

134178/13

In accordance with  
Sections 859A and  
859J of the Companies  
Act 2006

# 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 for**  
You may not use this form to  
register a charge where there is no  
instrument Use form MR08

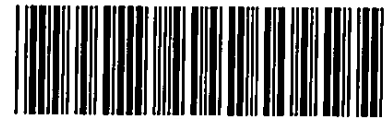
For further information, please  
refer to our guidance at  
[www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

This form **must be delivered to the Registrar for registration within 21 days** beginning with the day after the date of creation of the charge. If 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. This will be scanned and placed on the public record. **Do not send the original.**

WEDNESDAY



\*A4CNNK20\*

A16

29/07/2015

#130

COMPANIES HOUSE

### 1 Company details

Company number 0 0 9 4 1 5 9 9 ✓

Company name in full L J CREATE LIMITED ✓

*0228*

For official use

→ Filing 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 24 07 2015 ✓

### 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 INFINITAS LEARNING UK LIMITED ✓

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

MR01

Particulars of a charge

<b>4</b>	<b>Brief description</b>	
Brief description	<p>Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument</p> <p>The Debenture creates a first fixed charge over all present and future freehold and leasehold properties of the Company, all present and future equipment including all plant and machinery, all intellectual property For more details please refer to the instrument</p>	<p>Please submit only a short description If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument"</p> <p>Please limit the description to the available space</p>
<b>5</b>	<b>Other charge or fixed security</b>	
	<p>Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	
<b>6</b>	<b>Floating charge</b>	
	<p>Is the instrument expressed to contain a floating charge? Please tick the appropriate box</p> <p><input checked="" type="checkbox"/> Yes Continue</p> <p><input type="checkbox"/> No Go to <b>Section 7</b></p> <p>Is the floating charge expressed to cover all the property and undertaking of the company?</p> <p><input checked="" type="checkbox"/> Yes</p>	
<b>7</b>	<b>Negative Pledge</b>	
	<p>Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	
<b>8</b>	<b>Trustee statement <sup>1</sup></b>	
	<p>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</p> <p><input type="checkbox"/></p>	<p><sup>1</sup> This statement may be filed after the registration of the charge (use form MR06)</p>
<b>9</b>	<b>Signature</b>	
Signature	<p>Please sign the form here</p> <p>Signature </p> <p>This form must be signed by a person with an interest in the charge</p>	

# MR01

## Particulars of a charge



### Presenter information

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name

Company name **HOWES PERCIVAL LLP**

Address **THE GUILDYARD**

**51 COLEGATE**

Post town **NORWICH**

County/Region **NORFOLK**

Postcode 

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Country **UK**

DX **5280 NORWICH**

Telephone **01603 762103**



### 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)**



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

Company number: 941599

Charge code 0094 1599 0008

The Registrar of Companies for England and Wales hereby certifies that a charge dated 24th July 2015 and created by L.J CREATE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 29th July 2015

*Dx*

Given at Companies House, Cardiff on 4th August 2015



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

DATED

24 July

2015

**DEBENTURE**

between

**L J CREATE LIMITED**

and

**INFINITAS LEARNING UK LIMITED**

WE CERTIFY THIS TO BE A  
TRUE COPY OF THE ORIGINAL

SIGNED: *Henres Percival*

DATED: 28/07/15.

HOWES PERCIVAL LLP  
51 COLEGATE NORWICH NR3 1DD



**HOWES  
PERCIVAL** LLP  
SOLICITORS

CAMBRIDGE • LEICESTER • MANCHESTER •  
MILTON KEYNES • NORTHAMPTON • NORWICH

THIS DEED is dated

24 July

2015

## **PARTIES**

- (1) **L J CREATE LIMITED** incorporated and registered in England and Wales with company number 00941599 whose registered office is at 5-7 Francis Way, Bowthorpe Employment Area, Norwich, NR5 9JA (**Borrower**)
- (2) **INFINITAS LEARNING UK LIMITED** incorporated and registered in England and Wales with company number 06198281 whose registered office is at 5-7 Francis Way, Bowthorpe Employment Area, Norwich, NR5 9JA (**Lender**)

## **BACKGROUND**

- (A) The Lender has agreed, pursuant to the Facility Agreements, to provide the Borrower with loan facilities on a secured basis
- (B) Under this deed, the Borrower provides security to the Lender for the loan facilities made available under the Facility Agreements

## **AGREED TERMS**

### **1 DEFINITIONS AND INTERPRETATION**

#### **1.1 Definitions**

Terms defined in the Facility Agreements shall, unless otherwise defined in this deed, have the same meaning in this deed. In addition, the following definitions apply in this deed:

**Administrator:** an administrator appointed to manage the affairs, business and property of the Borrower pursuant to clause 12.6

**Book Debts:** all present and future book and other debts, and monetary claims due or owing to the Borrower, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by the Borrower in relation to any of them

**Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business

**Delegate:** any person appointed by the Lender or any Receiver pursuant to clause 17 and any person appointed as attorney of the Lender, Receiver or Delegate

**Designated Account:** any account of the Borrower nominated by the Lender as a designated account for the purposes of this deed

**Environment:** the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media

**Environmental Law:** all applicable laws, statutes, regulations, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes having legal effect in so far as they relate to or apply to the Environment

**Equipment:** all present and future equipment, plant, machinery, tools, vehicles, furniture, fittings, installations and apparatus and other tangible moveable property (other than inventory and consumables) for the time being owned by the Borrower, including any part of it and all spare parts, replacements, modifications and additions

**Event of Default:** has the meaning given to that expression in each of the Facility Agreements

**Facility Agreements:** the facility agreements dated 24 July 2015 between the Borrower and the Lender and dated 24 July 2015 between the Borrower, LJ Create Inc and the Lender for the provision of the loan facilities secured by this deed

**Financial Collateral:** shall have the meaning given to that expression in the Financial Collateral Regulations

**Financial Collateral Regulations:** the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003/3226)

**Insurance Policy:** each contract and policy of insurance effected or maintained by the Borrower from time to time in respect of its assets or business (including, without limitation, any contract or policy of insurance relating to the Properties or the Equipment)

**Intellectual Property:** the Borrower's present and future rights in or to any and all patents, utility models, rights to inventions, copyright and neighbouring and related rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world

**Investments:** all present and future certificated stocks, shares, loan capital, securities, bonds and investments (whether or not marketable) for the time being owned (at law or in equity) by the Borrower, including any

- (a) dividend, interest or other distribution paid or payable in relation to any of the Investments, and
- (b) right, money, shares or property accruing, offered or issued at any time in relation to any of the Investments by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise

**Legal Reservations:** means the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors

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**LPA 1925:** Law of Property Act 1925

**Properties:** all freehold and leasehold properties (whether registered or unregistered) and all commonhold properties, now or in the future (and from time to time) owned by the Borrower, or in which the Borrower holds an interest, and **Property** means any of them

**Receiver:** a receiver, receiver and manager or administrative receiver of any or all of the Secured Assets appointed by the Lender under clause 15

**Secured Assets:** all the assets, property and undertaking for the time being subject to the Security created by, or pursuant to, this deed.

