

# MR01

## Particulars of a charge



284792/13

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

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

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

☒ **What this form is NOT for**  
You may not use this form to  
register a charge where there is no  
instrument Use form MR02

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

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

☒ You must enclose a certified copy of the instrument with this form. It  
must be scanned and placed on the public record. **Do not send the original.**

WEDNESDAY



\*A3AA615K\*

A13

18/06/2014

#182

COMPANIES HOUSE

### 1 Company details

Company number 04552078

Company name in full ADVANTEX NETWORK SOLUTIONS LIMITED

For official use

#### Filing in this form

Please complete in typescript or in  
bold black capitals

All fields are mandatory unless  
specified or indicated by \*

### 2 Charge creation date

Charge creation date 01/03/2014

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

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

Name NEAF LP ACTING BY ITS GENERAL PARTNER NE ANGEL  
GP LIMITED

Name

Name


Name

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

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

MR01

Particulars of a charge

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

# MR01

## Particulars of a charge

### Presenter information

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

Contact name  
**Imogen Holland**

Company name  
**Ward Hadaway**

Address  
**Sandgate House**

**102 Quayside**

**Newcastle upon Tyne**

Post town

County/Region

Postcode  
**N E 1 3 D X**

Country

DX  
**Newcastle upon Tyne 30 - DX 730360**

Telephone  
**0191 2044000**

### Certificate

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

### Checklist

**We may return forms completed incorrectly or with information missing**

**Please make sure you have remembered the following**

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

### Important information

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

### How to pay

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

Make cheques or postal orders payable to 'Companies House'

### Where to send

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

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

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

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

### Further information

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

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



**FILE COPY**

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

Company number. 4552078

Charge code: 0455 2078 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 13th June 2014 and created by ADVANTEX NETWORK SOLUTIONS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 18th June 2014.

DX

Given at Companies House, Cardiff on 20th June 2014



**Companies House**



**THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES**

DATED

13 JUNE

2014

(1) ADVANTEX NETWORK SOLUTIONS LIMITED

and

(2) NEAF LP

---

DEBENTURE

---

WE HEREBY CERTIFY THIS TO  
BE A TRUE COPY OF THE ORIGINAL

.....*Ward Hadaway*.....  
WARD HADAWAY  
SOLICITORS  
102, QUAYSIDE  
NEWCASTLE UPON TYNE NE1 3DX  
DATED .....16/06/2014.....

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## BETWEEN:

- (1) **ADVANTEX NETWORK SOLUTIONS LIMITED** a company incorporated and registered in England and Wales under registered number 04552078 whose registered office is at 16B Follingsby Close, Gateshead, Tyne and Wear, NE10 8YG (the "**Borrower**"), and
- (2) **NEAF LP** (a limited partnership established under the laws of England and Wales and registered under number LP 13766) whose principal place of business is at 34 Moor Crescent, Gosforth, Newcastle upon Tyne NE3 4AP acting by its general partner **NE ANGEL GP LIMITED** (a company incorporated and registered in England under registration number 7039261) whose registered office is at 34 Moor Crescent, Gosforth, Newcastle upon Tyne NE3 4AP (the "**Lender**")

## RECITALS

The Lender holds the benefit of this deed on trust for the Finance Parties

## NOW THIS DEED WITNESSES.

## 1. DEFINITIONS AND INTERPRETATION

1.1 In this deed, unless the context requires otherwise

**"Administrator"** has the meaning given to it in clause 12.1,

**"Borrower's Group"** means the Borrower, any holding company or subsidiary (as those terms are defined in section 1159 of the Companies Act 2006, but after making the modifications to that statutory meaning described in clause 1.7) of the Borrower and all other subsidiaries of any such holding company from time to time,

**"Business Day"** means a day (other than a Saturday or Sunday) on which banks are open for business in London,

**"Charged Assets"** means all property, revenue, rights and assets mortgaged, charged or assigned pursuant to, or subject to or expressed to be subject to the security interests created by this deed from time to time (and references to the "**Charged Assets**" include a reference to any of them),

**"CREST"** means the relevant system as defined in the Uncertificated Securities Regulations

2001 in respect of which Euroclear UK & Ireland Limited is the Operator (as defined in such regulations),

**“Dangerous Substance”**

means any natural or artificial substance (whether in solid, liquid, gas or vapour form and whether alone or in combination with any other substance) capable of causing harm to man or any other living organism, or capable of damaging the environment or public health or welfare, including but not limited to controlled, special, hazardous, toxic or dangerous waste,

**“Debts”**

means all present and future debts, receivables, rentals, royalties, fees and liabilities of any kind whatsoever (whether actual or contingent) now or at any time hereafter (and from time to time) due, owed or payable to the Borrower, including the benefit of any judgment or order to pay a sum of money, and the benefit of all rights, securities and guarantees of any nature enjoyed or held by it in relation to any of the same and all bills of exchange, promissory notes and other negotiable or non-negotiable instruments owned or held by the Borrower from time to time,

**“Default Rate”**

means the rate of 4% per annum above the Interest Rate,

**“Encumbrance”**

means any Security Interest or any encumbrance securing any obligation of any person,

**“Environmental Law”**

means all past and present statutes, common law, bylaws, regulations, notices, orders, directives, codes of practice, circulars, guidance notes and the like (whether in the United Kingdom or elsewhere) concerning the protection of human health or the environment or the conditions of the workplace or the generation, transportation, storage, treatment or disposal of a Dangerous Substance,

**“Environmental Licence”**

means any authorisation required under or in relation to any Environmental Law,

**“Equipment”**

means all equipment, plant, machinery, tools, vehicles, furniture, computer



hardware and software and other tangible moveable property now or at any time hereafter (and from time to time) owned by the Borrower, and any part thereof, together with all spare parts, replacements, modifications and additions thereto,

**"Event of Default"**

means those events listed in clause 3 of the Secured Loan Agreement,

**"Excluded Property"**

means any leasehold property held by the Borrower pursuant to a lease which either precludes absolutely or conditionally (including requiring the consent of any third party) the Borrower from creating any charge over its leasehold interest in that property until the relevant condition or the necessary waiver or consent has been satisfied or obtained,

**"Finance Documents"**

has the meaning give to it in the Secured Loan Agreement,

**"Finance Parties"**

means, the Lender and the Manager and shall include each of their successors in title, permitted assigns and permitted transferees,

**"IA"**

means the Insolvency Act 1986,

**"Incapacity"**

in relation to a person, means the death or bankruptcy, insolvency, liquidation, dissolution, winding-up, administration, receivership, amalgamation or reconstruction of that person, that person becoming a patient under any mental health legislation or otherwise becoming incapable of managing his/her affairs, or any other incapacity of that person (and, in the case of a partnership, includes the termination or any change in the composition of the partnership),

**"Insolvency"**

means any of the following

- (a) the presentation of a petition, or the convening of a meeting for the purpose of considering a resolution, for the winding up or dissolution of, the passing of any resolution for the winding up or dissolution of, or the making of a winding up order against or order

for the dissolution of, the Borrower,

- (b) the appointment of a receiver, administrative receiver, administrator, receiver and manager or similar officer over all or any of the assets or undertaking of the Borrower, or the making of an administration application or administration order in relation to the Borrower,
- (c) the proposal of, application for or entry into of a compromise or arrangement or voluntary arrangement, or any other scheme, composition or arrangement in satisfaction or composition of any of its debts or other arrangement for the benefit of its creditors generally, by the Borrower with any of its creditors (or any class of them) or any of its members (or any class of them) or the taking by the Borrower of any action in relation to any of the same or the filing of documentation in court to obtain a moratorium pursuant to section 1A of IA and paragraph 7 of schedule A1 of IA in relation to the Borrower,
- (d) the taking by any creditor (whether or not a secured creditor) of possession of, or the levying of distress, execution or enforcement or some other process upon, all or part of the property, assets or undertaking of the Borrower,
- (e) the deemed inability of the Borrower to pay its debts within the meaning of section 123 of IA (with the words "proved to the satisfaction of the court" deemed to be omitted from that section for these purposes),
- (f) the suspension of payment of debts by the Borrower,
- (g) the ceasing by the Borrower to

carry on the whole or a substantial part of its business, or

- (h) the occurrence of an event or circumstance in relation to the Borrower similar to any of those referred to in paragraphs (a) to (g) above in any jurisdiction other than England and Wales

and the term “**Insolvent**” shall be construed accordingly,

**“Insurance Policies”**

means the policies of insurance or assurance (and all cover notes) referred to in clause 4.1(c) or which are at any time held by or written in favour of the Borrower,

