



**Registration of a Charge**

Company name: **MYGUIDES LIMITED**

Company number: **03634787**

Received for Electronic Filing: **08/01/2019**



X7WP3J4Z

---

**Details of Charge**

Date of creation: **07/01/2019**

Charge code: **0363 4787 0002**

Persons entitled: **BCI FINANCE LIMITED AS SECURITY AGENT**

Brief description:

**Contains fixed charge(s).**

**Contains floating charge(s) (floating charge covers all the property or undertaking of the company).**

**Contains negative pledge.**

---

**Authentication of Form**

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

---

**Authentication of Instrument**

Certification statement: **WE CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION**

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL  
INSTRUMENT.**

Certified by:

**OSBORNE CLARKE LLP**



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

Company number: 3634787

Charge code: 0363 4787 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 7th January 2019 and created by MYGUIDES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 8th January 2019 .

Given at Companies House, Cardiff on 10th January 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

We certify that, save for material redacted pursuant to s.  
859G of the Companies Act 2006, this copy instrument is a  
correct copy of the original instrument.

Dated this 8 January 2019

Signed *OSBORNE CLARKE LLP*

Osborne Clarke LLP

2 Temple Back East

Temple Quay, Bristol

BS1 6EG

## **Debenture and share charge**

between

- (1) the persons listed in Schedule 1 as Chargors
- (2) BCI Finance Limited as Security Agent

Dated *7 January* 2019

### **Osborne Clarke LLP**

2 Temple Back East

Temple Quay

Bristol

BS1 6EG

Telephone +44 (0) 117 917 3000

Fax +44 (0) 117 917 3005

TAB/1049516/29768819

## Contents

1.	Definitions and interpretation .....	1
2.	Covenant to pay .....	4
3.	Grant of security .....	4
4.	Guarantee .....	6
5.	Liability of the Chargors .....	6
6.	Reinstatement .....	7
7.	Waiver of defences .....	7
8.	Deferral of Chargors' rights .....	8
9.	Undertakings .....	8
10.	Powers of the Security Agent .....	11
11.	When security becomes enforceable .....	12
12.	Enforcement of security .....	13
13.	Receiver .....	15
14.	Powers of Receiver .....	16
15.	Delegation .....	18
16.	Application of proceeds .....	18
17.	Costs and indemnity .....	19
18.	Further assurance .....	20
19.	Power of attorney .....	20
20.	Release .....	20
21.	Assignment and transfer .....	20
22.	Set-off .....	21
23.	Amendments, waivers and consents .....	21
24.	Severance .....	21
25.	Counterparts .....	21
26.	Third party rights .....	22
27.	Further provisions .....	22
28.	Notices .....	23
29.	Governing law and jurisdiction .....	24
	Schedule 1 .....	25
	Chargors .....	25
	Schedule 2 .....	26
	Shares .....	26

This Deed is made on

7 January 2019

**Between:**

- (1) Each person listed in Schedule 1 (the "**Chargors**"); and
- (2) **BCI Finance Limited** as agent and trustee for the Secured Parties (the "**Security Agent**").

**Background:**

Under this deed, the Chargors provide security to the Security Agent for all monies owed by them, or guaranteed by them, to the Security Agent from time to time.

**Agreed terms**

1. **Definitions and interpretation**

1.1 **Definitions**

Unless otherwise defined in this Deed, terms defined in the Loan Agreements shall have the same meanings when used in this Deed and the following definitions shall apply

**"Administrator"** means an administrator appointed to manage the affairs, business and property of a Chargor pursuant to Clause 10.8.

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

**"Delegate"** means any person appointed by the Security Agent or any Receiver pursuant to Clause 15 and any person appointed as attorney of the Security Agent, Receiver or Delegate.

**"Equipment"** means all present and future equipment, plant, machinery, tools, vehicles, furniture, fittings, installations and apparatus and other tangible moveable property for the time being owned by a Chargor, including any part of it and all spare parts, replacements, modifications and additions.

**"Financial Collateral"** has the meaning given to that expression in the Financial Collateral Regulations.

**"Financial Collateral Regulations"** means the Financial Collateral Arrangements (No 2) Regulations 2003 (*SI 2003/3226*).

**"Insurance Policy"** means each contract and policy of insurance effected or maintained by any Chargor 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"** means a Chargor's patents, trademarks, service marks, designs, business names, copyrights, database rights, computer software, design rights, domain names, moral rights, inventions, confidential information, trade secrets, knowhow and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered, together with the benefit of all applications and rights to use such assets (which may now or in the future subsist).