**Secured Liabilities:** all present and future monies, obligations and liabilities of the Borrower to the Lender, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with the Facility Agreements or this deed (including, without limitation, those arising under clause 29 3(b)), together with all interest (including, without limitation, default interest) accruing in respect of those monies, obligations or liabilities

**Security Financial Collateral Arrangement:** shall have the meaning given to that expression in the Financial Collateral Regulations

**Security:** any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect

**Security Period:** the period starting on the date of this deed and ending on the date on which the Lender is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding or if so determined in accordance with the Facility Agreements

## 1 2 Interpretation

In this deed

- (a) clause headings shall not affect the interpretation of this deed,
- (b) a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality) and that person's personal representatives, successors, permitted assigns and permitted transferees,
- (c) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular and unless the context otherwise requires, a reference to one gender shall include a reference to the other genders,
- (d) a reference to a party shall include that party's successors, permitted assigns and permitted transferees,



- (e) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision,
- (f) an obligation on a party not to do something includes an obligation not to, so far as it is lawfully able, allow that thing to be done,
- (g) a reference to **this deed** (or any provision of it) or to any other agreement or document referred to in this deed is a reference to this deed, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this deed) from time to time,
- (h) any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms,
- (i) a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and amended shall be construed accordingly),
- (j) a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description,
- (k) a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution,
- (l) a reference to **continuing** in relation to an Event of Default means an Event of Default that has not been remedied or waived,
- (m) a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it

### 1 3 **Nature of security over real property**

A reference in this deed to a charge or mortgage of or over any Property includes

- (a) all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) that are situated on or form part of that Property at any time,
- (b) the proceeds of the sale of any part of that Property and any other monies paid or payable in respect of or in connection with that Property,
- (c) the benefit of any covenants for title given, or entered into, by any predecessor in title of the Borrower in respect of that Property, and any monies paid or payable in respect of those covenants, and
- (d) all rights under any licence, agreement for sale or agreement for lease in respect of that Property

### 1 4 **Law of Property (Miscellaneous Provisions) Act 1989**

For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Facility Agreements and of any side letters between any parties in relation to the Facility Agreements are incorporated into this deed

**1 5 Perpetuity period**

If the rule against perpetuities applies to any trust created by this deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009)

**2. COVENANT TO PAY**

The Borrower shall, on demand, pay to the Lender and discharge the Secured Liabilities when they become due

**3. GRANT OF SECURITY**

**3 1 Fixed charges**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lender by way of first fixed charge

- (a) all Properties acquired by the Borrower in the future,
- (b) all present and future interests of the Borrower not effectively mortgaged or charged under the preceding provisions of this clause 3 in, or over, freehold or leasehold property,
- (c) all present and future rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to each Property,
- (d) all licences, consents and authorisations (statutory or otherwise) held or required in connection with the Borrower's business or the use of any Secured Asset, and all rights in connection with them,
- (e) all its present and future goodwill,
- (f) all its uncalled capital,
- (g) all the Equipment,
- (h) all the Intellectual Property,
- (i) all the Investments, and
- (j) all its rights in respect of each Insurance Policy, including all claims, the proceeds of all claims and all returns of premium in connection with each Insurance Policy, to the extent not effectively assigned under clause 3 3

**3 2 Floating Charge**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lender, by way of first floating charge, all the undertaking,

property, assets and rights of the Borrower at any time not effectively mortgaged, charged or assigned pursuant to clauses 3 1 and 3 3

### **3 3 Assignment**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee assigns to the Lender absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities, all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premium in connection with each Insurance Policy

### **3 4 Qualifying floating charge**

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 3 2

### **3 5 Automatic crystallisation of floating charge**

The floating charge created by clause 3 2 shall automatically and immediately (without notice) convert into a fixed charge over the assets subject to that floating charge if:

- (a) the Borrower
  - (i) creates, or attempts to create, without the prior written consent of the Lender, a Security or a trust in favour of another person over all or any part of the Secured Assets (except as expressly permitted by the terms of this deed or the Facility Agreements), or
  - (ii) without the prior written consent of the Lender, disposes, or attempts to dispose of, all or a substantial part of the Secured Assets (other than Secured Assets that are only subject to the floating charge while it remains uncrystallised) except to dispose of obsolete or unused Equipment or to replace Equipment with new or improved models or substitutes), or
- (b) any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Secured Assets, or
- (c) a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Borrower

### **3 6 Crystallisation of floating charge by notice**

The Lender may, in its sole discretion, at any time when an Event of Default has occurred and is continuing, and by written notice to the Borrower, convert the floating charge created under this deed into a fixed charge as regards any part of the Secured Assets specified by the Lender in that notice

### **3 7 Assets acquired after any floating charge has crystallised**

Any asset acquired by the Borrower after any crystallisation of the floating charge created under this deed that, but for that crystallisation, would be subject to a floating charge under this deed, shall

(unless the Lender confirms otherwise to the Borrower in writing) be charged to the Lender by way of first fixed charge

#### **4. LIABILITY OF THE BORROWER**

##### **4.1 Liability not discharged**

The Borrower's liability under this deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by

- (a) any security, guarantee, indemnity, remedy or other right held by, or available to, the Lender that is, or becomes, wholly or partially illegal, void or unenforceable on any ground,
- (b) the Lender renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person, or
- (c) any other act or omission that, but for this clause 4.1, might have discharged, or otherwise prejudiced or affected, the liability of the Borrower