**“Intellectual Property”**

means any present or future legal and/or equitable rights or interests (including the benefit of all licences in any part of the world) of the Borrower in or relating to any patents, inventions, registered designs, trade marks, domain names, applications for the registration of any of the foregoing and the right to apply therefor in any part of the world, design rights including Community designs, database rights, topography rights, copyrights and rights in the nature of copyright, trade names, logos and get-up, know-how and trade secrets, and any similar or equivalent rights arising or subsisting anywhere in the world, together with any present and future fees, royalties and other income or rights derived from or incidental to any of the foregoing and the benefit of all present and future agreements relating to the use of, licensing or exploitation of any such rights,

**“Interest Rate”**

means 9 0% (nine percent) per annum above the UK Reference Rate (as such term is defined in the Secured Loan Agreement),

**“Issuer”**

means the issuer of any Securities which are charged to the Lender from time to time pursuant to this deed,

**“Permitted Security Interest”**

means

- (a) any Security Interest arising

under any Finance Document,

- (b) normal title retention arrangements arising in favour of suppliers of goods acquired by the Borrower in the ordinary course of its trading or arising under conditional sale or hiring agreements in respect of goods acquired by the Borrower in the ordinary course of its trading and not for the purpose of raising finance in respect of the goods in question, in either case provided the amounts due in respect of such arrangements are not overdue for payment,
- (c) liens arising by way of operation of law in the ordinary course of trading provided the amounts in respect of which such liens arise are not overdue for payment, and
- (d) any Security Interest created or outstanding with the prior written consent of the Lender,

**“Planning Acts”**

means the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990 and the Planning and Compensation Act 1991 and any other legislation of a similar nature,

**“Properties”**

means all present and future right, title and interest of the Borrower from time to time in freehold, leasehold or commonhold property (whether registered or unregistered) together with all present and future buildings, fixtures (including trade and tenant's fixtures), plant and machinery on any such property and the benefit of all rights, covenants, easements and privileges appurtenant to, or for the benefit of, the same from time to time (and the proceeds of sale from time to time of any of the same and “Property” means any of them,

**“Receiver”**

has the meaning given to it in clause

## 12.1,

### **"Secured Liabilities"**

means all monies, obligations and liabilities (in whatever currency) owed by the Borrower to the Finance Parties from time to time (whether on or at any time after demand), whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity whatsoever including but not limited to all monies, obligations and liabilities due under or in connection with the Finance Documents and for the avoidance of doubt such monies, obligations and liabilities include all those which may arise pursuant to any provision of this deed (and references to the **"Secured Liabilities"** include a reference to any of them) provided that no obligation or liability shall be included in the definition of "Secured Liabilities" to the extent that, if it were so included, this deed (or any part of it) would constitute unlawful financial assistance within the meaning of section 678 or 679 of the Companies Act 2006,

### **"Secured Loan Agreement"**

means a loan agreement entered into on the date hereof between the Borrower (1) David O'Connell and Stephen O'Connell (2) the Fund (3), and Rivers Capital Partners Limited (4) ("the Manager"),

### **"Securities"**

means all stocks, shares, loan capital, securities, bonds and investments of any kind whatsoever (whether or not marketable and including warrants and options to acquire or subscribe for any of the same) now or at any time hereafter (and from time to time) owned (at law or in equity) by the Borrower or in which the Borrower has an interest now or at any time in the future, together with all allotments offered or arising in respect thereof or incidental thereto and all stocks, shares, loan capital, securities, bonds, investments, rights, income, money or property accruing, deriving, offered or paid from time to time by way of dividend, distribution, interest, exchange, capital reorganisation, conversion, redemption, bonus, rights, preference, option or otherwise in

respect thereof,

**“Security Interest”**

means any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, hypothecation, assignment by way of security, security interest, title retention, preferential right or trust arrangement or any other type of arrangement having a similar effect to any of the foregoing,

**“Security Period”**

means the period starting on the date of this deed and ending on the date on which all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full,

**“Subsidiary”**

means any subsidiary (as defined in section 1159 of the Companies Act 2006, but after making the modifications to that statutory meaning described in clause 1.7) of the Borrower from time to time, and

**“Working Hours”**

means 9 30 a m to 5 30 p m on a Business Day

1 2 Unless the context otherwise requires, in this deed

- (a) words and phrases defined in the Secured Loan Agreement have the same meanings herein,
- (b) references to clauses and schedule are references to clauses of and the schedule to this deed,
- (c) a reference to any statute or statutory provision shall include any subordinate legislation made under the relevant statute or statutory provision and shall be construed as a reference to such statute, statutory provision or subordinate legislation as it may have been, or may from time to time be, amended, modified or re-enacted (with or without modification) and to any former statute or statutory provision which it amends, modifies or re-enacts provided that no such amendment, modification or re-enactment after the date hereof shall apply for the purposes of this deed to the extent that it would impose any new or extended obligation, liability or restriction on, or otherwise adversely affect the rights of the Lender,
- (d) references to a “**person**” shall be construed so as to include any individual, firm, corporation, government, state or agency of a state or any joint venture, trust, association or partnership (whether or not having separate legal personality),
- (e) references to any gender shall include every gender, and the singular shall include the plural and vice versa,

- (f) references to “**indemnify**” and “**indemnifying**” any person against any circumstance include indemnifying and keeping that person harmless from all actions, claims and proceedings from time to time made against that person and all loss or damage and all payments, costs or expenses (including legal fees and taxes) made or incurred by that person as a consequence of or which would not have arisen but for that circumstance,
  - (g) references to any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall in respect of any jurisdiction other than England be deemed to include what most nearly approximates in that jurisdiction to the English legal term (and references in this clause 1 2(g) to “England” and “English” shall also include a reference to “Wales” and “Welsh” respectively),
  - (h) references to writing shall include any mode of reproducing words in a legible and non-transitory form,
  - (i) references to a “**party**” or the “**parties**” are to a party or the parties to this deed and include a reference to that party’s, or those parties’, successors and permitted assigns,
  - (j) the rule known as the ejusdem generis rule shall not apply and accordingly general words introduced by the word “other” shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things,
  - (k) general words shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words,
  - (l) references to an “**authorisation**” include an authorisation, permit, consent, licence, approval, resolution, exemption, filing, registration and notarisation,
  - (m) references to a Finance Document or any other agreement or instrument is a reference to such Finance Document or such other agreement or instrument as amended, supplemented, novated and/or varied from time to time, and
  - (n) references to a “**law**” shall include a reference to the common law, any statute, bye-law, regulation or instrument and any kind of subordinate legislation, and any order, requirement, code of practice, circular, guidance note, licence, consent or permission made or given pursuant to any of the foregoing
- 1 3 The terms of the Finance Documents and of any side letters between the parties in relation to any Finance Document are incorporated into this deed to the extent required to ensure that any purported disposition of the Property contained in this deed is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989
- 1 4 The perpetuity period applicable to all trusts declared by this deed shall be 125 years
- 1 5 Paragraph 14 of schedule B1 of IA applies to any floating charge created by or pursuant to this deed (and each such floating charge is a qualifying floating charge for the purposes of IA)