**"Investments"** means 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 a Chargor, 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.

**"Loan Agreements"** means, together:

- (a) the loan agreement entered into between (1) Contentive Group Limited as borrower and (2) Intercedecm 2018 Limited on 21 December 2018, as the same may be amended from time to time; and
- (b) the loan agreement entered into between (1) Contentive Group Limited as borrower and (2) Intercedemb 2018 Limited on 21 December 2018, as the same may be amended from time to time.

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

**"Properties"** means 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 a Chargor, or in which a Chargor holds an interest, and **"Property"** means any of them.

**"Receiver"** means a receiver, receiver and manager or administrative receiver of any or all of the Secured Assets appointed by the Security Agent under Clause 13.

**"Related Rights"** means any:

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

**"Secured Assets"** means all the assets, property and undertaking for the time being subject to the Security created by, or pursuant to, this deed (and references to the Secured Assets shall include references to any part of them).

**"Secured Liabilities"** means all present and future monies, obligations and liabilities of the each Obligor to any Secured Party from time to time (including without limitation under the Loan Agreements), whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, together with all interest (including, without limitation, default interest) accruing in respect of those monies, obligations or liabilities.

**"Secured Parties"** has the meaning given to it in the Security Trust Deed.

**"Security Financial Collateral Arrangement"** has the meaning given to that expression in the Financial Collateral Regulations.

**"Security"** means 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"** means the period starting on the date of this deed and ending on the date on which the Security Agent 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.

**"Security Trust Deed"** means the security trust deed dated on or about the date of this deed and entered into between, amongst others, (1) Intercedecm 2018 Limited, (2) Intercedemb 2018 Limited and (3) BCI Finance Limited.

**"Shares"** means:

- (a) the shares described in Schedule 2 (*Shares*); and
- (b) all Related Rights.

## 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);
- (c) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- (d) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- (e) a reference to a party shall include that party's successors, permitted assigns and permitted transferees and this deed shall be binding on, and enure to the benefit of, the parties to this deed and their respective personal representatives, successors, permitted assigns and permitted transferees;
- (f) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- (g) a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- (h) an obligation on a party not to do something includes an obligation not to allow that thing to be done;
- (i) 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;
- (j) 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;
- (k) a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and amended shall be construed accordingly);
- (l) a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- (m) a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- (n) a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it; and
- (o) a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-



governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

### **1.3 Clawback**

If the Security Agent considers that an amount paid by a Chargor in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of a Chargor or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed.

### **1.4 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 a Chargor 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.

### **1.5 Trusts**

- (a) The Security Agent holds the benefit of this Deed on trust for the Secured Parties in accordance with the Security Trust Deed.
- (b) 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**

Each Chargor shall, on demand, pay to the Security Agent 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, each Chargor with full title guarantee charges to the Security Agent by way of first fixed charge:

- (a) all Properties owned by each Chargor at the date of this deed;
- (b) all Properties acquired by each Chargor in the future;
- (c) all present and future interests of each Chargor not effectively mortgaged or charged under the preceding provisions of this Clause 3 in, or over, freehold or leasehold property;
- (d) all present and future rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to each Property;

- (e) all licences, consents and authorisations (statutory or otherwise) held or required in connection with each Chargor's business or the use of any Secured Asset, and all rights in connection with them;
- (f) all its present and future goodwill;
- (g) all its uncalled capital;
- (h) all its Equipment;
- (i) all its Intellectual Property;
- (j) all its Investments;
- (k) all its Shares;
- (l) all of its Related Rights;
- (m) 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; and
- (n) all its rights in respect of all agreements, instruments and rights relating to the Secured Assets.

### **3.2 Floating charge**

As a continuing security for the payment and discharge of the Secured Liabilities, each Chargor with full title guarantee charges to the Security Agent, by way of first floating charge, all its undertaking, property, assets and rights at any time not effectively mortgaged, charged pursuant to Clause 3.1 above.

### **3.3 Qualifying floating charge**

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by Clause 3.2.

### **3.4 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) any Chargor:
  - (i) creates, or attempts to create, without the prior written consent of the Security Agent, a Security or a trust in favour of another person over all or any part of the Secured Assets; or
  - (ii) disposes, or attempts to dispose of, all or any part of the Secured Assets (other than Secured Assets that are only subject to the floating charge while it remains uncrystallised);
- (b) any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Secured Assets the subject of a floating charge under this deed; or
- (c) a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of any Chargor.