##### **4.2 Immediate recourse**

The Borrower waives any right it may have to require the Lender to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this deed against the Borrower

#### **5. REPRESENTATIONS AND WARRANTIES**

5.1 The Borrower makes the representations and warranties set out in this clause 5 to the Lender

5.2 The Borrower is the sole legal and beneficial owner of the Secured Assets

5.3 The Secured Assets are free from any Security other than the Security created by this deed or except as expressly permitted by the terms of this deed or the Facility Agreements

5.4 The Borrower has not received, or acknowledged notice of, any adverse claim by any person in respect of the Secured Assets or any interest in them

5.5 There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatsoever that materially and adversely affect the Secured Assets

5.6 There is no breach of any law or regulation that materially and adversely affects the Secured Assets

5.7 No facility necessary for the enjoyment and use of the Secured Assets is subject to terms entitling any person to terminate or curtail its use to any material extent

- 5 8 Nothing has arisen, has been created or is subsisting, that would be an overriding interest in any Property
- 5 9 Subject to the Legal Reservations and subject to registration under s859A of the Companies Act 2006, no Security expressed to be created under this deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Borrower or otherwise
- 5 10 There is no prohibition on assignment in any Insurance Policy and the entry into this deed by the Borrower does not, and will not, constitute a breach of any Insurance Policy or any other agreement or instrument binding on the Borrower or its assets
- 5 11 The Borrower has, at all times, complied in all material respects with all applicable Environmental Law
- 5 12 Subject to the Legal Reservations and subject to registration under s859A of the Companies Act 2006, this deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Borrower, and is and will continue to be effective security over all and every part of the Secured Assets in accordance with its terms
- 5 13 The Investments are fully paid and are not subject to any option to purchase or similar rights
- 5 14 No constitutional document of an issuer of an Investment, nor any other agreement
- (a) restricts or inhibits any transfer of the Investments on creation or enforcement of the security constituted by this deed, or
  - (b) contains any rights of pre-emption in relation to the Investments
- 5 15 The representations and warranties set out in clause 5 2 to clause 5 14 are made by the Borrower on the date of this deed

## **6. GENERAL COVENANTS**

### **6 1 Negative pledge and disposal restrictions**

The Borrower shall not at any time, except with the prior written consent of the Lender

- (a) create, purport to create or permit to subsist any Security on, or in relation to, any Secured Asset other than any Security created by this deed or permitted under the terms of the Facility Agreements,
- (b) sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Secured Assets except, in the ordinary course of business, whilst subject to an uncrystallised floating charge or except to effect necessary repairs to Equipment or to replace Equipment with new or improved models or substitutes), or

- (c) create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party

## **6.2 Preservation of Secured Assets**

The Borrower shall not do, or (so far as it is lawfully able) permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Lender, or materially diminish the value of any of the Secured Assets or the effectiveness of the security created by this deed

## **6.3 Compliance with laws and regulations**

- (a) The Borrower shall not, without the Lender's prior written consent, use or (so far as it is lawfully able) permit the Secured Assets to be used in any way contrary to law
- (b) The Borrower shall
  - (i) comply in all material respects with the requirements of any material law or regulation relating to or affecting the Secured Assets or the use of it or any part of them,
  - (ii) obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Secured Assets or their use or that are necessary to preserve, maintain or renew any Secured Asset, and
  - (iii) promptly effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Secured Assets

## **6.4 Enforcement of rights**

The Borrower shall use its best endeavours to enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets which the Lender may reasonably require from time to time

## **6.5 Notice of misrepresentation and breaches**

The Borrower shall, promptly on becoming aware of any of the same, give the Lender notice in writing of

- (a) any representation or warranty set out in this deed that is incorrect or misleading in any material respect when made, and
- (b) any breach of any covenant set out in this deed

## **6.6 Title documents**

The Borrower shall, as so required by the Lender, deposit with the Lender and the Lender shall, for the duration of this deed be entitled to hold

- (a) all deeds and documents of title relating to the Secured Assets that are in the possession or control of the Borrower (and if these are not within the possession or control of the Borrower, the Borrower undertakes to obtain possession of all these deeds and documents of title),
- (b) all Insurance Policies and any other insurance policies relating to any of the Secured Assets that the Borrower is entitled to possess,
- (c) all deeds and documents of title (if any) relating to the Book Debts as the Lender may specify from time to time

## **6 7 Insurance**

- (a) The Borrower shall insure and keep insured the Secured Assets against
  - (i) risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Borrower, and
  - (ii) any other risk, perils and contingencies as the Lender may reasonably require

Any such insurance must be with an insurance company or underwriters, and on such terms, as are reasonably acceptable to the Lender, and for such amounts as are carried generally by the reasonably prudent persons carrying on the same class of business the Borrower having regards to the value of the relevant Secured Assets

- (b) The Borrower shall, if requested by the Lender, produce to the Lender each policy, certificate or cover note relating to the insurance required by clause 6 7(a)
- (c) The Borrower shall, if requested by the Lender, procure that a note of the Lender's interest is endorsed upon each insurance policy maintained by it or any person on its behalf in accordance with clause 6 7(a) and that the terms of each such insurance policy require the insurer not to invalidate the policy as against the Lender by reason of the act or default of any other joint or named insured and not to cancel it without giving at least 30 days' prior written notice to the Lender

## **6 8 Insurance premiums**

The Borrower shall

- (a) promptly pay all premiums in respect of each insurance policy maintained by it in accordance with clause 6 7(a) and do all other things necessary to keep that policy in full force and effect, and
- (b) (if the Lender so requires) produce to, or deposit with, the Lender the receipts for all premiums and other payments necessary for effecting and keeping up each insurance policy maintained by it in accordance with clause 6 7(a)

## **6 9 No invalidation of insurance**

The Borrower shall not do or omit to do, or (so far as it is lawfully able) permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any insurance policy maintained by it in accordance with clause 6 7(a)

**6 10 Proceeds of insurance policies**

All monies received or receivable by the Borrower under any insurance policy maintained by it in accordance with clause 6 7(a) (including all monies received or receivable by it under any Insurance Policy) when an Event of Default has occurred and is continuing, shall

