



**Registration of a Charge**

Company name: **NZP UK LIMITED**  
Company number: **02420895**



X7Z1NHIZ

Received for Electronic Filing: **11/02/2019**

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**Details of Charge**

Date of creation: **31/01/2019**  
Charge code: **0242 0895 0004**  
Persons entitled: **WESTPAC NEW ZEALAND LIMITED**  
Brief description: **THE COMMUNITY TRADEMARK OF THE NAME HAEMODEX WITH THE APPLICATION NUMBER 013797981, THE COMMUNITY TRADEMARK OF THE NAME AFFINIDEX WITH THE APPLICATION NUMBER 013799556 AND ALL OTHER INTELLECTUAL PROPERTY RIGHTS OWNED WHETHER OR NOT SPECIFIED.**  
**Contains fixed charge(s).**  
**Contains floating charge(s) .**  
**Contains negative pledge.**  
**Chargor acting as a bare trustee for the property.**

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**Authentication of Form**

This form was authorised by: **a person with an interest in the registration of the charge.**

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**Authentication of Instrument**

Certification statement: **EXCEPT FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006, I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **ALLEN & OVERY LLP**



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

Company number: 2420895

Charge code: 0242 0895 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 31st January 2019 and created by NZP UK LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 11th February 2019 .

Given at Companies House, Cardiff on 12th February 2019

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

**EXECUTION VERSION**

**SECURITY AGREEMENT**

**DATED** 31 January **2019**

**BETWEEN**

**NZP UK LIMITED**

**- and -**

**WESTPAC NEW ZEALAND LIMITED**

**as Security Trustee**

**ALLEN & OVERY**

**Allen & Overy LLP**

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**THIS DEED** is dated 31 January 2019 and made

**BETWEEN:**

- (1) **NZP UK LIMITED** (registered number 2420895) (the **Chargor**); and
- (2) **WESTPAC NEW ZEALAND LIMITED** (the **Security Trustee**) as trustee of the trust established under the Security Trust Deed (defined below).

**BACKGROUND:**

- (A) The Chargor enters into this Deed in connection with the Facility Agreement (as defined below).
- (B) It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.

**IT IS AGREED** as follows:

**1. INTERPRETATION**

**1.1 Definitions**

In this Deed:

**Account Bank** means, in relation to a Restricted Account, the bank with which the Restricted Account is maintained.

**Act** means the Law of Property Act 1925.

**Attorney** means an attorney appointed under this Deed and includes any agent or delegate.

**Centre of Main Interests** means the "centre of main interests" of the Chargor for the purposes of Council Regulation (EC) No 1346/2000 of 29th May, 2000.

**Exclusion** means a legal, valid and binding restriction in respect of any asset held by the Chargor which either precludes absolutely the creation of security over that asset or requires the prior consent of any third party to the creation of security over that asset, breach of which would materially impair or destroy property or rights of the Chargor in relation to or in connection with that asset. For the avoidance of doubt, the Chargor shall not be under any obligation to seek consent from any third party with respect to an Exclusion but, to the extent consent is granted by a third party to an Exclusion, that Exclusion will be deemed to no longer be applicable in accordance with the terms of the consent.

**Facility Agreement** means the senior facility agreement dated 30 March 2016 between, among others, Elviti Finance Limited, Elviti Holdings Limited, Westpac New Zealand Limited as Agent and Security Trustee and the initial financial institutions named therein as Lenders as amended and restated from time to time included pursuant to a deed of amendment and restatement dated on or around the date of this Deed between, among others, the Chargor and the Security Trustee.

**Liabilities** means all present and future obligations and liabilities of any nature (whether actual or contingent, secured or unsecured, express or implied and whether owed jointly, severally or jointly and severally as principal, surety or in any other capacity whatsoever) of

the Chargor (whether alone or with any other person and in any capacity) to or for the benefit of any Finance Party pursuant to or contemplated by each Finance Document.

**Party** means a party to this Deed.

**PLA** means the Property Law Act 2007 of New Zealand.

**Receiver** means an administrative receiver, receiver and manager or a receiver, in each case, appointed under this Deed.

**Secured Liabilities** means the performance and observance of all Liabilities, and includes any part of them.

**Security Assets** means all assets of the Chargor the subject of any security created by this Deed.

**Security Period** means the period beginning on the date of this Deed and ending on the earlier of the date on which:

- (a) all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full; or
- (b) the Chargor is otherwise released from this Deed in accordance with the Security Trust Deed.

**Security Trust Deed** means the security trust deed dated 30 March 2016 (as amended on 18 May 2016 and 10 March 2017) between, among others, the Company, each party listed in Schedule 1 of that document as an Original Security Provider and the Security Trustee.