### **3.5 Crystallisation of floating charge by notice**

The Security Agent may, in its sole discretion, at any time and by written notice to a Chargor, convert the floating charge created under this deed into a fixed charge as regards any part of the Secured Assets specified by the Security Agent in that notice.

**3.6 Assets acquired after any floating charge has crystallised**

Any asset acquired by any Chargor 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 Security Agent confirms otherwise to a Chargor in writing) be charged to the Security Agent by way of first fixed charge.

**4. Guarantee**

**4.1 Each Chargor irrevocably and unconditionally jointly and severally:**

- (a) guarantees to each Secured Party punctual performance by each Chargor of all that Chargor's obligations under the Finance Documents;
- (b) undertakes with each Secured Party that whenever a Chargor does not pay any amount when due under or in connection with any Finance Document, each Chargor shall immediately on demand pay that amount as if it was the principal obligor; and
- (c) agrees with each Secured Party that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Secured Party immediately on demand against any cost, loss or liability it incurs as a result of a Chargor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Finance Document on the date when it would have been due. The amount payable by a Chargor under this indemnity will not exceed the amount it would have had to pay under this Deed if the amount claimed had been recoverable on the basis of a guarantee.

**4.2 The guarantee contained in this Deed is a continuing guarantee and will extend to the ultimate balance of sums payable by any Chargor under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.**

**4.3 Notwithstanding that the Secured Parties other than the Security Agent are not a party to this Deed, all Secured Parties shall be entitled to enforce or enjoy the benefit of the guarantee under this clause, pursuant to the terms of the Contracts (Rights of Third Parties Act) 1999.**

**5. Liability of the Chargors**

**5.1 Liability not discharged**

Each Chargor'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 Security Agent that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
- (b) the Security Agent 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 5 might have discharged, or otherwise prejudiced or affected, the liability of any Chargor.

**5.2 Immediate recourse**

Each Chargor waives any right it may have to require the Security Agent to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this deed against any Chargor.

**6. Reinstatement**

If any discharge, release or arrangement (whether in respect of the obligations of any Chargor or any security for those obligations or otherwise) is made by a Secured 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 each Chargor under the guarantee contained in this deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.

**7. Waiver of defences**

7.1 The guarantee contained in this deed is and shall at all times be a continuing security and shall cover the ultimate balance from time to time owing to the Secured Parties by the Chargors in respect of the Secured Liabilities.

7.2 The liability of each Chargor under the guarantee contained in this deed shall not be reduced, discharged or otherwise adversely affected by:

- (a) any intermediate payment, settlement of account or discharge in whole or in part of the Secured Liabilities;
- (b) any variation, extension, discharge, compromise, dealing with, exchange or renewal of any right or remedy which the Lender may now or after the date of this guarantee have from or against any Chargor and/or any other person in connection with the Secured Liabilities;
- (c) any act or omission by the Security Agent or any other person in taking up, perfecting or enforcing any Security, indemnity, or guarantee from or against the any Chargor or any other person;
- (d) any termination, amendment, variation, novation, replacement or supplement of or to any of the Secured Liabilities, including without limitation any change in the purpose of, any increase in or extension of the Secured Liabilities and any addition of new Secured Liabilities;
- (e) any grant of time, indulgence, waiver or concession to any Chargor or any other person;
- (f) any insolvency, bankruptcy, liquidation, administration, winding up, incapacity, limitation, disability, the discharge by operation of law, or any change in the constitution, name or style of any Chargor or any other person;
- (g) any invalidity, illegality, unenforceability, irregularity or frustration of any actual or purported obligation of, or Security held from, any Chargor or any other person in connection with the Secured Liabilities;
- (h) any claim or enforcement of payment from any Chargor or any other person; or
- (i) any act or omission which would not have discharged or affected the liability of any Chargor had it been a principal debtor instead of a guarantor, or indemnifier or by anything done or omitted by any person which but for this provision might operate to exonerate or discharge any Chargor or otherwise reduce or extinguish its liability under the guarantee contained in this deed.

## **8. Deferral of Chargors' rights**

8.1 No Chargor will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this deed at any time during the Security Period (unless the Security Agent otherwise directs):

- (a) to be indemnified by a Chargor;
- (b) to claim any contribution from any other guarantor of any Chargor's obligations under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Secured Party;
- (d) to bring legal or other proceedings for an order requiring any Chargor to make any payment, or perform any obligation, in respect of which any Chargor has given a guarantee, undertaking or indemnity under clause 4 (*Guarantee*);
- (e) to exercise any right of set-off against any Chargor; and/or
- (f) to claim or prove as a creditor of any Chargor in competition with any Secured Party.