- (a) immediately be paid to the Lender,
- (b) if they are not paid directly to the Lender by the insurers, be held by the Borrower as trustee of the same for the benefit of the Lender (and the Borrower shall account for them to the Lender), and
- (c) at the option of the Lender, be applied in making good or recouping expenditure in respect of the loss or damage for which those monies are received or in, or towards, discharge or reduction of the Secured Liabilities

**6 11 Information**

The Borrower shall

- (a) give the Lender such information concerning the location, condition, use and operation of the Secured Assets as the Lender may reasonably require,
- (b) permit any persons designated by the Lender and any Receiver to enter on its premises and inspect and examine any Secured Asset, and the records relating to that Secured Asset, at all reasonable times and on reasonable prior notice, and
- (c) promptly notify the Lender in writing of any action, claim or demand made by or against it in connection with any Secured Asset or of any fact, matter or circumstance which will, with the passage of time, give rise to such an action, claim or demand, together with, in each case, the Borrower's proposals for settling, liquidating, compounding or contesting any such action, claim or demand and shall, subject to the Lender's prior approval, implement those proposals at its own expense

**6 12 Payment of outgoings**

The Borrower shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Secured Assets and, on demand, produce evidence of payment to the Lender

**7. PROPERTY COVENANTS**

**7 1 Maintenance**



Save where the Borrower has a leasehold interest only and such obligations are the responsibility of a landlord, the Borrower shall keep all buildings and all fixtures on each Property in good and substantial repair and condition

## **7 2 Preservation of Property, fixtures and Equipment**

The Borrower shall not, without the prior written consent of the Lender

- (a) pull down or remove the whole, or any part of, any building forming part of any Property or permit the same to occur;
- (b) make or so far as it is lawfully able permit any material alterations to any Property, or sever or remove, or permit to be severed or removed, any of its fixtures, or
- (c) remove or make any material alterations to any of the Equipment belonging to, or in use by, the Borrower on any Property (except to effect necessary repairs or replace them with new or improved models or substitutes)

## **7 3 Planning information**

The Borrower shall

- (a) give full particulars to the Lender of any notice, order, direction, designation, resolution or proposal given or made by any planning authority or other public body or authority (**Planning Notice**) that specifically applies to any Property, or to the locality in which it is situated, within seven days after becoming aware of the relevant Planning Notice, and
- (b) at its own expense, immediately on request by the Lender, and at the cost of the Borrower, take all reasonable and necessary steps to comply with any Planning Notice, and make, or join with the Lender in making, any objections or representations in respect of that Planning Notice that the Lender may desire

## **7 4 Compliance with covenants and payment of rent**

The Borrower shall

- (a) observe and perform all covenants, stipulations and conditions to which each Property, or the use of it, is or may be subjected, and (if the Lender so requires) produce evidence sufficient to satisfy the Lender that those covenants, stipulations and conditions have been observed and performed,
- (b) diligently enforce all covenants, stipulations and conditions benefiting each Property and shall not (and shall not agree to) waive, release or vary any of the same, and
- (c) (without prejudice to the generality of the foregoing) where a Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time, and perform and observe all the tenant's covenants and conditions

## **7 5 Payment of rent and outgoings**

The Borrower shall

- (a) where a Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time, and
- (b) pay (or procure payment of the same) when due all charges, rates, taxes, duties, assessments and other outgoings relating to or imposed on each Property or on its occupier

#### **7 6 Maintenance of interests in Properties**

The Borrower shall not, without the prior written consent of the Lender

- (a) grant, or agree to grant, any licence or tenancy affecting the whole or any part of any Property, or exercise, or agree to exercise, the statutory powers of leasing or of accepting surrenders under sections 99 or 100 of the Law of Property Act 1925, or
- (b) in any other way dispose of, surrender or create, or agree to dispose of surrender or create, any legal or equitable estate or interest in the whole or any part of any Property

#### **7 7 Registration restrictions**

If the title to any Property is not registered at the Land Registry, the Borrower shall procure that no person (other than itself) shall be registered under the Land Registration Acts 1925 to 2002 as proprietor of all or any part of any Property without the prior written consent of the Lender. The Borrower shall be liable for the costs and expenses of the Lender in lodging cautions against the registration of the title to the whole or any part of any Property from time to time.

#### **7 8 Development restrictions**

The Borrower shall not, without the prior written consent of the Lender

- (a) make or, insofar as it is able, permit others to make any application for planning permission or development consent in respect of the Property, or
- (b) carry out, or permit (so far as it is lawfully able), or suffer to be carried out on any Property any development as defined in the Town and Country Planning Act 1990 and the Planning Act 2008, or change or permit (so far as it is lawfully able) or suffer to be changed the use of any Property

#### **7 9 Environment**

The Borrower shall.

- (a) comply with all the requirements of Environmental Law both in the conduct of its general business and in the management, possession or occupation of each Property, and
- (b) obtain and comply with all authorisations, permits and other types of licences necessary under Environmental Law.

#### **7 10 No restrictive obligations**

The Borrower shall not, without the prior written consent of the Lender, enter into any onerous or restrictive obligations affecting the whole or any part of any Property, or create or permit (so far as it is lawfully able) to arise any overriding interest, easement or right whatever in or over the whole or any part of any Property

**7 11 Proprietary rights**

The Borrower shall procure that no person shall become entitled to assert any proprietary or other like right or interest over the whole or any part of any Property without the prior written consent of the Lender

**7 12 Inspection**

At any time when an Event of Default has occurred and is continuing, the Borrower shall permit the Lender, any Receiver and any person appointed by either of them to enter on and inspect any Property on reasonable prior notice

**7 13 Property information**

The Borrower shall inform the Lender promptly of any acquisition by the Borrower of, or contract made by the Borrower to acquire, any freehold, leasehold or other interest in any property

**7 14 VAT option to tax**

The Borrower shall not, without the prior written consent of the Lender.