## 1.2 Construction

- (a) Capitalised terms defined in the Facility Agreement have, unless expressly defined in this Deed, the same meaning in this Deed.
- (b) The rules of construction contained in the Facility Agreement and the Security Trust Deed apply to this Deed as though they were set out in full in this Deed, except that references to the Facility Agreement or the Security Trust Deed (as applicable) will be construed as references to this Deed.
- (c)
  - (i) A **Finance Document** or any other agreement or instrument includes (without prejudice to any prohibition on amendments) any amendment to that Finance Document or other agreement or instrument, including any change in the purpose of, any extension of or any increase in the amount of a facility or any additional facility;
  - (ii) the term **this Security** means any security created by this Deed;
  - (iii) **assets** includes present and future properties, revenues and rights of every description; and
  - (iv) **obligations** include covenants, conditions, stipulations, representations, warranties, guarantees, undertakings, assurances and agreements.
- (d) Any covenant of the Chargor under this Deed (other than a payment obligation) remains in force during the Security Period.

- (e) Unless the context otherwise requires, a reference to a Security Asset includes the proceeds of sale of that Security Asset.

## **2. CREATION OF SECURITY**

### **2.1 General**

- (a) All the security created under this Deed:
  - (i) is created in favour of the Security Trustee;
  - (ii) is created over present and future assets of the Chargor;
  - (iii) is security for the payment of all the Secured Liabilities; and
  - (iv) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.
- (b) This Security will be a first ranking security over each Security Asset subject only to any existing security granted by the Chargor in favour of the Security Trustee over that Security Asset as security for the Secured Liabilities (each such security being an **Existing Security**) pursuant to the terms of a Security Document (each such Security Document being an **Existing Security Document**).
- (c) Where a right or asset has been assigned (subject to a proviso for re-assignment on redemption) under any Existing Security Document and the same right or asset is expressed to be assigned again under this Deed, that further assignment will take effect as a fixed charge over the right or asset and will only take effect as an assignment if the applicable Existing Security in respect of that right or asset ceases to have effect at a time when the equivalent security under this Deed remains in effect.
- (d) To the extent that any of the provisions of this Deed require the Chargor to:
  - (i) serve any notice in respect of an assignment or charge created by or arising from this Deed; and/or
  - (ii) deposit any deeds and documents of title relating to a Security Asset; and/or
  - (iii) deliver copy documents relating to a Security Asset; and/or
  - (iv) indemnify or reimburse a Secured Party for any form of cost, loss or liability; and/or
  - (v) to take any other action,

then the Chargor will only be required to take such action under this Deed (or, in the case of paragraph (iv) above, indemnify or reimburse the relevant Secured Party) to the extent it has not already done so pursuant to the provisions of the Existing Security Documents, provided always that the Chargor can be required to take any of the above actions (or any other action which the Security Trustee is entitled to request they take pursuant to the provisions of this Deed) under this Deed if the applicable Existing Security in respect of that right or asset ceases to have effect at a time when the equivalent security under this Deed remains in effect.

### **2.2 Land**

- (a) The Chargor charges:

- (i) by way of a legal mortgage all estates or interests in any freehold or leasehold property now owned by it; this includes the real property (if any) specified in Schedule 1 (Security Assets) under the heading **Real Property**; and
- (ii) (to the extent that they are not the subject of a mortgage under sub-paragraph (i) above) by way of fixed charge all estates or interests in any freehold or leasehold property,

save for any leasehold property subject to an Exclusion.

(b) A reference in this Clause to a mortgage or charge of any freehold or leasehold property includes:

- (i) all buildings, fixtures, fittings and fixed plant and machinery on that property; and
- (ii) the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor in respect of that property or any moneys paid or payable in respect of those covenants.

### **2.3 Investments**

(a) The Chargor charges:

- (i) by way of a fixed charge all shares in any member of the Group (other than the Chargor) owned by it or held by any nominee on its behalf; and
- (ii) (to the extent that they are not the subject of a mortgage under sub-paragraph (i) above) by way of a fixed charge its interest in all shares, stocks, debentures, bonds or other securities and investments owned by it or held by any nominee on its behalf.

(b) A reference in this Clause to a mortgage or charge of any stock, share, debenture, bond or other security includes:

- (i) any dividend or interest paid or payable in relation to it; and
- (ii) any right, money or property accruing or offered at any time in relation to it by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise.

### **2.4 Plant and machinery**

The Chargor charges by way of a fixed charge all plant and machinery owned by the Chargor and its interest in any plant or machinery in its possession.

### **2.5 Insurances**

The Chargor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights in respect of any contract or policy of insurance taken out by it or on its behalf or in which it has an interest.