8.2 If a Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Security Agent or any Secured Party by the Chargors under or in connection with the Finance Documents to be repaid in full on trust for the Security Agent and the Finance Parties and shall promptly pay or transfer the same to the Security Agent.

## **9. Undertakings**

### **9.1 Negative pledge and disposal restrictions**

No Chargor shall at any time, except with the prior written consent of the Security Agent:

- (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;
- (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, Secured Assets that are only subject to an uncrystallised floating charge); or
- (c) create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party.

### **9.2 Preservation of Secured Assets**

No Chargor shall do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Security Agent, or materially diminish the value of any of the Secured Assets or the effectiveness of the security created by this deed.

### **9.3 Chargor's waiver of set-off**

Each Chargor waives any present or future right of set-off it may have in respect of the Secured Liabilities (including sums payable by the Chargor under this deed).

#### **9.4 Title documents**

Each Chargor shall, as so required by the Security Agent, deposit with the Security Agent and the Security Agent 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 a Chargor (and if these are not within the possession or control of a Chargor, that Chargor undertakes to obtain possession of all these deeds and documents of title);
- (b) share certificates and blank stock transfer forms in relation to all Shares and Investments; and
- (c) in the case of the Chargors only, their Insurance Policies.

#### **9.5 Share transfer restrictions**

Each Chargor shall procure that the constitutional documents any company which has issued Shares to it do not at any time:

- (a) restrict or inhibit the transfer of the Shares on creation or enforcement of the security constituted by this deed; or
- (b) contain any rights of pre-emption.

#### **9.6 Changes to share rights**

Each Chargor shall not take, or allow the taking of, any action on its behalf which may result in the rights attaching to, or conferred by, all or any of its Shares being altered.

#### **9.7 Information**

Each Chargor shall:

- (a) give the Security Agent such information concerning the location, condition, use and operation of the Secured Assets as the Security Agent may require;
- (b) permit any persons designated by the Security Agent 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 Security Agent in writing of any action, claim, notice or demand made by or against it in connection with all or any part of a Secured Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, the Chargor's proposals for settling, liquidating, compounding or contesting any such action, claim, notice or demand and shall, subject to the Security Agent's prior approval, implement those proposals at its own expense.

#### **9.8 Payment of outgoings**

Each Chargor 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 Security Agent.

#### **9.9 Maintenance of Property**

Each Chargor shall keep all buildings and all fixtures on each Property in good and substantial repair and condition.

#### **9.10 Preservation of Property, fixtures and Equipment**

No Chargor shall, without the prior written consent of the Security Agent:

- (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 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, a Chargor on any Property (except to effect necessary repairs or replace them with new or improved models or substitutes).

#### **9.11 Registration at the Land Registry**

Each Chargor consents to an application being made by the Security Agent 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 BCI FINANCE LIMITED referred to in the charges register."*

#### **9.12 Dividends and voting rights before enforcement**

- (a) Before the security constituted by this deed becomes enforceable, each Chargor may retain and apply for its own use all dividends, interest and other monies paid or payable in respect of the Shares and Investments and, if any are paid or payable to the Security Agent or any of its nominees, the Security Agent will hold all those dividends, interest and other monies received by it for a Chargor and will pay them to that Chargor promptly on request.
- (b) Before the security constituted by this deed becomes enforceable, each Chargor may exercise all voting and other rights and powers in respect of the Shares and Investments or, if any of the same are exercisable by the Security Agent or any of its nominees, to direct in writing the exercise of those voting and other rights and powers provided that the exercise of, or the failure to exercise, those voting rights or other rights and powers could not reasonably be expected to have an adverse effect on the value of the Shares or Investments or otherwise prejudice the Security Agent's security under this deed.
- (c) Each Chargor shall indemnify the Security Agent against any loss or liability incurred by the Security Agent (or its nominee) as a consequence of the Security Agent (or its nominee) acting in respect of the Shares or Investments at the direction of any Chargor.
- (d) The Security Agent 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 Shares or Investments that the Security Agent considers prejudicial to, or impairing the value of, the security created by this deed.

#### **9.13 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 Shares or Investments and received by any Chargor shall be held by that Chargor on trust for the Security Agent and immediately paid to the Security Agent or, if received by the Security Agent, shall be retained by the Security Agent; and
- (b) all voting and other rights and powers attaching to the Shares or Investments shall be exercised by, or at the direction of, the Security Agent and each Chargor shall, and shall procure that its nominees shall, comply with any directions the Security Agent may give, in its absolute discretion, concerning the exercise of those rights and powers.