- 1 6 The parties intend this deed to take effect as a deed notwithstanding that the Lender may have executed it under hand only
- 1 7 In relation to the definitions of "Borrower's Group" and "Subsidiary", and any reference to a "subsidiary of the Lender" in this deed
- (a) paragraph 6(1) of schedule 6 to the Companies Act 2006 shall be reworded as follows "Rights held by a person ("A") as nominee for another ("B") shall be treated as held by B, and where A has been registered as a member of the company as nominee for B, B shall be deemed to be a member of the company in place of A in respect of all shares to which the nomination relates ", and
- (b) paragraph 7 of schedule 6 to the Companies Act 2006 shall be modified as follows there shall be inserted after the words "shall be treated as held by the person providing the security" the following "(and if, in connection with or as a consequence of the provision of that security, some person other than the person providing the security is registered as a member of the company in respect of shares which are subject to the security, the person providing the security shall be deemed to be registered as a member of the company in respect of those shares)"
- 1 8 In relation to any reference to a "subsidiary undertaking" in this deed, such term shall have the meaning given to it in section 1162 of the Companies Act 2006 but with the following modification Paragraph 8 of schedule 7 to the Companies Act 2006 shall be modified as follows there shall be inserted after the words "shall be treated as held by the person providing the security" the following "(and if, in connection with or as a consequence of the provision of that security, some person other than the person providing the security becomes a member of the undertaking in relation to any share or other interest which is subject to the security, the person providing the security shall be deemed to be a member of the undertaking in respect of that share or interest)"
- 1 9 The schedule forms part of this deed and shall have the same force and effect as if expressly set out in the body of this deed, and any reference to this deed shall include the schedule
- 1 10 The headings to clauses and schedule are for convenience only and shall not affect the construction or interpretation of this deed

## **2 SECURITY TRUSTEE**

The Lender is acting as agent and security trustee for the Finance Parties

## **3 COVENANT TO PAY**

- 3 1 The Borrower hereby covenants with the Lender (as security trustee for the Finance Parties) that it will on demand pay and discharge the Secured Liabilities from time to time when they fall due
- 3 2 If the Borrower fails to pay any amount due in respect of the Secured Liabilities on the due date for payment, it shall forthwith on demand by the Lender pay interest on the overdue amount from the due date up to the date of actual payment, after as well as



before judgment, at the Default Rate. Such interest shall accrue on a daily basis and be compounded quarterly but without prejudice to the right of the Lender to require payment of such interest.

- 3.3 All payments in respect of the Secured Liabilities shall be made without set-off, counterclaim, deduction or withholding (save for any deduction or withholding required by law).
- 3.4 If any deduction or withholding is required by law in respect of any payment in respect of the Secured Liabilities or is in any event made, the sum payable by the Borrower shall be increased so that, after making such deduction or withholding, the Borrower shall pay to the Finance Parties and the Finance Parties shall receive and be entitled to retain on the due date for payment a net sum equal to the sum which it would have received had no such deduction or withholding been made.
- 3.5 A certificate from the Lender as to any amount for the time being due to it from the Borrower shall be conclusive evidence of the amount so due in the absence of manifest error.

#### **4. CHARGING CLAUSE**

- 4.1 As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee hereby
- (a) charges to the Lender (as security trustee for the Finance Parties), by way of first legal mortgage, the Properties,
  - (b) charges to the Lender (as security trustee for the Finance Parties), by way of first fixed charge
    - (i) all Properties not charged by clause 4.1(a) from time to time,
    - (ii) all present and future rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to any Property,
    - (iii) the Securities,
    - (iv) all present and future goodwill of the Borrower and all uncalled capital of the Borrower from time to time,
    - (v) the Equipment and the benefit of all contracts, licences and warranties relating to the same (excluding any item for the time being forming part of the Borrower's stock in trade or work in progress),
    - (vi) the Intellectual Property,
    - (vii) the Debts and the proceeds of collection or sale of the Debts, and
    - (viii) the bank accounts of the Borrower and all monies from time to time standing to the credit of such accounts, all monies standing to the credit of the Borrower from time to time on any and all accounts with any bank, financial institution or other person and all rights of the Borrower relating or attaching to any such accounts (including the right to interest from time to time accrued or accruing on such monies),

- (c) assigns and agrees to assign to the Lender (as trustee for the Finance Parties) all present and future right, title and interest of the Borrower in and to any policies of insurance or assurance (including, without limitation, any insurances relating to the Properties or the Equipment) and any claims and recoveries thereunder,
  - (d) assigns and agrees to assign to the Lender (as trustee for the Finance Parties) (to the extent the same are assignable) all present and future right, title and interest of the Borrower in each and any agreement to which the Borrower is or becomes a party or in which the Borrower is or becomes interested and the benefit of any guarantee or security for the performance of any such agreement or, and
  - (e) charges to the Lender (as trustee for the Finance Parties), by way of first floating charge, all the present and future undertaking, property, assets and rights of the Borrower at any time not effectively mortgaged, charged or assigned pursuant to the preceding provisions of this clause 4.1
- 4.2 The Borrower shall upon the execution of this deed (or, if later, the date of acquisition of the relevant Charged Assets) deposit with the Lender (as trustee for the Finance Parties) and the Lender (as trustee for the Finance Parties) shall during the Security Period be entitled to hold
- (a) all deeds and documents of title relating to the Charged Assets which are in the possession or control of the Borrower (and, if not within the possession and/or control of the Borrower, the Borrower hereby undertakes to obtain possession of such deeds and documents of title and to hold them on trust for the Lender pending their deposit with the Lender),
  - (b) all Insurance Policies relating to any of the Charged Assets to which policies the Borrower is entitled to possession,
  - (c) all certificates relating to the Securities and such instruments of transfer executed in blank and left undated and other documents as the Lender may from time to time require for perfecting its title to the Securities or for vesting or enabling it to vest the Securities in itself or its nominee or in any purchaser, and
  - (d) declarations of trust in favour of the Borrower executed by all persons (other than the Borrower) in whose name the Securities are registered
- 4.3 The Borrower shall within five Business Days of the execution of this deed and (in respect of any future Charged Assets) within five Business Days of request by the Lender give notice to any bank, financial institution or other person (excluding the Lender) with whom the Borrower has an account, of the charging to the Lender pursuant to clause 4.1(b)(viii) of the Borrower's rights under such accounts
- 4.4 Notwithstanding any assignment pursuant to clause 4.1(c) or 4.1(d)
- (a) the Lender shall not be obliged to make any enquiry as to the nature or sufficiency of any payment made under or pursuant to any assigned agreement or policy of insurance or assurance or to make any claim or take any other action to collect any monies or to enforce any right, title, interest or benefit in respect of any such agreement or policy to which the Lender or the Borrower may at any time be entitled, and

- (b) the Borrower shall remain liable to perform and discharge all its obligations pursuant to each such assigned agreement and policy of insurance or assurance and the Lender shall be under no obligation whatsoever in respect of any such agreement or policy or in the event of any failure by the Borrower to perform its obligations pursuant to this clause **4.4(b)**

4 5 To the extent that any right, title or interest in respect of any agreement is not assignable, the assignment purported to be made by clause **4.1(d)** shall operate as an assignment of all benefits, income and receipts of any kind arising in respect of such agreement (to the extent that such benefits, income and receipts are not the subject of the security created by this deed pursuant to any other provision of clause **4.1**), as a continuing security for the payment and discharge in full of the Secured Liabilities

4 6 The Borrower shall, forthwith upon execution of this deed or, in the case of any future Property, forthwith upon the acquisition of such Property, apply to the Chief Land Registrar for a restriction to be entered on the register in respect of each of the Properties to which title is registered in the following terms

"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 restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated \_\_\_\_\_ in favour of NEAF LP referred to in the charges register or their conveyancer "

4 7 Any obligation of the Lender to make further advances to the Borrower is deemed to be incorporated into this deed and the Borrower shall, forthwith upon execution of this deed or, in the case of any future Property, forthwith upon the acquisition of such Property, apply to the Chief Land Registrar for a note of such obligation to be entered on the register in respect of each of the Properties to which title is or becomes registered

## **5 CRYSTALLISATION OF FLOATING CHARGE**

5 1 The floating charge created pursuant to clause **4.1(e)** will automatically be converted with immediate effect into a fixed charge