- (a) exercise any VAT option to tax in relation to any Property; or
- (b) revoke any VAT option to tax exercised, and disclosed to the Lender, before the date of this deed

**7 15 Registration at the Land Registry**

The Borrower consents to an application being made by the Lender to the Land Registrar for the following restriction in Form P to be registered against its title to each Property

"No disposition of the registered estate by the proprietor of the registered estate [or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction] is to be registered without a written consent signed by the proprietor for the time being of the charge dated [DATE] in favour of [NAME OF PARTY] referred to in the charges register [or [their conveyancer or specify appropriate details]] "

**8. INVESTMENTS COVENANTS**

**8 1 Deposit of title documents**

- (a) The Borrower shall on the request of the Lender
  - (i) deposit with the Lender, or as the Lender may direct, all stock or share certificates and other documents of title or evidence of ownership relating to any Investments owned by the Borrower at that time, and

- (ii) on the purchase or acquisition by it of Investments after the date of this deed, deposit with the Lender, or as the Lender may direct, all stock or share certificates and other documents of title or evidence of ownership relating to those Investments
- (b) At the same time as depositing documents with the Lender, or as the Lender may direct, in accordance with clause 8 1(a), the Borrower shall also deposit with the Lender, or as the Lender may direct
  - (i) all stock transfer forms relating to the relevant Investments duly completed and executed by or on behalf of the Borrower, but with the name of the transferee, the consideration and the date left blank, and
  - (ii) any other documents (in each case duly completed and executed by or on behalf of the Borrower) that the Lender may request to enable it or any of its nominees, or any purchaser or transferee, to be registered as the owner of, or otherwise obtain a legal title to, or to perfect its security interest in any of the relevant Investments,

so that the Lender may, at any time when an Event of Default has occurred and is continuing, complete and present those stock transfer forms and other documents to the issuer of the Investments for registration

## **8 2 Additional registration obligations**

The Borrower shall

- (a) obtain all consents, waivers, approvals and permissions that are necessary, under the articles of association (or otherwise) of any of its subsidiaries from time to time, for the transfer of its Investments in such subsidiaries to the Lender or its nominee, or to a purchaser on enforcement of the security constituted by this deed, and
- (b) procure the amendment of the share transfer provisions (including, but not limited to, deletion of any pre-emption provisions) under the articles of association, other constitutional document or otherwise of each such subsidiary in any manner that the Lender may require in order to permit the transfer of such Investments to the Lender or its nominee, or to a purchaser on enforcement of the security constituted by this deed

## **8 3 Dividends and voting rights before enforcement**

- (a) Before the security constituted by this deed becomes enforceable, the Borrower may retain and apply for its own use all dividends, interest and other monies paid or payable in respect of the Investments and, if any are paid or payable to the Lender or any of its nominees, the Lender will hold all those dividends, interest and other monies received by it for the Borrower and will pay them to the Borrower promptly on request
- (b) Before the security constituted by this deed becomes enforceable, the Borrower may exercise all voting and other rights and powers in respect of the Investments or, if any of the same are exercisable by the Lender or any of its nominees, to direct in writing the exercise of those voting and other rights and powers provided that

- (i) it shall not do so in any way that would breach any provision of the Facility Agreements or this deed or for any purpose inconsistent with the Facility Agreements or this deed, and
- (ii) the exercise of, or the failure to exercise, those voting rights or other rights and powers would not, in the Lender's opinion (acting reasonably), have an adverse effect on the value of the Investments or otherwise prejudice the Lender's security under this deed
- (c) The Borrower shall indemnify the Lender against any loss or liability incurred by the Lender (or its nominee) as a consequence of the Lender (or its nominee) acting in respect of the Investments at the direction of the Borrower
- (d) The Lender shall not, by exercising or not exercising any voting rights or otherwise, be construed as permitting or agreeing to any variation or other change in the rights attaching to or conferred by any of the Investments that the Lender considers prejudicial to, or impairing the value of, the security created by this deed

#### **8.4 Dividends and voting rights after enforcement**

After the security constituted by this deed has become enforceable

- (a) all dividends and other distributions paid in respect of the Investments and received by the Borrower shall be held by the Borrower on trust for the Lender and immediately paid into a Designated Account or, if received by the Lender, shall be retained by the Lender, and
- (b) all voting and other rights and powers attaching to the Investments shall be exercised by, or at the direction of, the Lender and the Borrower shall, and shall procure that its nominees shall, comply with any directions the Lender may give, in its absolute discretion, concerning the exercise of those rights and powers

#### **8.5 Preservation of Investments**

The Borrower shall ensure (as far as it is lawfully able to by the exercise of all voting rights, powers of control and other means available to it) that its subsidiaries shall not

- (a) consolidate or subdivide any of its Investments, or reduce or re-organise its share capital in any way,
- (b) issue any new shares or stock, or
- (c) refuse to register any transfer of any of its Investments that may be lodged for registration by, or on behalf of, the Lender or the Borrower in accordance with this deed

### **9. EQUIPMENT COVENANTS**

9.1 The Borrower shall

- (a) maintain the Equipment in good and serviceable condition (except for expected fair wear and tear) in compliance with all relevant manuals, handbooks, manufacturer's instructions and recommendations and maintenance or servicing schedules,
- (b) at its own expense, renew and replace any parts of the Equipment when they become worn out or damaged with parts of a similar quality and of equal or greater value, except to the extent that the Equipment has become obsolete or is damaged beyond economic repair, and
- (c) not permit any Equipment to be
  - (i) used or handled other than by properly qualified and trained persons, or
  - (ii) overloaded or used for any purpose for which it is not designed or reasonably suitable

9 2 The Borrower shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Equipment and, on demand, produce evidence of such payment to the Lender

#### **10. PRESERVATION OF BOOK DEBTS**

The Borrower shall not without the prior written consent of the Lender factor or discount its Book Debts or otherwise release, exchange, compound, set-off, grant time or indulgence in respect of, or in any other manner deal with, all or any of the Book Debts except (in each case) in the ordinary course of Business

#### **11. INTELLECTUAL PROPERTY COVENANTS**

11 1 The Borrower shall take all necessary action to safeguard and maintain present and future rights in, or relating to, its material Intellectual Property including (without limitation) by observing all covenants and stipulations relating to those rights, and by paying all applicable renewal fees, licence fees and other outgoings

11 2 The Borrower shall use all reasonable efforts to register applications for the registration of its material Intellectual Property (it being acknowledged by the Lender that no such registrations are required in respect of the Intellectual property owned by the Borrower at the date of this deed), and shall keep the Lender informed of all matters relating to each such registration