## **10. Powers of the Security Agent**

### **10.1 Power to remedy**

- (a) The Security Agent shall be entitled (but shall not be obliged) to remedy, at any time, a breach by any Chargor of any of its obligations contained in this deed.
- (b) Each Chargor irrevocably authorises the Security Agent and its agents to do all things that are necessary or desirable for that purpose.
- (c) Any monies expended by the Security Agent in remedying a breach by a Chargor of its obligations contained in this deed shall be reimbursed by any Chargor to the Security Agent on a full indemnity basis.

### **10.2 Exercise of rights**

- (a) The rights of the Security Agent under Clause 10.1 are without prejudice to any other rights of the Security Agent under this deed.
- (b) The exercise of any rights of the Security Agent under this deed shall not make the Security Agent liable to account as a mortgagee in possession.

### **10.3 Power to dispose of chattels**

- (a) At any time after the security constituted by this deed has become enforceable, the Security Agent or any Receiver may, as agent for a Chargor, 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 10.3(a), each Chargor shall indemnify the Security Agent and any Receiver against any liability arising from any disposal made under Clause 10.3(a).

### **10.4 Security Agent 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 Security Agent 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.

### **10.5 Conversion of currency**

- (a) For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Security Agent may convert any monies received, recovered or realised by it under this deed (including the proceeds of any previous conversion under this Clause 10.5) from their existing currencies of denomination into any other currencies of denomination that the Security Agent may think fit.



- (b) Any such conversion shall be effected at the Security Agent's bankers' then prevailing spot selling rate of exchange for such other currency against the existing currency.
- (c) Each reference in this Clause 10.5 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

#### **10.6 New accounts**

- (a) If the Security Agent receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, the Security Agent may open a new account for a Chargor in the Security Agent's books. Without prejudice to the Security Agent's right to combine accounts, no money paid to the credit of a Chargor in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.
- (b) If the Security Agent does not open a new account immediately on receipt of the notice, or deemed notice, under Clause 10.6(a), then, unless the Security Agent gives express written notice to the contrary to a Chargor, all payments made by any Chargor to the Security Agent shall be treated as having been credited to a new account of that Chargor and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt or deemed receipt of the relevant notice by the Security Agent.

#### **10.7 Indulgence**

The Security Agent 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 a Chargor) 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 any Chargor for the Secured Liabilities.

#### **10.8 Appointment of an Administrator**

- (a) The Security Agent may, without notice to the Chargors or any of them, appoint any one or more persons to be an Administrator of a Chargor 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 10.8 shall:
  - (i) be in writing signed by a duly authorised signatory of the Security Agent; and
  - (ii) take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986.
- (c) The Security Agent may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this Clause 10.8 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified.

### **11. When security becomes enforceable**

#### **11.1 Security becomes enforceable**

The security constituted by this deed shall become immediately enforceable if any Chargor fails to comply with its covenant under Clause 2 to pay the Secured Liabilities when they fall due.

#### **11.2 Discretion**

After the security constituted by this deed has become enforceable, the Security Agent 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.

## **12. Enforcement of security**

### **12.1 Enforcement powers**

- (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) The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall be immediately exercisable at any time after the security constituted by this deed has become enforceable under Clause 11.1.
- (c) Section 103 of the LPA 1925 does not apply to the security constituted by this deed.

### **12.2 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 Security Agent 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 a Chargor, 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 a Chargor, and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as the Security Agent or Receiver thinks fit without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925.

### **12.3 Access on enforcement**

- (a) At any time after the Security Agent has demanded payment of the Secured Liabilities or if any Chargor defaults in the performance of its obligations to the Security Agent whether under this deed or otherwise, each Chargor will allow the Security Agent 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 Security Agent or a Receiver reasonably believes a Secured Asset to be situated) without incurring any liability to any Chargor for, or by any reason of, that entry.
- (b) At all times, each Chargor must use its best endeavours to allow the Security Agent or its Receiver access to any premises for the purpose of Clause 12.3(a) (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.

### **12.4 Prior Security**

- (a) At any time after the security constituted by this deed has become enforceable, or after any powers conferred by any Security having priority to this deed shall have become exercisable, the Security Agent may:

- (i) redeem that or any other prior Security;
  - (ii) procure the transfer of that Security to it; and
  - (iii) settle and pass any account of the holder of any prior Security.
- (b) The settlement and passing of any such account passed shall, in the absence of any manifest error, be conclusive and binding on each Chargor. All monies paid by the Security Agent to an encumbrancer in settlement of any of those accounts shall, as from its payment by the Security Agent, be due from any Chargor to the Security Agent on current account and shall bear interest and be secured as part of the Secured Liabilities.