### **2.6 Intellectual property**

The Chargor charges by way of a fixed charge, all of its rights in respect of:

(a) any know-how, patent, trade mark, service mark, design, business name, topographical or similar right, including the items specified in Schedule 1 (Security Assets) under the heading **Specific Intellectual Property Rights**;

(b) any copyright or other intellectual property monopoly right; or

(c) any interest (including by way of licence) in any of the above,

in each case whether registered or not and including all applications for the same.

## **2.7 Miscellaneous**

The Chargor charges by way of fixed charge:

(a) any beneficial interest, claim or entitlement it has in any pension fund;

(b) its goodwill;

(c) the benefit of any Authorisation (statutory or otherwise) held in connection with its use of any Security Asset;

(d) the right to recover and receive compensation which may be payable to it in respect of any Authorisation referred to in paragraph (c) above; and

(e) its uncalled capital.

## **2.8 Floating charge**

(a) The Chargor charges by way of a floating charge all its assets not at any time otherwise effectively mortgaged, charged or assigned by way of fixed mortgage, charge or assignment under this Clause.

(b) The floating charge created by this Clause will automatically and immediately crystallise and become a fixed charge on:

(i) the occurrence of an Event of Default; or

(ii) the giving of notice by the Security Trustee to the Chargor.

(c) The floating charge created by this Clause may not be converted into a fixed charge solely by reason of:

(i) the obtaining of a moratorium; or

(ii) anything done with a view to obtaining a moratorium,

under section 1A of the Insolvency Act 1986.

(d) The floating charge created by this Clause will automatically convert into a fixed charge over all of the Chargor's assets if an administrator is appointed or the Security Trustee receives notice of an intention to appoint an administrator.

(e) The floating charge created by this Clause is a **qualifying floating charge** for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986.

### **3. REPRESENTATIONS - GENERAL**

#### **3.1 Nature of security**

The Chargor represents and warrants to each Finance Party that this Deed creates those Security Interests it purports to create and is not liable to be avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise.

#### **3.2 Times for making representations**

- (a) The representations and warranties set out in this Deed (including in this Clause) are made on the date of this Deed.
- (b) Unless a representation and warranty is expressed to be given at a specific date, each of the representations made by the Chargor in this Deed are made on the date of this Deed and are deemed to be repeated by the Chargor when the representations and warranties are repeated in the Facility Agreement by reference to the facts and circumstances then repeating.

### **4. COVENANTS**

- (a) The Chargor must not:
  - (i) create or permit to subsist any Security Interest on any Security Asset; or
  - (ii) sell, transfer, licence, lease or otherwise dispose of any Security Asset, except as expressly allowed under any Finance Document.
- (b) The Chargor must not cause or allow its registered office or Centre of Main Interests to be in, or maintain an Establishment in, any jurisdiction other than its jurisdiction of incorporation.
- (c) The Chargor must not do, omit to do, or allow to occur, anything that might:
  - (i) render any security interest created under this Deed unenforceable or liable to forfeiture or cancellation; or
  - (ii) adversely affect in a material respect the security of the Security Trustee under any Finance Document.
- (d) The Chargor shall not change its name without providing written notification to the Security Trustee of the new name at least 10 business days before the name change takes effect.

### **5. LAND**

#### **5.1 General**

- (a) In this Clause **Mortgaged Property** means all freehold or leasehold property included in the definition of **Security Assets**.

#### **5.2 H.M. Land Registry**

The Chargor consents to a restriction in the following terms being entered into on the Register of Title relating to any Mortgaged Property registered at H.M. Land Registry, save for in relation to any Mortgaged Property subject to an Exclusion:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the security agreement dated [ ] in favour of [ ] referred to in the charges register or their conveyancer. (Standard Form P)"

## **6. INVESTMENTS**

### **6.1 General**

In this Clause:

**Investments** means:

- (a) the Shares;
- (b) all other shares, stocks, debentures, bonds or other securities and investments included in the definition of **Security Assets** in Clause 1.1 (Definitions);
- (c) any dividend or interest paid or payable in relation to any of the above; and
- (d) any right, money or property accruing or offered at any time in relation to any of the above by way of redemption, substitution, exchange, bonus or preference under option rights or otherwise.

**Shares** means all present and future shares held by the Chargor in any person.

### **6.2 Investments**

The Chargor represents and warrants to each Finance Party that all shares held by it are:

- (a) validly issued and such issue does not contravene the constitution of the relevant Issuer, any law or rule or direction of any government agency;
- (b) fully paid and no amount is owing in respect of those shares;
- (c) free from any restriction on transfer or right of pre-emption; and
- (d) in the case of shares which are not listed on a stock exchange, represented by share certificates.