- (a) over any Charged Assets the subject of such floating charge in relation to which the Borrower creates or attempts to create an Encumbrance other than a Permitted Security Interest or any trust in favour of another person,
- (b) over any Charged Assets the subject of such floating charge in relation to which any person levies or attempts to levy, or notifies the Borrower that it intends to levy, any distress, attachment, execution or other process,
- (c) in respect of all the Charged Assets the subject of such floating charge if the Borrower ceases to carry on business or to be a going concern, and
- (d) in respect of all the Charged Assets the subject of such floating charge upon the occurrence of any event of a type specified in paragraphs (a) or (b) of the definition of Insolvency in clause **1 1**

5 2 Notwithstanding the provisions of clause **5.1** (and without prejudice to any other circumstances in which such floating charge may crystallise), the Lender may at any

time and from time to time by written notice to the Borrower convert the floating charge created pursuant to clause 4.1(e) into a fixed charge as regards all or any of the Charged Assets if at any time any of the security constituted by this deed becomes enforceable

- 5 3 Any asset acquired by the Borrower after any crystallisation of the floating charge created pursuant to clause 4.1(e) which but for such crystallisation would be subject to such floating charge shall (unless the Lender confirms in writing to the contrary) be charged to the Lender by way of first fixed charge
- 5 4 The Lender may at any time after any conversion of the floating charge over any Charged Assets into a fixed charge in accordance with clause 5.1 or 5.2 (or at any time after the creation of a fixed charge pursuant to clause 5 3) reconvert or convert (as the case may be) such fixed charge into a floating charge
- 5 5 Notwithstanding the foregoing provisions of this clause 5, the floating charge created pursuant to clause 4.1(e) shall not convert into a fixed charge solely by reason of a moratorium being obtained under the Insolvency Act 2002 (or anything done with a view to obtaining such a moratorium) in respect of the Borrower

## **6 RESTRICTIONS ON DISPOSAL**

- 6 1 The Borrower hereby covenants with the Lender that the Borrower will not at any time, except with the prior written consent of the Lender
- (a) create or purport to create or permit to subsist any Encumbrance other than a Permitted Security Interest on or in relation to the Charged Assets other than this deed, or
  - (b) sell, assign, transfer, lease, licence, share occupation or part with possession of or otherwise dispose of (or purport to do any of the foregoing in respect of) all or any part of the Charged Assets or of the equity of redemption of any such Charged Assets or any interest in any such Charged Assets, except (in the case of the Charged Assets charged by way of floating charge from time to time) in the ordinary course of the Borrower's business and for the purpose of carrying on that business, or
  - (c) create or grant (or purport to create or grant) any interest in the Charged Assets in favour of a third party, or
  - (d) deal with the Debts otherwise than in accordance with the provisions of part 2 of schedule 1

## **7. BORROWER'S COVENANTS**

- 7 1 The Borrower hereby covenants with the Lender in the terms set out in schedule 1

## **8. PROVISIONS RELATING TO THE SECURITIES**

- 8 1 The Lender may at any time require any or all of the Securities to be registered in the name of the Lender or its nominee. The Borrower agrees to forthwith upon request execute and deliver to the Lender all such transfers and other documents and do all such things as may be necessary or desirable to bring about any such registration

- 8 2 The Borrower hereby grants and agrees to procure all authorisations and waivers which are necessary, under the articles of association of any Issuer or otherwise, for the transfer of the Securities to the Lender or its nominee or to a purchaser upon enforcement of this deed. The Borrower agrees to exercise its rights in respect of the Securities so as to procure (in so far as it is able) the amendment of the share transfer provisions of each Issuer's articles of association in such manner as the Lender may require in order to permit such a transfer
- 8 3 Until the security constituted by this deed becomes enforceable, or until the occurrence of an Event of Default
- (a) any cash dividends or cash distributions lawfully paid in respect of any of the Securities received by the Lender or its nominee shall, on request by the Borrower but subject to any right of set-off, be released and paid to the Borrower, and
  - (b) the Lender will exercise, or procure that its nominee exercises, all voting and other rights and powers attaching to the Securities and exercisable by the Lender or its nominee as the Borrower may from time to time direct in writing provided that acting in accordance with such directions would not, in the Lender's absolute opinion, prejudice the Lender's security under this deed or the value of the Securities or contravene any agreement between the Lender and the Borrower and the Borrower shall indemnify the Lender in respect of any such exercise
- 8 4 After the security constituted by this deed has become enforceable or after the occurrence of an Event of Default
- (a) all dividends and other distributions paid in respect of the Securities and received by the Borrower shall be held on trust for the Lender and paid into any such account specified by the Lender forthwith upon receipt or, if received by the Lender, may be retained by the Lender,
  - (b) the Lender may exercise, or direct the exercise of, all voting and other rights and powers attaching to the Securities as the Lender may in its absolute discretion think fit and the Borrower shall, and shall procure that its nominees shall, comply with any directions from the Lender concerning the exercise of such rights and powers, and
  - (c) the Borrower shall, forthwith upon the request of the Lender, cancel any nominations pursuant to section 145 or 146 of the Companies Act 2006 which relate to the Securities

## **9. BORROWER'S REPRESENTATIONS AND WARRANTIES**

- 9 1 The Borrower represents and warrants to the Lender as follows
- (a) it is a body corporate duly organised and validly existing under the laws of England and Wales and has full power and authority to enter into and perform all its obligations under this deed and each of the documents referred to in it,
  - (b) this deed and each of the documents referred to in it constitutes its legal, valid and binding obligations enforceable against it in accordance with their respective terms,

- (c) the entry into and performance by it of this deed or any document referred to in it does not and will not violate in any respect any law, its articles of association or any agreement to which it is a party,
- (d) all authorisations required in connection with this deed and each of the documents referred to in it and the transactions contemplated by this deed have been obtained and are in full force and effect,
- (e) no action, suit, proceeding, litigation or dispute against it or any of its subsidiary undertakings is presently taking place or pending or threatened in relation to any Charged Assets,
- (f) neither it nor any of its subsidiary undertakings is in default under any agreement to which it, or such subsidiary undertaking (as the case may be), is a party,
- (g) it is the sole legal and beneficial owner of the Charged Assets and none of the assets in its possession or which it uses are subject to any finance lease, sale and lease back, hire-purchase agreement or conditional sale agreement,
- (h) the Charged Assets are free from Encumbrances (other than Permitted Security Interests and the Encumbrances created by this deed),
- (i) it has not received notice of any adverse claim by any person in respect of the Charged Assets or any interest in any Charged Assets,
- (j) there is no breach of any law which materially adversely affects the Charged Assets,
- (k) there are no covenants, agreements, reservations, conditions, interests, rights or other matters whatsoever which materially adversely affect the Charged Assets,
- (l) no facility necessary for the enjoyment and use of the Charged Assets is subject to terms entitling any person to terminate or curtail its use,
- (m) nothing has arisen or has been created or is subsisting which would be an unregistered interest which overrides first registration under schedule 1 to the Land Registration Act 2002 or an unregistered interest which overrides registered dispositions under schedule 3 to the Land Registration Act 2003 in respect of any Property,
- (n) no Encumbrance expressed to be created pursuant to this deed is liable to be avoided or otherwise set aside on the liquidation or administration of the Borrower or otherwise,
- (o) there is no prohibition on assignment in any policy of insurance or assurance, or Assigned Agreement referred to in clause 4.1(c) or 4.1(d) and the Borrower's entering into this deed does not constitute a breach of any such policy or Assigned Agreement, and
- (p) the Borrower has at all times complied in all material respects with all applicable Environmental Law

- 9 2 The representations and warranties set out in clause 9.1 will be deemed to be repeated by the Borrower on each day of the Security Period with reference to the facts and circumstances then existing
- 9 3 The Borrower will disclose in writing to the Lender anything which is or may constitute a breach of or be inconsistent with any of the representations and warranties set out in clause 9.1 immediately it comes to its notice but any such disclosure shall not affect or reduce the Borrower's obligations in respect of such representations and warranties nor shall the receipt of such disclosure by the Lender be deemed to imply a waiver by the Lender of any rights and remedies it may have in respect of any such breach