#### **12.5 Protection of third parties**

No purchaser, mortgagee or other person dealing with the Security Agent, 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 Security Agent, a Receiver or Delegate is purporting to exercise has become exercisable or is properly exercisable; or
- (c) how any money paid to the Security Agent, any Receiver or any Delegate is to be applied.

#### **12.6 Privileges**

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

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

Neither the Security Agent, any Receiver, any Delegate nor any Administrator shall be liable, by reason of entering into possession of a Security Asset or for any other reason, 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 act, 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.

#### **12.8 Conclusive discharge to purchasers**

The receipt of the Security Agent, 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 Security Agent, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit.

#### **12.9 Right of appropriation**

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

the Security Agent 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 Security Agent may, in its absolute discretion, determine.

- (b) The value of any Secured Assets appropriated in accordance with this clause shall be:
  - (i) in the case of cash, the amount standing to the credit of each of the Chargors' accounts with any bank, financial institution or other person, together with all interest accrued but unposted, at the time the right of appropriation is exercised; and
  - (ii) in the case of Investments, the price of those Investments at the time the right of appropriation is exercised as listed on any recognised market index or determined by any other method that the Security Agent may select (including independent valuation).
- (c) Each Chargor agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations.

### **13. Receiver**

#### **13.1 Appointment**

At any time after the security constituted by this deed has become enforceable, or at the request of the relevant Chargor, the Security Agent 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.

#### **13.2 Removal**

The Security Agent 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.

#### **13.3 Remuneration**

The Security Agent 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.

#### **13.4 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 Security Agent 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.

#### **13.5 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 Security Agent despite any prior appointment in respect of all or any part of the Secured Assets.

#### **13.6 Agent of the Chargor**

Any Receiver appointed by the Security Agent under this deed shall be the agent of the relevant Chargor and the relevant Chargor 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 relevant Chargor goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Security Agent.

#### **14. Powers of Receiver**

##### **14.1 General**

- (a) Any Receiver appointed by the Security Agent under this deed shall, in addition to the powers conferred on him by statute, have the powers set out in Clause 14.2 to Clause 14.22.
- (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 14 may be on behalf of a Chargor, the directors of a Chargor (in the case of the power contained in Clause 14.15) or himself.

##### **14.2 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.

##### **14.3 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.

##### **14.4 Employ personnel and advisers**

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 to any conditions, that he thinks fit. A Receiver may discharge any such person or any such person appointed by a Chargor.

##### **14.5 Make VAT elections**

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

##### **14.6 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 Security Agent may prescribe or agree with him.

##### **14.7 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.

##### **14.8 Manage or reconstruct a Chargor'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 any Chargor.

#### **14.9 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.

#### **14.10 Sever fixtures and fittings**

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

#### **14.11 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.

#### **14.12 Make settlements**

A Receiver may make any arrangement, settlement or compromise between a Chargor and any other person that he may think expedient.

#### **14.13 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.

#### **14.14 Improve the Equipment**

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

#### **14.15 Make calls on Chargor's members**

A Receiver may make calls conditionally or unconditionally on the members of any Chargor 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 that Chargor on its directors in respect of calls authorised to be made by them.

#### **14.16 Insure**

A Receiver may, if he thinks fit, but without prejudice to the indemnity in Clause 17, 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 any Chargor under this deed.

#### **14.17 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.

#### **14.18 Borrow**

A Receiver may, for any of the purposes authorised by this Clause 14, raise money by borrowing from the Security Agent (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 Security Agent consents, terms under which that security ranks in priority to this deed).

**14.19 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 any Chargor, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

**14.20 Delegation**

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

**14.21 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.

**14.22 Incidental powers**

A Receiver may do any other acts and things that he:

- (a) may consider desirable or necessary for realising any of the Secured Assets;
- (b) 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) lawfully may or can do as agent for that Chargor.

**15. Delegation**

**15.1 Delegation**

The Security Agent 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 19.1).

**15.2 Terms**

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

**15.3 Liability**

Neither the Security Agent nor any Receiver shall be in any way liable or responsible to any Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

**16. Application of proceeds**

**16.1 Order of application of proceeds**

All monies received by the Security Agent, 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 Security Agent (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 Security Agent determines; and
- (c) in payment of the surplus (if any) to the relevant Chargor or other person entitled to it.

## **16.2 Appropriation**

Neither the Security Agent, 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.