### **6.3 Deposit**

The Chargor must:

- (a) immediately deposit with the Security Trustee, or as the Security Trustee may direct, all certificates and other documents of title or evidence of ownership in relation to any Investment; and
- (b) promptly execute and deliver to the Security Trustee all share transfers and other documents which may be requested by the Security Trustee in order to enable the Security Trustee or its nominees to be registered as the owner or otherwise obtain a legal title to any Investment.

#### **6.4 Changes to rights**

The Chargor must not take or allow the taking of any action on its behalf which may result in the rights attaching to any of the Investments being altered.

#### **6.5 Other obligations in respect of Investments**

- (a) The Chargor must promptly copy to the Security Trustee and comply with all requests for information which is within its knowledge and which are made under any law or regulation or by any listing or other authority or any similar provision contained in any articles of association or other constitutional document relating to any of the Investments. If it fails to do so, the Security Trustee may elect to provide such information as it may have on behalf of the Chargor.
- (b) The Chargor must comply with all other conditions and obligations assumed by it in respect of any Investment.
- (c) The Security Trustee is not obliged to:
  - (i) perform any obligation of the Chargor;
  - (ii) make any payment, or to make any enquiry as to the nature or sufficiency of any payment received by it or the Chargor; or
  - (iii) present or file any claim or take any other action to collect or enforce the payment of any amount to which it may be entitled under this Deed,

in respect of any Investment.

#### **6.6 Voting rights**

- (a) Before this Security becomes enforceable:
  - (i) the Chargor may exercise all voting rights, powers and other rights in respect of the Investments; and
  - (ii) all dividends or other income paid or payable in relation to any Investments must be paid directly to the Chargor.
- (b) After this Security has become enforceable, the Security Trustee may exercise or refrain from exercising (in the name of the Chargor and without any further consent or authority on the part of the Chargor) any voting rights and any powers or rights which may be exercised by the legal or beneficial owner of any Investment, any person who is the holder of any Investment or otherwise, in each case, in the name of the Chargor, the registered holder or otherwise and without any further consent or authority on the part of the Chargor and irrespective of any direction given by the Chargor.
- (c) If any Security Asset remains registered in the name of the Chargor, the Chargor irrevocably appoints the Security Trustee or its nominee as its proxy to exercise all voting rights in respect of those Security Assets at any time after this Security has become enforceable.

## **6.7 Financial Collateral**

- (a) To the extent that the assets mortgaged or charged under this Deed constitute "financial collateral" and this Deed and the obligations of the Chargor under this Deed constitute a "security financial collateral arrangement" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226)) the Security Trustee will have the right after this Security has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Liabilities.
- (b) Where any financial collateral is appropriated:
- (i) if the financial collateral is listed or traded on a recognised exchange its value will be taken as the value at which it could have been sold on the exchange on the date of appropriation; or
  - (ii) in any other case, the value of the financial collateral will be such amount as the Security Trustee reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it;

and each Finance Party will give credit for the proportion of the value of the financial collateral appropriated to its use.

## **7. INTELLECTUAL PROPERTY**

### **7.1 General**

In this Clause **Intellectual Property Rights** means:

- (a) any know-how, patent, trade mark, service mark, design, business name, topographical or similar right;
- (b) any copyright or other intellectual property monopoly right;
- (c) any interest (including by way of licence) in any of the above; or
- (d) any application for any of the above,

in each case, whether registered or not, and included in the definition of **Security Assets** in Clause 1.1 (Definitions).

### **7.2 Representations**

The Chargor represents to each Finance Party that:

- (a) it is the sole legal and beneficial owner of those Intellectual Property Rights;
- (b) those Intellectual Property Rights are free of any Security Interests (except for those created by or under a Security Document by the Chargor) and any other rights or interests (including any licences) in favour of third parties;
- (c) it does not, in carrying on its business, infringe any Intellectual Property Rights of any third party; and

- (d) to its knowledge, no Intellectual Property Right owned by it is being infringed, nor is there any threatened infringement of any such Intellectual Property Right.

### **7.3 Preservation**

- (a) The Chargor must within a reasonable time of the date of this Deed make entries in any public register of its Intellectual Property Rights which either record the existence of this Deed or the restrictions on disposal imposed by this Deed.
- (b) The Chargor must notify the Security Trustee (at least 5 Business Days prior to any relevant assignment, transfer or disposal) if the Chargor intends to assign, transfer or otherwise dispose of any Intellectual Property Rights owned by or licensed to an Obligor which (i) are necessary for the ongoing operation of the Obligor's business (unless there is a commercially available and cost-effective substitute), or (ii) may be licensed, improved, modified or developed in order to generate revenue for or assist in the ongoing operation of the Obligor's business (except in both cases where those Intellectual Property Rights are assigned, transferred or disposed of to an Obligor).