## **10 ENFORCEMENT AND LENDER'S POWERS**

10 1 The security constituted by this deed shall become enforceable

- (a) if any of the Secured Liabilities shall not be paid or discharged when the same ought to be paid or discharged by the Borrower (whether on demand or at scheduled maturity or by acceleration or otherwise as the case may be),
- (b) if the Borrower shall be in breach of any of its obligations under this deed or under any other agreement between the Borrower and the Lender,
- (c) if any of the representations and warranties set out in clause 9 is found to be untrue or misleading in any respect,
- (d) if the Borrower becomes Insolvent, or
- (e) if an Event of Default occurs

and thereupon and at any time thereafter (whether or not any of the above events is continuing), without prejudice to any other rights of the Lender, the powers conferred on mortgagees by the Law of Property Act 1925, all the powers conferred on the holder of a qualifying floating charge (as defined in IA) by IA and all of the rights and powers conferred on the Lender by this deed and all rights and powers conferred on any Administrator or Receiver (whether by this deed or by law) shall immediately be exercisable by the Lender and the Lender may in its absolute discretion enforce all or any part of the security created by this deed as it sees fit

10 2 The restrictions contained in sections 93 and 103 of the Law of Property Act 1925 shall not apply to the security constituted or intended to be constituted by this deed and the powers contained in section 101 of that Act shall become immediately exercisable at any time after the execution of this deed, provided that the Lender shall not exercise such powers until the security constituted by this deed has become enforceable pursuant to clause 10.1 but this proviso shall not affect any purchaser from the Lender or any Receiver or Administrator or put such purchaser on enquiry whether such security has become enforceable

## **11. EXTENSION OF STATUTORY POWERS**

11 1 The powers of sale and appointment of an Administrator or a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Lender under IA and the Law of Property Act 1925 or otherwise

- 11 2 The statutory powers of sale, leasing and accepting surrenders exercisable by the Lender under this deed are extended so as to authorise the Lender whether in its own name or in that of the Borrower to grant a lease or leases of the whole or any part or parts of any freehold, leasehold or commonhold property of the Borrower with whatever rights relating to other parts of it and containing whatever covenants on the part of the Borrower and generally on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) and whether or not at a premium as the Lender thinks fit
- 11 3 No person dealing with the Lender or any Administrator or Receiver, or any agent or representative of any of them, shall be concerned to enquire whether the security constituted by this deed has become enforceable, or whether any power exercised or purported to be exercised has become exercisable, or otherwise as to the propriety or regularity of any sale of any of the Charged Assets, or to see to the application of any money paid to the Lender or such Administrator or Receiver, or any such agent or representative, and such dealing shall be deemed to be within the powers hereby conferred and to be valid and effectual accordingly
- 11 4 Neither the Lender, nor any Administrator or Receiver shall be liable as mortgagee in possession in respect of all or any of the Charged Assets nor shall any of such persons be liable for any loss or damage (including any loss upon realisation of any Charged Assets), or for any neglect or default of any nature whatsoever (save to the extent that any fraud, dishonesty or wilful concealment on the part of the Lender, Administrator or Receiver or any of their respective agents or advisers precludes any of them from restricting or excluding their liability) in connection with all or any of the Charged Assets

## 12. APPOINTMENT OF ADMINISTRATOR OR RECEIVER

- 12 1 At any time after the security constituted by this deed becomes enforceable, or at the request of the Borrower, the Lender may without further notice
- (a) appoint or apply for the appointment of any one or more person or persons (who is/are appropriately qualified) to be an administrator (the "**Administrator**") or a receiver, receiver and manager or administrative receiver (the "**Receiver**"), of all or any of the Charged Assets (the expressions "**Administrator**" and "**Receiver**" shall, where the context so admits, include any person substituted as administrator or receiver, receiver and manager or administrative receiver pursuant to clause 12 1(b)), and
- (b) (subject, in the case of an administrative receivership, to section 45 of IA) from time to time by writing remove any person appointed to be Administrator or Receiver and may in writing appoint another in his place and may make any application to court for the removal and/or appointment of any person as an Administrator or Receiver

and the power to appoint an Administrator or Receiver (whether conferred by this deed or by statute) shall be and remain exercisable by the Lender notwithstanding any prior appointment in respect of all or any of the Charged Assets. Any such appointment may be made subject to such qualifications, limitations and/or exceptions (either generally or in relation to specific assets or classes of asset) as may be specified in the instrument effecting the appointment



- 12 2 Where more than one person is appointed as Administrator or Receiver, they will have power to act severally as well as jointly (unless the appointment by the Lender or a court order specifies to the contrary)
- 12 3 An Administrator or Receiver shall be the agent of the Borrower and the Borrower shall (subject to the provisions of the Companies Act 2006 and IA) be solely responsible for his acts, omissions, contracts, engagements, defaults, losses, liabilities, misconduct and remuneration. The Lender shall not (save to the extent that any fraud, dishonesty or wilful concealment on the part of the Lender or any of its agents or advisers precludes it from restricting or excluding its liability) incur any liability (either to the Borrower or to any other person) by reason of the appointment of an Administrator or Receiver
- 12 4 The remuneration of any Receiver or Administrator shall be agreed between such Receiver or Administrator and the Lender at or at any time after his appointment (or, failing such agreement, shall be fixed by the Lender) and shall not be limited to the maximum rate specified in section 109(6) of the Law of Property Act 1925

### **13. POWERS OF ADMINISTRATOR OR RECEIVER**

- 13 1 Any Receiver or Administrator shall (subject to any limitation or restriction which the Lender may incorporate in the deed or other instrument appointing him) in addition to the powers conferred on him by the Law of Property Act 1925 and IA have power on behalf and at the cost of the Borrower (and notwithstanding the liquidation of the Borrower) to do and omit to do all such acts and things as an absolute owner could do in the management of such of the Charged Assets over which such Administrator or Receiver is appointed and in particular (where relevant)

(a) *Statutory powers*

To exercise all powers provided for in the Law of Property Act 1925 in the same way as if he had been duly appointed thereunder and to do all the acts and things described in schedule 1 of IA as if the words "he" and "him" referred to the Receiver or Administrator (as the case may be) and "company" referred to the Borrower,

(b) *Power to manage or reconstruct the Borrower's business*

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

(c) *Power to repair and renew etc*

To undertake or complete any works of repair, renewal or improvement to any of the Charged Assets and to make such substitutions of the Charged Assets as he thinks fit,

(d) *Power to acquire assets*

To purchase, acquire, accept a lease or licence of, and/or any other interest in, any assets,

(e) *Power to dispose of Charged Assets*

To grant options and licences over, sell or concur in selling, assign or concur in assigning, lease or concur in leasing and accept or concur in accepting surrenders of leases of (without being required to observe the provisions of sections 99 and 100 of the Law of Property Act 1925), all or any of the Charged Assets in respect of which he is appointed in such manner and generally on such terms and conditions as he thinks fit (and so that fixtures and plant and machinery may be severed and disposed of separately from the premises in which they are contained without the consent of the Borrower) and to carry any such grant, sale, assignment, leasing or surrender into effect. In addition, he may promote or concur in promoting a company (including any Subsidiary) to purchase, or to take an option, licence, assignment or lease in respect of, any of the Charged Assets and he may sell any such company,

(f) *Power to engage advisors*

To obtain services and engage such contractors and other personnel and professional advisors on such terms as he thinks fit,

(g) *Power to appoint*

To appoint managers, officers, servants, workmen and agents for any of the purposes of this clause 13 at such salaries and for such periods and on such terms as he thinks fit,

(h) *Power to charge for remuneration*

To charge and receive such sum by way of remuneration (in addition to all costs, charges and expenses incurred by him) as the Lender may prescribe or agree with him,

(i) *Power to realise Charged Assets*

To collect and get in all or any of the Charged Assets in respect of which he is appointed and for that purpose to make such demands and take any proceedings as may seem expedient and to take possession of or realise the Charged Assets,

(j) *Power to sell Debts*

To sell or assign all or any of the Debts in respect of which he is appointed in such manner and generally on such terms and conditions as he thinks fit,