## **16.3 Suspense account**

All monies received by the Security Agent, a Receiver or a Delegate under this deed:

- (a) may, at the discretion of the Security Agent, Receiver or Delegate, be credited to any suspense or securities realised account;
- (b) shall bear interest, if any, at the rate agreed in writing between the Security Agent and a Chargor; and
- (c) may be held in that account for so long as the Security Agent, Receiver or Delegate thinks fit.

## **17. Costs and indemnity**

### **17.1 Costs**

Each Chargor shall, promptly on demand, pay to, or reimburse, the Security Agent and any Receiver, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind incurred by the Security Agent, any Receiver or any Delegate in connection with:

- (a) this deed or the Secured Assets;
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Security Agent's, a Receiver's or a Delegate's rights under this deed; or
- (c) taking proceedings for, or recovering, any of the Secured Liabilities.

### **17.2 Indemnity**

Each Chargor shall indemnify the Security Agent, 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 any Chargor in performing any of its obligations under this deed.

Any past or present employee or agent may enforce the terms of this Clause 17.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

## **18. Further assurance**

18.1 Each Chargor shall, at its own expense, take whatever action the Security Agent or any Receiver may reasonably require for:

- (a) creating, perfecting or 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 Security Agent or any Receiver in respect of any Secured Asset,

including, without limitation (if the Security Agent 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 Security Agent or to its nominee) and the giving of any notice, order or direction and the making of any registration.

## **19. Power of attorney**

### **19.1 Appointment of attorneys**

By way of security, each Chargor irrevocably appoints the Security Agent, every Receiver and every Delegate separately to be the attorney of each Chargor 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) each Chargor is required to execute and do under this deed; 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 Security Agent, any Receiver or any Delegate.

### **19.2 Ratification of acts of attorneys**

Each Chargor 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 19.1.

## **20. Release**

Subject to Clause 27.3, on the expiry of the Security Period (but not otherwise), the Security Agent shall, at the request and cost of the Chargors, take whatever action is necessary to release the Secured Assets from the security constituted by this deed.

**21. Assignment and transfer**

- 21.1 At any time, without the consent of the Chargors, the Security Agent may assign or transfer any or all of its rights and obligations under this deed.
- 21.2 The Security Agent may disclose to any actual or proposed assignee or transferee any information in its possession that relates to any Chargor, the Secured Assets and this deed that the Security Agent considers appropriate.
- 21.3 No Chargor may assign any of its rights, or transfer any of its rights or obligations, under this deed.

**22. Set-off**

- 22.1 The Security Agent may at any time set off any liability of any Chargor to the Security Agent against any liability of the Security Agent to the Chargors, 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 Security Agent may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Security Agent of its rights under this Clause 22 shall not limit or affect any other rights or remedies available to it under this deed or otherwise.
- 22.2 The Security Agent is not obliged to exercise its rights under 22.1. If, however, it does exercise those rights it must promptly notify the Chargors of the set-off that has been made.
- 22.3 All payments made by any Chargor to the Security Agent under this deed shall be made in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

**23. Amendments, waivers and consents**

- 23.1 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).
- 23.2 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.
- 23.3 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 Security Agent shall be effective unless it is in writing.
- 23.4 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.

**24. Severance**

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.

**25. Counterparts**

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.

**26. Third party rights**

Except as expressly provided at clause 4.3 (*Guarantee*) above, 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.

**27. Further provisions**

**27.1 Independent security**

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

**27.2 Continuing security**

- (a) 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 Security Agent discharges this deed in writing.
- (b) Each Chargor expressly confirms that it intends that the Security constituted by this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to the Secured Liabilities as a result of the amendment and/or restatement of the Loan Agreements and/or any of the other Finance Documents and/or any additional facility or amount which is made available under any of the Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

**27.3 Discharge conditional**

Any release, discharge or settlement between a Chargor and the Security Agent shall be deemed conditional on no payment or security received by the Security Agent 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 Security Agent 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 Security Agent deems necessary to provide the Security Agent with security against any such avoidance, reduction or order for refund; and
- (b) the Security Agent may recover the value or amount of such security or payment from each Chargor subsequently as if the release, discharge or settlement had not occurred.

#### **27.4 Certificates**

A certificate or determination by the Security Agent as to any amount for the time being due to it from any Chargor under this deed shall be, in the absence of any manifest error, conclusive evidence of the amount due.