11 3 The Borrower shall not permit any of its material Intellectual Property to be abandoned, cancelled or to lapse

#### **12. POWERS OF THE LENDER**

##### **12 1 Power to remedy**

- (a) The Lender shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Borrower of any of its obligations contained in this deed

- (b) The Borrower irrevocably authorises the Lender and its agents to do all things that are necessary for that purpose
- (c) Any monies expended by the Lender in remedying a breach by the Borrower of its obligations contained in this deed shall be reimbursed by the Borrower to the Lender on a full indemnity basis and shall carry interest in accordance with clause 19 1

#### **12 2 Exercise of rights**

- (a) The rights of the Lender under clause 12 1 are without prejudice to any other rights of the Lender under this deed
- (b) The exercise of any rights of the Lender under this deed shall not make the Lender liable to account as a mortgagee in possession

#### **12 3 Power to dispose of chattels**

- (a) At any time after the security constituted by this deed has become enforceable, the Lender or any Receiver may, as agent for the Borrower, dispose of any chattels or produce found on any Property
- (b) Without prejudice to any obligation to account for the proceeds of any disposal made under clause 12 3(a), the Borrower shall indemnify the Lender and any Receiver against any liability arising from any disposal made under clause 12 3(a)

#### **12 4 Lender has Receiver's powers**

To the extent permitted by law, any right, power or discretion conferred by this deed on a Receiver may, after the security constituted by this deed has become enforceable, be exercised by the Lender in relation to any of the Secured Assets whether or not it has taken possession of any Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver

#### **12 5 Indulgence**

The Lender may, at its discretion, grant time or other indulgence, or make any other arrangement, variation or release with any person not being a party to this deed (whether or not any such person is jointly liable with the Borrower) in respect of any of the Secured Liabilities, or of any other security for them without prejudice either to this deed or to the liability of the Borrower for the Secured Liabilities

#### **12 6 Appointment of an Administrator**

- (a) The Lender may, without notice to the Borrower, appoint any one or more persons to be an Administrator of the Borrower pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the security constituted by this deed becomes enforceable
- (b) Any appointment under this clause 12 6 shall
  - (i) be in writing signed by a duly authorised signatory of the Lender, and

- (ii) take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986

- (c) The Lender may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 12.6 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified

#### **12.7 Further advances**

The Lender covenants with the Borrower that it shall perform its obligations to make advances under the Facility Agreements (including any obligation to make available further advances)

### **13. WHEN SECURITY BECOMES ENFORCEABLE**

- 13.1 The security constituted by this deed shall become immediately enforceable if an Event of Default occurs and is continuing

- 13.2 After the security constituted by this deed has become enforceable, the Lender may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Secured Assets

### **14. ENFORCEMENT OF SECURITY**

#### **14.1 Enforcement powers**

- (a) The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall, as between the Lender and a purchaser from the Lender, arise on the execution of this deed, but the Lender shall not exercise such power of sale or other powers until the security constituted by this deed has become enforceable under clause 13.1

- (b) Section 103 of the LPA 1925 does not apply to the security constituted by this deed

#### **14.2 Extension of statutory powers of leasing**

The statutory powers of leasing and accepting surrenders conferred on mortgagees under the LPA 1925 and by any other statute are extended so as to authorise the Lender and any Receiver, at any time after the security constituted by this deed has become enforceable, whether in its own name or in that of the Borrower, to

- (a) grant a lease or agreement to lease,
- (b) accept surrenders of leases, or
- (c) grant any option of the whole or any part of the Secured Assets with whatever rights relating to other parts of it,

whether or not at a premium and containing such covenants on the part of the Borrower, and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as



the Lender or Receiver thinks fit without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925

**14 3 Access on enforcement**

- (a) At any time after the Lender has demanded payment of the Secured Liabilities or if the Borrower defaults in the performance of its obligations under this deed or the Facility Agreements, the Borrower will allow the Lender or its Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Secured Asset and for that purpose to enter on any premises where a Secured Asset is situated (or where the Lender or a Receiver reasonably believes a Secured Asset to be situated) without incurring any liability to the Borrower for, or by any reason of, that entry, save in respect of damage to property caused by the Lender or its Receiver
- (b) At all times, the Borrower must use its best endeavours to allow the Lender or its Receiver access to any premises for the purpose of clause 14 3(a) (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same

**14 4 Protection of third parties**

No purchaser, mortgagee or other person dealing with the Lender, any Receiver or Delegate shall be concerned to enquire

- (a) whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged,
- (b) whether any power the Lender, a Receiver or Delegate is purporting to exercise has become exercisable or is properly exercisable, or
- (c) how any money paid to the Lender, any Receiver or any Delegate is to be applied

**14 5 Privileges**

Each Receiver and the Lender is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers

**14 6 No liability as mortgagee in possession**

Neither the Lender, any Receiver, any Delegate nor any Administrator shall be liable to account as mortgagee in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any neglect or default of any nature in connection with, all or any of the Secured Assets for which a mortgagee in possession might be liable as such

**14 7 Conclusive discharge to purchasers**

The receipt of the Lender, or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Secured Assets or in making any

acquisition in the exercise of their respective powers, the Lender, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit

**14 8 Right of appropriation**

- (a) To the extent that
  - (i) the Secured Assets constitute Financial Collateral, and
  - (ii) this deed and the obligations of the Borrower under it constitute a Security Financial Collateral Arrangement,

the Lender shall have the right, at any time after the security constituted by this deed has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment or discharge of the Secured Liabilities in any order that the Lender may, in its absolute discretion, determine

- (b) The value of any Secured Assets appropriated in accordance with this clause shall be the price of those Secured Assets at the time the right of appropriation is exercised as listed on any recognised market index or determined by any other method that the Lender may select (including independent valuation)
- (c) The Borrower agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations

**15. RECEIVER**

**15 1 Appointment**

At any time after the security constituted by this deed has become enforceable, or at the request of the Borrower, the Lender may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Secured Assets

**15 2 Removal**

The Lender may, without further notice (subject to section 45 of the Insolvency Act 1986 in the case of an administrative receiver), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated

**15 3 Remuneration**

The Lender may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925, and the remuneration of the Receiver shall be a debt secured by this deed, to the extent not otherwise discharged

**15 4 Power of appointment additional to statutory powers**

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Lender under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise

**15 5 Power of appointment exercisable despite prior appointments**

The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by the Lender despite any prior appointment in respect of all or any part of the Secured Assets

**15 6 Agent of the Borrower**

Any Receiver appointed by the Lender under this deed shall be the agent of the Borrower and the Borrower shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Borrower goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Lender

**16. POWERS OF RECEIVER**

**16 1 General**

- (a) Any Receiver appointed by the Lender under this deed shall, in addition to the powers conferred on him by statute, have the powers set out in clause 16 2 to clause 16 22
- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this deed individually and to the exclusion of any other Receiver
- (c) Any exercise by a Receiver of any of the powers given by clause 16 may be on behalf of the Borrower, the directors of the Borrower (in the case of the power contained in clause 16 15) or himself

**16 2 Repair and develop Properties**

A Receiver may undertake or complete any works of repair, building or development on the Properties and may apply for and maintain any planning permission, development consent, building regulation approval or any other permission, consent or licence to carry out any of the same

**16 3 Surrender leases**

A Receiver may grant, or accept surrenders of, any leases or tenancies affecting any Property and may grant any other interest or right over any Property on any terms, and subject to any conditions, that he thinks fit

**16 4 Employ personnel and advisors**

A Receiver may provide services and employ or engage any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject

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to any conditions, that he thinks fit A Receiver may discharge any such person or any such person appointed by the Borrower

**16 5 Make VAT elections**

A Receiver may make, exercise or revoke any value added tax option to tax as he thinks fit

**16 6 Remuneration**

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by him) that the Lender may prescribe or agree with him

**16 7 Realise Secured Assets**

A Receiver may collect and get in the Secured Assets or any part of them in respect of which he is appointed, and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Secured Assets with like rights

**16 8 Manage or reconstruct the Borrower's business**

A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Borrower

**16 9 Dispose of Secured Assets**

A Receiver may sell, exchange, convert into money and realise all or any of the Secured Assets in respect of which he is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as he thinks fit Any sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold

**16 10 Sever fixtures and fittings**

A Receiver may sever and sell separately any fixtures or fittings from any Property without the consent of the Borrower

**16 11 Sell Book Debts**

A Receiver may sell and assign all or any of the Book Debts in respect of which he is appointed in any manner, and generally on any terms and conditions, that he thinks fit

**16 12 Valid receipts**

A Receiver may give valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Secured Assets

**16 13 Bring proceedings**

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as he thinks fit

**16 14 Improve the Equipment**

A Receiver may make substitutions of, or improvements to, the Equipment as he may think expedient

**16 15 Make calls on Borrower members**

A Receiver may make calls conditionally or unconditionally on the members of the Borrower in respect of uncalled capital with (for that purpose and for the purpose of enforcing payments of any calls so made) the same powers as are conferred by the articles of association of the Borrower on its directors in respect of calls authorised to be made by them

**16 16 Insure**

A Receiver may, if he thinks fit, but without prejudice to the indemnity in clause 19, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Borrower under this deed

**16 17 Powers under the LPA 1925**

A Receiver may exercise all powers provided for in the LPA 1925 in the same way as if he had been duly appointed under the LPA 1925, and exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency Act 1986

**16 18 Borrow**

A Receiver may, for any of the purposes authorised by this clause 16, raise money by borrowing from the Lender (or from any other person) either unsecured or on the security of all or any of the Secured Assets in respect of which he is appointed on any terms that he thinks fit (including, if the Lender consents, terms under which that security ranks in priority to this deed)

**16 19 Redeem prior Security**

A Receiver may redeem any prior Security and settle and pass the accounts to which the Security relates. Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Borrower, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver

**16 20 Delegation**

A Receiver may delegate his powers in accordance with this deed

**16 21 Absolute beneficial owner**

A Receiver may, in relation to any of the Secured Assets, exercise all powers, authorisations and rights he would be capable of exercising, and do all those acts and things, as an absolute beneficial owner could exercise or do in the ownership and management of the Secured Assets or any part of the Secured Assets

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**16 22 Incidental powers**

A Receiver may do any other acts and things

- (a) that he may consider desirable or necessary for realising any of the Secured Assets,
- (b) that he may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this deed or law, or
- (c) that he lawfully may or can do as agent for the Borrower

**17. DELEGATION**

17 1 The Lender or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this deed (including the power of attorney granted under clause 21 1)

17 2 The Lender and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit

17 3 Neither the Lender nor any Receiver shall be in any way liable or responsible to the Borrower for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate save in respect of breach of statutory duty, negligence or wilful default

**18. APPLICATION OF PROCEEDS**

**18 1 Order of application of proceeds**

All monies received by the Lender, a Receiver or a Delegate pursuant to this deed, after the security constituted by this deed has become enforceable, shall (subject to the claims of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority

- (a) in or towards payment of or provision for all costs, charges and expenses incurred by or on behalf of the Lender (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this deed, and of all remuneration due to any Receiver under or in connection with this deed,
- (b) in or towards payment of or provision for the Secured Liabilities in any order and manner that the Lender determines, and
- (c) in payment of the surplus (if any) to the Borrower or other person entitled to it

**18 2 Appropriation**

Neither the Lender, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities

## **19. COSTS AND INDEMNITY**

19 1 The Borrower shall, promptly on demand, pay to, or reimburse, the Lender and any Receiver, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by the Lender, any Receiver or any Delegate in connection with

- (a) the Borrower's breach of deed or in connection with the Secured Assets,
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Lender's, a Receiver's or a Delegate's rights under this deed, or
- (c) taking proceedings for, or recovering, any of the Secured Liabilities,

together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost or expense arose until full discharge of that cost or expense (whether before or after judgment, liquidation, winding up or administration of the Borrower) at the rate and in the manner specified in the Facility Agreements

19 2 The Borrower shall indemnify the Lender, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with

- (a) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Secured Assets,
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this deed, or
- (c) any default or delay by the Borrower in performing any of its obligations under this deed

Any past or present employee or agent may enforce the terms of this clause 19 2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999