## **8. PRESERVATION OF SECURITY**

### **8.1 Continuing security**

This Security is a continuing security and will extend to the ultimate balance of the Secured Liabilities, regardless of any intermediate payment or discharge in whole or in part.

### **8.2 Reinstatement**

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made by a Finance Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Chargor under this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.

### **8.3 Waiver of defences**

The obligations of the Chargor under this Deed will not be affected by any act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Deed including (without limitation and whether or not known to it or any Finance Party):

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person;
- (d) any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

- (e) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- (f) any amendment of any Finance Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (g) any unenforceability, illegality, invalidity or non-provability of any obligation of any person under any Finance Document or any other document or security; or
- (h) any insolvency or similar proceedings.

#### **8.4 Immediate recourse**

- (a) The Chargor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other right or security or claim payment from any person before claiming from the Chargor under this Deed.
- (b) This waiver applies irrespective of any law or provision of a Finance Document to the contrary.

#### **8.5 Appropriations**

Each Finance Party (or any trustee or agent on its behalf) may at any time during the Security Period:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of the Secured Liabilities, or apply and enforce them in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and the Chargor will not be entitled to the benefit of such moneys, security or rights; and
- (b) hold in an interest-bearing suspense account any moneys received from the Chargor or on account of the Chargor's liability under this Deed.

#### **8.6 Deferral of Chargor's rights**

- (a) Unless the Security Period has expired or the Security Trustee otherwise directs, the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under this Deed or by reason of any amount being payable, or liability arising under this Deed:
  - (i) to be indemnified by an Obligor;
  - (ii) to claim any contribution from any Obligor of any Obligor's obligations under the Finance Documents;
  - (iii) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party;

- (iv) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which the Chargor has granted security under this Deed;
  - (v) to exercise any right of set-off against any Obligor; and/or
  - (vi) to claim or prove as a creditor of any Obligor in competition with any Finance Party.
- (b) If the Chargor receives any benefit, payment or distribution in relation to such rights it must hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Finance Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Finance Parties and must promptly pay or transfer them to the Security Trustee or as the Security Trustee may direct for application in accordance with this Deed.

### **8.7 Additional security**

- (a) This Deed is in addition to and is not in any way prejudiced by any other security now or subsequently held by any Finance Party.
- (b) No prior security held by any Finance Party (in its capacity as such or otherwise) over any Security Asset will merge into this Security.

### **8.8 Security held by Chargor**

The Chargor must not, without the prior consent of the Security Trustee, hold any security from any other Obligor in respect of the Chargor's liability under this Deed. The Chargor will hold any security held by it in breach of this provision on trust for the Security Trustee.

## **9. WHEN SECURITY BECOMES ENFORCEABLE**

### **9.1 Event of Default**

This Security will become immediately enforceable if an Event of Default occurs.

### **9.2 Discretion**

After this Security has become enforceable, the Security Trustee may in its absolute discretion enforce all or any part of this Security in any manner it sees fit or as the Majority Beneficiaries direct, in each case in accordance with the Finance Documents.

### **9.3 Power of sale**

The power of sale and other powers conferred by Section 101 of the Act, as amended by this Deed, will be immediately exercisable at any time after this Security has become enforceable.

## **10. ENFORCEMENT OF SECURITY**

### **10.1 General**

- (a) For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this Deed.
- (b) Section 103 of the Act (restricting the power of sale) and Section 93 of the Act (restricting the right of consolidation) do not apply to this Security.

- (c) The statutory powers of leasing conferred on the Security Trustee are extended so as to authorise the Security Trustee to lease, make agreements for leases, accept surrenders of leases and grant options as the Security Trustee may think fit and without the need to comply with any provision of section 99 or 100 of the Act.

## **10.2 No liability as mortgagee in possession**

Neither the Security Trustee nor any Receiver will be liable, by reason of entering into possession of a Security Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

## **10.3 Privileges**

Each Receiver and the Security Trustee is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers duly appointed under the Act, except that Section 103 of the Act does not apply.

## **10.4 Protection of third parties**

No person (including a purchaser) dealing with the Security Trustee or a Receiver or its or his agents will be concerned to enquire:

- (a) whether the Secured Liabilities have become payable;
- (b) whether any power which the Security Trustee or a Receiver is purporting to exercise has become exercisable or is being properly exercised;
- (c) whether any money remains due under the Finance Documents; or
- (d) how any money paid to the Security Trustee or to that Receiver is to be applied.