(k) *Power to exercise contractual rights*

To exercise all powers, rights and/or obligations under any contract or agreement comprised within the Charged Assets including all voting and other rights attached to the Securities from time to time,

(l) *Power to enter into proceedings and make settlements*

To take, continue or defend any proceedings and make any arrangement, settlement or compromise between the Borrower and any other person which he thinks fit,

(m) *Power to make calls on Borrower's members*

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

(n) *Power to insure*

If he thinks fit, but without prejudice to the indemnity contained in clause 17.1(b), to effect with any insurer any policy or policies of insurance either in lieu or satisfaction of or in addition to such indemnity,

(o) *Power to borrow*

For any of the purposes of this clause 13 to raise money by borrowing from the Lender or from any other person on the security of all or any of the Charged Assets in respect of which he is appointed upon such terms (including, if the Lender shall consent, terms under which such security ranks in priority to this deed) as he thinks fit,

(p) *Power to make VAT elections and waivers*

To make such elections or waivers for value added tax purposes as he thinks fit,

(q) *Incidental powers*

To sign any document, execute any deed and do all such other acts and things, whether in the name of the Borrower or otherwise, as he may consider to be incidental or conducive to any of the matters or powers referred to in this clause 13 or otherwise incidental or conducive to the preservation, improvement or realisation of the Charged Assets or which he lawfully may or can do as agent for the Borrower including power to use the name of the Borrower in connection with the exercise of any of such powers, and

(r) *Scope of powers*

To exercise any of the above powers on behalf of the Borrower or on his own behalf (or, in the case of the power contained in paragraph (m), on behalf of the directors of the Borrower)

13 2 The Lender and any Receiver or Administrator may at any time delegate by power of attorney or in any other manner to any person or persons any of the powers (including the power of attorney contained in clause 16.1), authorities and discretions which are for the time being exercisable by him under this deed in relation to the Charged Assets. Any such delegation may be made upon such terms (including power to sub-delegate) as the Lender or Receiver or Administrator (as the case may be) may think fit. Neither the Lender nor any Receiver or Administrator shall, save in respect of any wilful default or gross negligence of any delegate or sub-delegate, be in any way liable or responsible to the Borrower for any loss or damage arising from any act, default, omission or misconduct on the part of any such delegate or sub-delegate.

13 3 The Lender and any Receiver or Administrator may place and keep (for such time as it or he shall consider prudent) any money received, recovered or realised from the

Borrower or in relation to any Charged Assets pursuant to this deed in a separate suspense account (to the credit of either the Borrower or the Lender, Receiver or Administrator as the Lender, Receiver or Administrator (as the case may be) shall think fit) without any obligation to apply the same or any part thereof in or towards the discharge of the Secured Liabilities provided that if such monies are at any time sufficient to discharge the Secured Liabilities in full, they shall be promptly so applied. The monies standing to the credit of any such suspense account from time to time shall, if the Lender agrees, bear interest at the rate specified by the Lender and such interest shall, subject to this clause 13.3, be applied in accordance with clause 14.1

- 13.4 At any time after the security constituted by this deed becomes enforceable, the Lender or any Administrator or Receiver may dispose of any chattels or goods found on any Property as agent for the Borrower and (without prejudice to any obligation to account for the proceeds of any sale of such chattels or goods) the Lender or such Administrator or Receiver shall be indemnified by the Borrower against any liability arising from such disposal
- 13.5 At any time after the security constituted by this deed shall have become enforceable or after any powers conferred by any Encumbrance having priority to this deed shall have become exercisable, the Lender and any Administrator or Receiver may redeem such or any other prior Encumbrance or procure the transfer thereof to the Lender and may settle and pass the accounts of the encumbrancer and any account so settled and passed shall be conclusive and binding on the Borrower and all monies paid by the Lender or such Administrator or Receiver to the encumbrancer in accordance with such accounts shall as from the date of such payment become due from the Borrower to the Lender
- 13.6 For the purpose of or pending the discharge of any of the Secured Liabilities, the Lender or any Administrator or Receiver may convert any monies received, recovered or realised by the Lender or any Administrator or Receiver under this deed (including the proceeds of any previous conversion under this clause 13.6) or any monies standing to the credit of any account of the Borrower from their existing currencies of denomination into such other currencies of denomination as the Lender or such Administrator or Receiver may think fit and any such conversion shall be effected at the official rate of exchange of the Bank of England for such other currency against the existing currency at the date of such conversion. The Lender or such Administrator or Receiver shall be entitled to pay or recoup all costs, charges and expenses incurred by it in connection with any such currency conversion from the monies obtained as a result of the conversion or from any other account or monies of the Borrower from time to time
- 13.7 Neither the Lender nor any Administrator or Receiver shall be liable for any loss of interest caused by the determination before maturity of any deposits or any loss resulting from any fluctuation in any exchange rate at which any currency is bought or sold pursuant to clause 13.6 or translated into another currency pursuant to clause 13.9
- 13.8 If any new currency is adopted in the United Kingdom after the date hereof (so that pounds sterling ceases to be the lawful currency of the United Kingdom), any reference in any Finance Document to pounds sterling shall be substituted with a reference to the new currency and sums payable pursuant to such Finance Document (insofar as they would, but for the provisions of this clause 13.8, be payable in pounds sterling) shall become payable in such new currency (applying the official rate of exchange of the Bank of England (or any successor central bank of the United Kingdom from time to time) prevailing at the time of adoption of such new

currency and rounding the amount payable down to the nearest whole unit of such new currency)

- 13 9 If more than one currency or currency unit are at the same time recognised by the Bank of England (or any successor central bank of the United Kingdom from time to time) as the lawful currency of the United Kingdom, then
- (a) any reference in any Finance Document to, and any obligations arising under any Finance Document in, pounds sterling shall be translated into, or paid in, the currency or currency unit of the United Kingdom which the Lender selects, and
  - (b) any translation from one currency or currency unit to another shall be at the official rate of exchange (at the date of the Lender's currency selection) of the Bank of England (or any successor central bank of the United Kingdom from time to time) for the conversion of that currency or currency unit into the other, rounded down to the nearest whole unit of such selected currency
- 13 10 At any time when the Borrower is in default of any provision of this deed or any of the documents referred to in it, the Lender and any Administrator or Receiver shall be entitled at the Borrower's cost to carry out or procure any investigation of, and/or commission any report (whether accounting, legal, valuation or of any other kind) in respect of, the business and affairs of the Borrower and any other member of the Borrower's Group which it or he considers necessary to ascertain the Borrower's financial position
- 13 11 The Lender and any Administrator or Receiver shall be entitled at any time to seek any information about the Borrower and its affairs from any person having or who has had dealings with the Borrower from time to time and the Borrower shall, promptly on request, authorise and request in writing any such person to provide that information to the Lender and any Administrator or Receiver and any of their respective agents or representatives

#### **14. APPLICATION OF PROCEEDS**

- 14 1 Without prejudice to clause 13.3, all monies received under the powers conferred by this deed (other than insurance monies) shall be applied in the following order of priority
- (a) first in paying all rents, taxes, rates and outgoings whatever affecting any Charged Assets,
  - (b) secondly in paying all costs, charges and expenses of and incidental to the appointment of any Administrator or Receiver and the exercise of powers by, and all costs, charges and expenses incurred by or on behalf of any such Administrator or Receiver,
  - (c) thirdly in paying the remuneration of any Administrator or Receiver (as agreed between him and the Lender),
  - (d) fourthly in or towards discharge of the Secured Liabilities in such order and manner as the Lender shall specify, and
  - (e) finally in paying any surplus to the Borrower or any other person entitled to it

- 14 2 Neither the Lender nor any Receiver or Administrator shall be bound (whether by virtue of section 109(8) of the Law of Property Act 1925, which is hereby varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order as between any of the Secured Liabilities