#### **27.5 Consolidation**

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

#### **27.6 Small company moratorium**

Notwithstanding anything to the contrary in this deed, neither the obtaining of a moratorium by any Chargor under schedule A1 to the Insolvency Act 1986 nor the doing of anything by any Chargor with a view to obtaining such a moratorium (including any preliminary decision or investigation) shall be, or be construed as:

- (a) an event under this deed which causes any floating charge created by this deed to crystallise;
- (b) an event under this deed which causes any restriction which would not otherwise apply to be imposed on the disposal of any property by a Chargor; or
- (c) a ground under this deed for the appointment of a Receiver.

#### **28. Notices**

##### **28.1 Delivery**

Each notice or other communication required to be given to a party under or in connection with this deed shall be:

- (a) in writing;
- (b) delivered by hand, by pre-paid first-class post or other next working day delivery service; and
- (c) sent to the address of the relevant party on the signature page to this deed, or to any other address as is notified in writing by one party to the other from time to time.

##### **28.2 Receipt by Chargor**

Any notice or other communication that the Security Agent gives to a Chargor shall be deemed to have been received:

- (a) if delivered by hand, at the time it is left at the relevant address; and
- (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 28.2(a) or Clause **Error! Reference source not found.** 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.

##### **28.3 Receipt by Security Agent**

Any notice or other communication given to the Security Agent shall be deemed to have been received only on actual receipt.

**28.4 Service of proceedings**

This Clause 28 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.

**29. Governing law and jurisdiction**

**29.1 Governing law**

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

**29.2 Jurisdiction**

Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this deed or its subject matter or formation. Nothing in this clause shall limit the right of the Security Agent to take proceedings against any Chargor in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

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

## Schedule 1

### Chargors

Name of Chargor	Jurisdiction of Incorporation	Registration number (if any)
Contentive Group Limited	England and Wales	10225524
Contentive Ltd	England and Wales	8275348
Myguides Limited	England and Wales	3634787
Clickz Group Limited	England and Wales	9447917

## Schedule 2

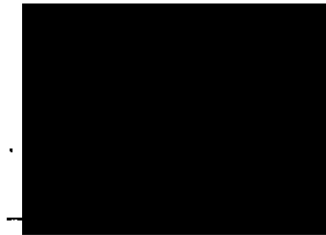
### Shares

Chargor	Issuer of shares	Number and class of shares	Details of nominees (if any) holding legal title to shares
Contentive Group Limited	Contentive Ltd	1 ordinary share of £1	n/a
Contentive Group Limited	Myguides Limited	100 ordinary shares of £1 each	n/a
Myguides Limited	Clickz Group Limited	1 ordinary share of £1	n/a

**Signature page to Debenture**

**The Chargors**

Executed as a deed by  
**Contentive Group Limited**  
acting by a director,  
in the presence of:



Name:

Witness signature:



Witness name:

Klavis Balkiewicz

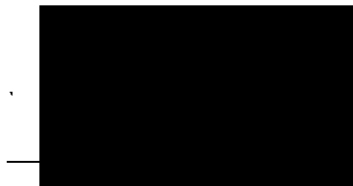
Witness address:



Address: 1 Hammersmith Broadway, London W6 9DL

Attention: Finance Director

Executed as a deed by  
**Contentive Ltd**  
acting by a director,  
in the presence of:



Name:

Witness signature:



Witness name:

Melanie Balkiewicz

Witness address:



Address: 1 Hammersmith Broadway, London W6 9DL

Attention: Finance Director



Executed as a deed by  
**Myguides Limited**  
acting by a director,  
in the presence of:

  
\_\_\_\_\_  
Name:

Witness signature:



Witness name:

M. Stalkiewicz.....

Witness address:



Address: 1 Hammersmith Broadway, London W6 9DL

Attention: Finance Director

Executed as a deed by  
**Clickz Group Ltd**  
acting by a director,  
in the presence of:

  
\_\_\_\_\_  
Name:

Witness signature:



Witness name:

Melanie Stalkiewicz.....

Witness address:



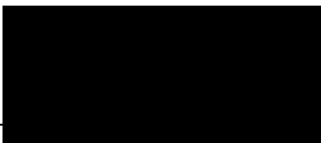
Address: 1 Hammersmith Broadway, London W6 9DL

Attention: Finance Director

**The Security Agent**

**Executed as a Deed**

By: **BCI FINANCE LIMITED**

\_\_\_\_\_ 

Signature of Director

\_\_\_\_\_ SAM KEMP

Name of Director

in the presence of:

Witness signature:



Witness name:

STEPHANIE LOCKRAM

Witness address:



Address: 1 Hammersmith Broadway, London, United Kingdom, W6 9DL

Email: [investments@blenheimchalcot.com](mailto:investments@blenheimchalcot.com)

Attention: Manoj Badale