## **10.5 Redemption of prior mortgages**

- (a) At any time after this Security has become enforceable, the Security Trustee may:
  - (i) redeem any prior Security Interest against any Security Asset; and/or
  - (ii) procure the transfer of that Security Interest to itself; and/or
  - (iii) settle and pass the accounts of the prior mortgagee, chargee or encumbrancer; any accounts so settled and passed will be, in the absence of manifest error, conclusive and binding on the Chargor.
- (b) The Chargor must pay to the Security Trustee, immediately on demand, the costs and expenses incurred by the Security Trustee in connection with any such redemption and/or transfer, including the payment of any principal or interest.

## **10.6 Contingencies**

If this Security is enforced at a time when no amount is due under the Finance Documents but at a time when amounts may or will become due, the Security Trustee (or the Receiver) may pay the proceeds of any recoveries effected by it into a suspense account.

## **11. RECEIVER**

### **11.1 Appointment of Receiver**

- (a) Except as provided below, the Security Trustee may appoint any one or more persons to be a Receiver of all or any part of the Security Assets if:
  - (i) this Security has become enforceable; or
  - (ii) the Chargor so requests the Security Trustee in writing at any time.
- (b) Any appointment under paragraph (a) above may be by deed, under seal or in writing under its hand.
- (c) Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 109(1) of the Act) does not apply to this Deed.
- (d) The Security Trustee is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under section 1A of the Insolvency Act 1986.
- (e) The Security Trustee may not appoint an administrative receiver (as defined in section 29(2) of the Insolvency Act 1986) over the Security Assets if the Security Trustee is prohibited from so doing by section 72A of the Insolvency Act 1986 and no exception to the prohibition on appointing an administrative receiver applies.

### **11.2 Removal**

The Security Trustee may by writing under its hand (subject to any requirement for an order of the court in the case of an administrative receiver) 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.

### **11.3 Remuneration**

The Security Trustee may fix the remuneration of any Receiver appointed by it and the maximum rate specified in Section 109(6) of the Act will not apply.

### **11.4 Agent of the Chargor**

- (a) A Receiver will be deemed to be the agent of the Chargor for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Act. The Chargor alone is responsible for the contracts, engagements, acts, omissions, defaults and losses of a Receiver and for liabilities incurred by a Receiver.
- (b) No Finance Party will incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

### **11.5 Relationship with Security Trustee**

To the fullest extent allowed by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) or by law on a Receiver may after this Security becomes enforceable be exercised by the Security Trustee in relation to any Security Asset without first appointing a Receiver and notwithstanding the appointment of a Receiver.

## **12. POWERS OF RECEIVER**

### **12.1 General**

- (a) A Receiver has all of the rights, powers and discretions set out below in this Clause in addition to those conferred on it by any law; this includes:
  - (i) in the case of an administrative receiver, all the rights, powers and discretions conferred on an administrative receiver under the Insolvency Act, 1986; and
  - (ii) otherwise, all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the Act and the Insolvency Act, 1986.
- (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.

### **12.2 Possession**

A Receiver may take immediate possession of, get in and collect any Security Asset.

### **12.3 Carry on business**

A Receiver may carry on any business of the Chargor in any manner he thinks fit.

### **12.4 Employees**

- (a) A Receiver may appoint and discharge managers, officers, agents, accountants, servants, workmen and others for the purposes of this Deed upon such terms as to remuneration or otherwise as he thinks fit.
- (b) A Receiver may discharge any person appointed by the Chargor.

### **12.5 Borrow money**

A Receiver may raise and borrow money either unsecured or on the security of any Security Asset either in priority to this Security or otherwise and generally on any terms and for whatever purpose which he thinks fit.

### **12.6 Sale of assets**

- (a) A Receiver may sell, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which he thinks fit.
- (b) The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which he thinks fit.
- (c) Fixtures, other than landlord's fixtures, may be severed and sold separately from the property containing them without the consent of the Chargor.

### **12.7 Leases**

A Receiver may let any Security Asset for any term and at any rent (with or without a premium) which he thinks fit and may accept a surrender of any lease or tenancy of any

Security Asset on any terms which he thinks fit (including the payment of money to a lessee or tenant on a surrender).

#### **12.8 Compromise**

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who is or claims to be a creditor of the Chargor or relating in any way to any Security Asset.

#### **12.9 Legal actions**

A Receiver may bring, prosecute, enforce, defend and abandon any action, suit or proceedings in relation to any Security Asset which he thinks fit.

#### **12.10 Receipts**

A Receiver may give a valid receipt for any moneys and execute any assurance or thing which may be proper or desirable for realising any Security Asset.

#### **12.11 Subsidiaries**

A Receiver may form a Subsidiary of the Chargor and transfer to that Subsidiary any Security Asset.

#### **12.12 Delegation**

A Receiver may delegate his powers in accordance with this Deed.