## **15. POWER OF REMEDY**

- 15 1 If the Borrower fails at any time and in any respect to perform any of the covenants on its part contained in this deed or any other Finance Document, the Lender shall be entitled, but shall not be obliged, to take such action on behalf of the Borrower (including, without limitation, the payment of money) as may in the Lender's reasonable opinion be required to ensure that the covenants are performed and the Borrower authorises the Lender and its agents to enter upon the Properties for the purposes of taking any such action. The Borrower shall indemnify the Lender on demand in respect of the taking of any such action

## **16. POWER OF ATTORNEY AND RATIFICATION**

- 16 1 The Borrower hereby irrevocably appoints the Lender and, as a separate appointment, (jointly and severally) each and every Administrator or Receiver as its attorney to sign, execute and deliver and otherwise perfect on its behalf any deed, transfer or other document required to perfect the Lender's title to any Charged Assets or for vesting any Charged Assets in the Lender or which such Administrator, Receiver or the Lender may consider expedient in the exercise of any of his or its powers or for carrying out any of the Borrower's obligations under this deed
- 16 2 The Borrower covenants with the Lender and with any Administrator or Receiver that it shall forthwith on request ratify and confirm
- (a) all transactions entered into by the Lender and/or any Administrator and/or any Receiver in the exercise or purported exercise of its or their powers in accordance with this deed, and
  - (b) all acts entered into by the Lender and/or any Administrator and/or any Receiver in signing, executing, delivering and otherwise perfecting any assignment, mortgage, charge, security or document
- 16 3 The Borrower irrevocably acknowledges and agrees that the power of attorney contained in clause 16.1 is given to secure the proprietary interest of, and the performance of obligations owed to, the respective donees for the purpose of section 4 of the Powers of Attorney Act 1971

## **17. COSTS AND INDEMNITY**

- 17 1 The Borrower shall indemnify the Lender and any Administrator or Receiver on demand
- (a) in respect of all costs, charges and expenses (including legal fees, valuation, accountancy and consultancy fees) in any way incurred by the Lender and/or the Administrator and/or the Receiver in relation to this deed or the Charged Assets or in protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Lender's rights under this deed or in suing for or recovering any

of the Secured Liabilities (including, without limitation, the costs of any proceedings in relation to this deed or the Secured Liabilities) or in relation to any actual or proposed amendment or variation to or consent or waiver given or requested in relation to this deed or any of the documents referred to in it,

- (b) in respect of anything done or omitted to be done in the exercise or purported exercise of its or his powers under the provisions of this deed or pursuant hereto, in respect of the acts and omissions of any manager, agent, officer or employee for whose act, omission or liability it or he may be answerable, and in respect of any breach by the Borrower of any of its covenants or other obligations under this deed,
- (c) against all stamp duties or other taxes of a similar nature and any penalties or interest relating thereto which may be payable in connection with the execution or enforcement of this deed or any of the documents referred to in it, and
- (d) in respect of any breach by the Borrower of, or liability of the Borrower in respect of, any Environmental Law or Environmental Licence

17 2 All fees, costs and expenses payable under or pursuant to this deed shall be paid together with an amount equal to any value added tax payable in respect of the same, and the Borrower shall pay such value added tax immediately upon delivery of a value added tax invoice in respect of the same

## **18. INDEPENDENT AND CONTINUING SECURITY**

18 1 This deed shall be in addition to and independent of every other security or guarantee which the Lender may at any time hold for any of the Secured Liabilities and it is hereby declared that no prior security held by the Lender over all or any of the Charged Assets shall merge in the security created by this deed

18 2 This deed shall remain in full force and effect as a continuing security for the Secured Liabilities, notwithstanding any settlement of account or intermediate payment or other matter or thing whatsoever, unless and until the Lender discharges this deed in writing and the Borrower's obligations under this deed shall not be affected by any act, omission, circumstance, matter or thing which, but for this clause **18.2**, might operate to release it from any of such obligations in whole or in part including

- (a) any variation, extension, discharge, compromise, waiver, dealing with, exchange or renewal of any right or remedy which the Lender may have now or in the future from or against the Borrower or any other person (whether or not such person is jointly liable with the Borrower) in respect of the Secured Liabilities,
- (b) any act or omission by the Lender or any other person in taking up, perfecting or enforcing any security or guarantee from or against the Borrower or any other person or the invalidity or unenforceability of any such security or guarantee,
- (c) any amendment, variation, restatement or supplement of or to, or novation, transfer or termination (in whole or in part) of, any document relating to the Secured Liabilities or any exercise by the Lender of its rights to refuse, grant,

continue, vary, review, determine or increase any credit or other facilities to the Borrower,

- (d) any grant of time, indulgence, waiver or concession to the Borrower or any other person (whether or not such person is jointly liable with the Borrower),
- (e) any arrangement or compromise entered into between the Lender and the Borrower or any other person (whether or not such person is jointly liable with the Borrower),
- (f) the Insolvency, Incapacity or any change in the constitution, name or status of the Borrower or an equivalent occurrence in respect of any other person, or
- (g) the invalidity, illegality, unenforceability, irregularity or frustration of the Secured Liabilities, any document entered into in connection with the Secured Liabilities or any of the Borrower's obligations

18 3 Any release, discharge or settlement between the Borrower and the Lender shall be deemed conditional upon no payment or security received by the Lender in respect of the Secured Liabilities being set aside or ordered to be refunded pursuant to any provision of any enactment relating to insolvency, bankruptcy, winding-up, administration or receivership or being found to be invalid or unenforceable for whatever reason and, notwithstanding any such release, discharge or settlement

- (a) the Lender shall be entitled to retain this deed and the security created by or pursuant to this deed, and all documents relating to the Charged Assets, for such period as the Lender shall deem necessary to provide the Lender with security against any such setting aside, order for refund, invalidity or unenforceability, and
- (b) the Lender shall be entitled to enforce this deed as if such release, discharge or settlement had not occurred and as if such payment had not been made and the Borrower agrees with the Lender accordingly and charges the Charged Assets and the proceeds of sale thereof with any liability under this clause 18

18 4 If the Lender receives notice (actual or constructive) of any subsequent charge or other interest affecting all or any of the Charged Assets or that any of the Charged Assets have been disposed of, that the Borrower has breached any of the provisions of clause 5, or of any other matter which may cause the security constituted or intended to be constituted by this deed to cease to be a continuing security, the Lender may open a new account or accounts for the Borrower in its books and close any existing account of the Borrower and (without prejudice to the Lender's right to combine accounts) no money paid to the credit of the Borrower in any such new account will be appropriated towards or have the effect of discharging any part of the Secured Liabilities. If the Lender does not open a new account or accounts immediately on receipt of such notice then, unless the Lender gives express written notice to the contrary to the Borrower, as from the time of receipt of such notice by the Lender all payments made by the Borrower to the Lender in the absence of any express written appropriation by the Borrower to the contrary shall be treated as having been credited to a new account of the Borrower and not as having been applied in reduction of the Secured Liabilities

18 5 If the Lender shall operate more than one account for the Borrower, the Lender may at any time after the security constituted by this deed has become enforceable or the



Lender has received notice of any subsequent charge or other interest affecting all or any of the Charged Assets and without prior notice transfer all or any part of the balance standing to the credit of any such account to any other such account which may be in debit, and the Lender shall notify the Borrower as soon as reasonably practicable after any such transfer has been made

## **19. DISCLOSURE OF INFORMATION ABOUT BORROWER**

19 1 The Borrower hereby consents to the disclosure by the Lender of any information about the Borrower, this deed, the Charged Assets and the Secured Liabilities

- (a) to any person to whom the Lender has assigned or transferred or proposes or may propose to assign or transfer all or any of its rights and benefits under this deed or in respect of the Secured Liabilities, or
- (b) to any person with whom the Lender has entered or proposes or may propose to enter into any contractual arrangements in connection with this deed, the Charged Assets or the Secured Liabilities, or
- (c) to any subsidiary or agent of the Lender, or
- (d) to any other person if required or permitted by law to do so

## **20. RELEASE OF SECURITY**

20 1 Subject to clause 18.3, upon the expiry of the Security Period the Lender shall, at the request and cost of the Borrower, take whatever action is necessary to release the Charged Assets from the security constituted by this deed and to re-assign to the Borrower any remaining Charged Assets previously assigned to the Lender pursuant to clause 4.1(c) or 4.1(d)