## **20. FURTHER ASSURANCE**

20 1 The Borrower shall, at its own expense, take whatever action the Lender or any Receiver may reasonably require for

- (a) protecting the security intended to be created by this deed,
- (b) facilitating the realisation of any Secured Asset, or
- (c) facilitating the exercise of any right, power, authority or discretion exercisable by the Lender or any Receiver in respect of any Secured Asset,

including, without limitation (if the Lender or Receiver thinks it expedient) the execution of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or

intended to form part of) the Secured Assets (whether to the Lender or to its nominee) and the giving of any notice, order or direction and the making of any registration

**21. POWER OF ATTORNEY**

21 1 By way of security, the Borrower irrevocably appoints the Lender, every Receiver and every Delegate separately to be the attorney of the Borrower and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that

- (a) the Borrower is required to execute and do under this deed but has failed to do, or
- (b) any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on the Lender, any Receiver or any Delegate

21 2 The Borrower ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 21 1

**22. RELEASE**

Subject to clause 29 3, on the earlier of the expiry of (i) the Security Period and (ii) the date which is two years from final discharge of the Secured Liabilities, the Lender shall, at the request and cost of the Borrower, take whatever action is necessary to

- (a) release the Secured Assets from the security constituted by this deed, and
- (b) reassign the Secured Assets to the Borrower

**23. ASSIGNMENT AND TRANSFER**

23 1 At any time, without consent of the Borrower, the Lender may assign any of its rights, or transfer any of its rights or obligations, under this deed

23 2 The Lender may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Borrower, the Secured Assets and this deed that the Lender considers appropriate

23 3 The Borrower may not assign any of its rights, or transfer any of its rights or obligations, under this deed

**24. SET-OFF**

24 1 Save as otherwise provided in the Facility Agreements, the Lender may at any time set off any matured liability of the Borrower to the Lender against any liability of the Lender to the Borrower, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this deed. If the liabilities to be set off are expressed in different currencies, the Lender may convert either liability at a market rate of exchange for the purpose of set-off. Any



exercise by the Lender of its rights under this clause 24 shall not limit or affect any other rights or remedies available to it under this deed or otherwise

- 24 2 All payments made by the Borrower to the Lender under this deed shall be made without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law)

**25. AMENDMENTS, WAIVERS AND CONSENTS**

- 25 1 No amendment of this deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative)

- 25 2 A waiver of any right or remedy under this deed or by law, or any consent given under this deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision

- 25 3 A failure to exercise, or a delay in exercising, any right or remedy provided under this deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this deed. No single or partial exercise of any right or remedy provided under this deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this deed by the Lender shall be effective unless it is in writing

- 25 4 The rights and remedies provided under this deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law

**26. SEVERANCE**

- 26 1 If any provision (or part of a provision) of this deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this deed

**27. COUNTERPARTS**

- 27 1 This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed

- 27 2 No counterpart shall be effective until each party has executed and delivered at least one counterpart

**28. THIRD PARTY RIGHTS**

- 28 1 Except as expressly provided in clause 19 2, a person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act

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## **29. FURTHER PROVISIONS**

### **29 1 Independent security**

The security constituted by this deed shall be in addition to, and independent of, any other security or guarantee that the Lender may hold for any of the Secured Liabilities at any time. No prior security held by the Lender over the whole or any part of the Secured Assets shall merge in the security created by this deed.

### **29 2 Continuing security**

The security constituted by this deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Lender discharges this deed in writing.

### **29 3 Discharge conditional**

Any release, discharge or settlement between the Borrower and the Lender shall be deemed conditional on no payment or security received by the Lender in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement

- (a) the Lender or its nominee may retain this deed and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Secured Assets, for any period that the Lender deems necessary to provide the Lender with security against any such avoidance, reduction or order for refund, and
- (b) the Lender may recover the value or amount of such security or payment from the Borrower subsequently as if the release, discharge or settlement had not occurred,

in each case for a period of two years from the date of the final discharge of the Secured Liabilities.

### **29 4 Certificates**

A certificate or determination by the Lender as to any amount for the time being due to it from the Borrower under this deed and the Facility Agreements shall be, in the absence of any manifest error, conclusive evidence of the amount due.

### **29 5 Consolidation**

The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this deed.

## **30. NOTICES**

- 30 1 Any notice or other communication required to be given to a party under or in connection with this deed shall be in writing and delivered by hand, by pre-paid first-class post or other next working day

delivery service and sent to the addresses as set out at the beginning of this deed or to any other address as is notified in writing by one party to the other from time to time

30 2 Any notice or other communication given under this deed shall be deemed to have been received.

- (a) if delivered by hand, at the time it is left at the relevant address,
- (b) if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting

A notice or other communication given as described in clause 30 2(a) or clause 30 2(b) on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day

30 3 This clause 30 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

30 4 A notice or other communication given under or in connection with this deed is not valid if sent by e-mail


#### **31. GOVERNING LAW AND JURISDICTION**

31 1 This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales

31 2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim arising out of or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims)

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it

Signed as a Deed by CHRISTOPHER  
ROWE for and on behalf of **L J CREATE  
LIMITED** in the presence of


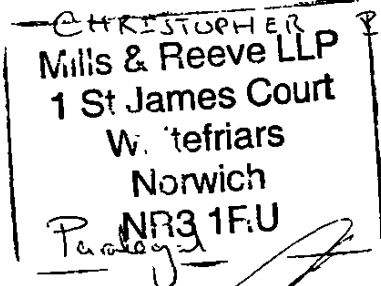
  
Director

Witness signature

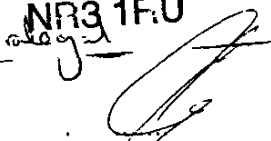
Witness name

Witness address

Witness occupation

  
  
CHRISTOPHER BRAND  
Mills & Reeve LLP  
1 St James Court  
W. tefriars  
Norwich  
NR3 1FU  
Paralegal

Signed as a Deed by CLIVE HAY-SMITH  
for and on behalf of **INFINITAS  
LEARNING UK LIMITED** in the presence  
of

  
Director

Witness signature 

Witness name *LIZZY PAINE*

Witness address

Witness occupation *PARALEGAL*

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