#### **12.13 Lending**

A Receiver may lend money or advance credit to any customer of the Chargor.

#### **12.14 Protection of assets**

A Receiver may:

- (a) effect any repair or insurance and do any other act which the Chargor might do in the ordinary conduct of its business to protect or improve any Security Asset;
- (b) commence and/or complete any building operation; and
- (c) apply for and maintain any planning permission, building regulation approval or any other Authorisation,

in each case as he thinks fit.

#### **12.15 Other powers**

A Receiver may:

- (a) do all other acts and things which he may consider desirable or necessary for realising any Security Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed or law;

- (b) exercise in relation to any Security Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Security Asset; and
- (c) use the name of the Chargor for any of the above purposes.

### **13. APPLICATION OF PROCEEDS**

- (a) All money arising from or in connection with the exercise of the enforcement rights of the Security Trustee or any Receiver is to be applied in the manner and order determined in accordance with the Security Trust Deed.
- (b) This Clause is subject to the payment of any claims having priority over this Security. This Clause does not prejudice the right of any Finance Party to recover any shortfall from the Chargor.

### **14. DELEGATION**

#### **14.1 Power of Attorney**

- (a) Where an Event of Default has occurred and is continuing the Chargor, by way of security, irrevocably appoints the Security Trustee and, as an independent appointment, appoints any Receiver, and any of its delegates or sub-delegates, severally its attorney, at the Chargor's cost, to do anything necessary or desirable in the opinion of the Security Trustee or the Attorney to:
  - (i) complete this Deed;
  - (ii) give full effect to this Deed;
  - (iii) better secure the Security Assets to the Security Trustee in a manner consistent with this Deed;
  - (iv) assist in the execution or exercise of any right under this Deed, including execute any transfer (including any transfer in blank) or other agreement;
  - (v) demand, sue for, recover and give a discharge for the Security Assets;
  - (vi) commence, carry on, enforce, settle, arrange and compromise any proceedings to obtain or enforce the payment or delivery of the Security Assets;
  - (vii) take proceedings to procure the bankruptcy or the winding up of the Chargor in connection with the Security Assets, and attend and vote at meetings of creditors, receive dividends in any bankruptcy or winding up, or appoint a proxy for any of these things;
  - (viii) compound, settle or compromise any debt of the Chargor in connection with the Secured Property;
  - (ix) execute any agreement, including any deed of assignment, composition or release in connection with the Security Assets;
  - (x) exercise any or all rights available to the Chargor in connection with the Security Assets (including rights available under the Act or any other statute); and

- (xi) do anything else that the Chargor must or may do, or that the Security Trustee may do, under this Deed or by law.
- (b) The Chargor hereby ratifies and confirms to each person dealing with the Security Trustee, a Receiver and each Attorney whatever the Security Trustee, Receiver, any of its delegates or sub-delegates, or that Attorney does in the exercise of any of the rights referred to in clause 14.1.

#### **14.2 Terms**

Any such delegation may be made upon any terms (including power to sub-delegate) which the Security Trustee or any Receiver may think fit.

#### **14.3 Liability**

Neither the Security Trustee nor any Receiver will be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate.

### **15. FURTHER ASSURANCES**

The Chargor must, at its own expense, take whatever action the Security Trustee or a Receiver may require for:

- (a) creating, perfecting or protecting any security intended to be created by this Deed; or
- (b) while an Event of Default subsists, facilitating the realisation of any Security Asset, or the exercise of any right, power or discretion exercisable, by the Security Trustee or any Receiver or any of its delegates or sub-delegates in respect of any Security Asset.

This includes:

- (i) the execution of any transfer, conveyance, assignment or assurance of any property, whether to the Security Trustee or to its nominee; or
- (ii) the giving of any notice, order or direction and the making of any registration,

which, in any such case, the Security Trustee may think expedient.

### **16. MISCELLANEOUS**

#### **16.1 Changes to the Chargor**

- (a) The Chargor may not assign or transfer any of its rights or obligations under this Deed without the prior consent of the Security Trustee.
- (b) The Security Trustee may not assign, novate or transfer any of its rights or obligations under this Deed other than pursuant to clause 8 of the Security Trust Deed. Each assignee, novatee or transferee is to have the same rights against the Chargor under this Deed as if named in this Deed as the Security Trustee.

## **16.2 Covenant to pay**

The Chargor must pay or discharge the Secured Liabilities in the manner provided for in the Finance Documents.

## **16.3 Tacking**

Each Lender must perform its obligations under the Facility Agreement (including any obligation to make available further advances).

## **16.4 New Accounts**

- (a) If any subsequent charge or other interest affects any Security Asset, the Finance Party may open a new account with the Chargor.
- (b) If the Finance Party does not open a new account, it will nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that charge or other interest.
- (c) As from that time all payments made to the Finance Party will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Liability.

