**

)  
)   
)  
)

Director

in the presence of

Name of witness **HADLEIGH GRAVEL**

Signature of witness: 

Address. **AS ABOVE.**

Occupation. **SOLICITOR.**

## **SCHEDULE 1**

### **Events of Default**

Each of the events and circumstances set out in this Schedule 1 is an Event of Default.

1. MCPS fails to pay the Secured Obligations when they fall due;
2. there is a material breach by MCPS of the representations and warranties at clause 7 (*Representations and warranties*) or the undertakings at clause 8 (*Undertakings*) and, if capable of cure, such breach has not been cured within 2 Business Days;
3. MCPS fails to comply with, or (save in relation to any change in law described in paragraph 6.14(b) of Schedule 6 of the Services agreement) it becomes unlawful to any extent for MCPS to perform, any of its obligations under this Deed or those set out paragraph 6.1 of Schedule 6 of the Service Agreement;
4. any person other than PRS rescinds or repudiates this Deed or purports to do so or shows an intention to do so;
5. any person takes possession of or exercises or attempts to exercise any power of sale in relation to the Secured Assets;
6. there is an event of default (however such event is described) under any other Security over or affecting the Secured Assets or any other assets of MCPS or steps are taken to enforce any such Security,
7. MCPS is unable or admits inability to pay its debts as they fall due (or is deemed or declared to be unable to pay its debts under any applicable law);
8. in respect of MCPS, any of the following occurs or any person takes or threatens to take any steps which in the reasonable opinion of PRS might give rise to:
  - 8.1 the appointment of an administrator, liquidator, administrative receiver, receiver or receiver and manager or any similar officer in respect of it or any of its assets, or, in any case, an analogous procedure in any jurisdiction (but this paragraph 8 does not apply to any winding-up petition which is proved to the satisfaction of PRS to be an abuse of process or to have no real prospect of success and which is, in any event, discharged within ten days of its presentation and before it is advertised); and/or
  - 8.2 MCPS asks PRS to appoint a Receiver.