## **16.5 Partial invalidity**

The illegality, invalidity or unenforceability of a provision of this Deed under any law will not affect the legality, validity or enforceability of that provision under another law or the legality, validity or enforceability of another provision.

## **16.6 Time deposits**

Without prejudice to any right of set-off any Finance Party may have under any other Finance Document or otherwise, if any time deposit matures on any account the Chargor has with any Finance Party within the Security Period when:

- (a) this Security has become enforceable; and
- (b) no Secured Liability is due and payable,

that time deposit will automatically be renewed for any further maturity which that Finance Party considers appropriate.

## **16.7 Notice of assignment**

This Deed constitutes notice in writing to the Chargor of any charge or assignment of a debt owed by the Chargor to any other member of the Group and contained in any other Security Document.

## **16.8 Counterparts**

This Deed may be executed in any number of counterparts. This has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

## **16.9 Remedies and waivers**

Time is of the essence in respect of all dates and times for compliance by each Debtor with its obligations under this Deed. However, no failure to exercise, and no delay in exercising, a right of the Security Trustee under a Finance Document will operate as a waiver of that right, nor will a single or partial exercise of a right preclude another or further exercise of that right or the exercise of another right. No waiver by the Security Trustee of its rights under a Finance Document is effective unless it is in writing signed by the Security Trustee. The rights of the Security Trustee under the Finance Documents are cumulative and not exclusive of any rights provided by law.

## **17. RELEASE**

The Security Trustee must, at the request and cost of the Chargor, take whatever action is necessary to release the Security Assets from this Security in accordance with the provisions of the Security Trust Deed.

## **18. NOTICES**

Each notice or other communication under this Deed shall be sent and deemed delivered in accordance with clause 34 of the Facility Agreement.

## **19. GOVERNING LAW**

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

## **20. JURISDICTION**

- (a) The English courts have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a Dispute).
- (b) The Parties agree that the English courts are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause 20 (Jurisdiction) is for the benefit of the Finance Parties only. As a result, to the extent allowed by law:
- (d) no Finance Party will be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction; and
- (e) the Finance Parties may take concurrent proceedings in any number of jurisdictions.

## **21. DELIVERY**

For the purposes of section 9 of the PLA, and without limiting any other mode of delivery, this Deed will be delivered by the Chargor immediately on the earlier of:

- (a) physical delivery of an original of this Deed, executed by the Chargor, into the custody of the Security Trustee or the Security Trustee's solicitors; or

- (b) transmission by the Chargor or its solicitors (or any other person authorised in writing by the Debtors) of a facsimile, photocopied or scanned copy of an original of this deed, executed by the Chargor, to the Security Trustee or the Security Trustee's solicitors.

**THIS DEED** has been entered into as a deed on the date stated at the beginning of this Deed.

**SCHEDULE 1**

**SECURITY ASSETS**

**PART 1**

**SPECIFIC INTELLECTUAL PROPERTY RIGHTS**

<b>Type of Intellectual Property</b>	<b>Registry</b>	<b>Name</b>	<b>Application Number</b>
Community trademark	OHIM	HAEMODEX	013797981
Community trademark	OHIM	AFFINIDEX	013799556

**SIGNATORIES**

**Chargor**

EXECUTED AS A DEED by )

**NZP UK LIMITED** )

acting by )



Director

In the presence of: 

Witness's signature: .....

Name: ...*SULAV ACHARYA*.....

Address: ...*Gateway Building, 1 Collegiate Square, Shinfield, RG2 9LH*.....

Occupation: ...*Finance Manager*.....

**Security Trustee**

EXECUTED AND DELIVERED AS A DEED by )

**WESTPAC NEW ZEALAND LIMITED** )

acting by its attorney: )

In the presence of:

Witness's signature: .....

Name: .....

Address: .....

Occupation:.....

**SIGNATORIES**

**Chargor**

EXECUTED AS A DEED by )  
**NZP UK LIMITED** )  
acting by )

Director

In the presence of:

Witness's signature: .....  
Name: .....  
Address: .....  
Occupation:.....

**Security Trustee**

EXECUTED AND DELIVERED AS A DEED by )  
**WESTPAC NEW ZEALAND LIMITED** )  
acting by its attorney:  )  
**SOPHIE WEST**

In the presence of:

Witness's signature: .....  .....  
Name: ..... JOSEPHINE MARIA SANTOS  
LEGAL EXECUTIVE .....  
WESTPAC NEW ZEALAND LIMITED  
Address: ..... LEGAL SERVICES UNIT  
AUCKLAND .....  
Occupation:.....