## **21. ASSIGNMENT**

21 1 The Lender and any Receiver or Administrator may at any time assign, transfer, charge or deal in any other manner with this deed or any of its or their respective rights hereunder. The Borrower shall, immediately upon being required to do so by the Lender, enter into such documents as may be necessary or desirable to effect any such assignment, transfer, charge or dealing

21 2 The Borrower shall not assign, transfer, charge or deal in any other manner with this deed or any of its rights hereunder, or purport to do so

## **22. FURTHER ASSURANCE**

22 1 The Borrower shall at its own cost and expense, forthwith on being required to do so by the Lender at any time, do or procure the doing of all such acts and things and/or prepare and execute or procure the preparation and execution of all such deeds and documents (including, for the avoidance of doubt, any further legal or other mortgage or charge over or transfer or assignment in respect of any of the Charged Assets and/or any other property or assets in which the Borrower is interested from time to time) in a form satisfactory to the Lender which the Lender considers necessary for giving full effect to this deed and securing to it the full benefit of this deed, for

perfecting, preserving and protecting the rights, powers and remedies conferred upon it by this deed, for realising the Charged Assets and for securing payment in full of the Secured Liabilities. The provisions of this clause 22 shall be in addition to, and not in substitution for, the covenants for further assurance deemed to be included in this debenture by virtue of section 1(2) of the Law of Property (Miscellaneous Provisions) Act 1994

22.2 Without prejudice to the generality of clause 22.1, in respect of each Excluded Property, the Borrower undertakes to

- (a) apply for the relevant consent or waiver of prohibition or conditions within five Business Days of the date of this deed, in the case of any Excluded Property, and otherwise within five Business Days of the date of acquisition of the Excluded Property in question and to use its best endeavours to obtain that consent or waiver as soon as possible,
- (b) keep the Lender fully informed of its progress in obtaining such consent or waiver, and
- (c) forthwith upon receipt of such consent or waiver, provide the Lender with a copy

22.3 If required by the Lender at any time following receipt of any waiver or consent of a type referred to in clause 22.2, the Borrower will promptly upon request execute a valid fixed charge or legal mortgage in such form as the Lender shall require in respect of any formerly Excluded Property

## **23 REMEDIES AND WAIVERS**

23.1 No delay by the Lender or any Administrator or Receiver in exercising, or failure by any of them to exercise, any right, power or remedy provided by law or under this deed shall

- (a) operate as a waiver of that or any other right, power or remedy, or
- (b) affect the other terms of this deed

23.2 The single or partial exercise of any right, power or remedy provided by law or under this deed shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy

23.3 A waiver by the Lender or any Administrator or Receiver of any breach of or default under this deed shall not constitute a waiver of any other breach or default and will not prevent the Lender from subsequently requiring compliance with the waived obligation

23.4 The rights, powers and remedies conferred on the Lender and any Administrator or Receiver in this deed are cumulative, may be exercised on more than one occasion and are in addition to and not exclusive of any rights, powers and remedies provided by law

## **24 SEVERANCE**

- 24 1 If any provision of this deed shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable or a written indication to such effect is received by either party from any such body, such invalidity or unenforceability shall not affect the other provisions of this deed which shall remain in full force and effect

## **25. NOTICES**

- 25 1 Any notice or other communication to be served under this deed shall be in writing in the English language and signed by or on behalf of the party giving it
- 25 2 Any notice or other communication to be served under this deed shall be delivered or sent by first class or (where the sender or the recipient has an address for service outside the United Kingdom) airmail post to the party to be served at its address given in this deed or such other address or facsimile number as may be notified by the relevant party to the other party from time to time
- 25 3 Subject to clause **25.4** and in the absence of earlier receipt, any notice or communication shall be deemed to have been served
- (a) if delivered personally, at the time of delivery, and
  - (b) if sent by first class post, two Business Days after the date of posting and if sent by airmail post, five Business Days after the date of posting
- 25 4 Any notice or communication served under this deed outside Working Hours in the place to which it is addressed shall be deemed not to have been served until the start of the next period of Working Hours in such place
- 25 5 In proving service of a notice or communication, it shall be sufficient to prove that delivery was made or that the envelope containing the notice or communication was properly addressed and posted as a prepaid first class letter (or airmail post (as the case may be))
- 25 6 For the avoidance of doubt, notices or communications to be served under this deed shall not be validly served if sent by e-mail or other electronic means of communication

## **26 COUNTERPARTS**

- 26 1 Without prejudice to clause **1 6**, this deed may be executed in any number of counterparts, and by the parties on separate counterparts, but shall not be effective until each party has executed at least one counterpart
- 26 2 Each counterpart shall constitute an original of this deed, but all the counterparts shall together constitute but one and the same instrument

## **27 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

- 27 1 Save as expressly provided in sub-clause **27 2**, the parties to this deed do not intend that any of its terms should be enforceable, by virtue of the Contracts (Rights of Third Parties) Act 1999, by any person who is not a party to this deed

27 2 The terms of this deed may be enforced by any Administrator and any Receiver subject to and in accordance with the terms of this deed and the Contracts (Rights of Third Parties) Act 1999

27 3 Notwithstanding that any term of this deed may be or becomes enforceable by a person who is not a party to it, the consent of such third party shall not be required in order for all or any terms of this deed to be varied, amended or modified or for this deed to be suspended, cancelled, terminated or rescinded

## **28 GOVERNING LAW AND JURISDICTION**

28 1 This deed is governed by and shall be construed in accordance with the laws of England and Wales

28 2 The Borrower submits to the jurisdiction of the courts of England and Wales for all purposes relating to this deed Nothing in this clause 28 shall limit the right of the Lender to take proceedings against the Borrower 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 jurisdiction, whether concurrently or not, to the extent permitted by the law of such other jurisdiction

28 3 The Borrower irrevocably consents to any process in any legal action or proceedings arising out of or in connection with this deed being served on it in accordance with the provisions of clause 25 Nothing contained in this deed shall affect the right to serve process in any other manner permitted by law

This deed is duly executed by the parties but remains undelivered until the date shown at the beginning of this deed

## **SCHEDULE 1 - BORROWER'S COVENANTS**

### **Part 1: General covenants**

The Borrower shall

**1 Conduct of business**

And shall procure that any Subsidiary shall, conduct and carry on its business in a proper and efficient manner, keep or cause or procure to be kept proper books of account relating to such business and not make any material alteration in the nature or mode of conduct of such business,

**2 Insurance**

Insure and keep insured all of the Charged Assets, and shall procure that any Subsidiary shall insure and keep insured all of its assets of an insurable nature, with such insurer and against such risks and in such amounts and otherwise upon such terms as the Lender may require (and, failing such requirement, with a well established and reputable insurer in amounts representing their full replacement or reinstatement value free from any deduction or excess against fire, accident and theft and other risks normally insured against by persons owning assets of a similar nature (including risks associated with public liability and employer's liability)), pay all premiums and other monies due in respect of such insurances on the due dates therefor, comply in all respects with the terms and conditions of the relevant policies and (in the case of the Insurance Policies) procure that the interest of the Lender is noted upon all such policies or (at the option of the Lender) that such policies are issued in the joint names of the Lender and the Borrower,

**3 Application of insurance monies**

(If the Lender so requires) produce to or deposit with the Lender all Insurance Policies and the receipts for all premiums and other payments necessary for effecting and keeping such policies in force and (whether or not the security constituted by this deed shall have become enforceable) pay any sums (to the extent that they are not paid directly to the Lender by the relevant insurer) received in respect of any of the Insurance Policies to the Lender and pending such payment hold the same on trust for the benefit of the Lender and account to the Lender accordingly or, at the option of the Lender, apply such sums in making good the relevant loss or damage in respect of which such monies are received or in or towards discharge or permanent reduction of any of the Secured Liabilities in such order as the Lender sees fit,

**4 Preservation of insurance**

Not make, do, consent to or permit any act or omission which would or is reasonably likely to render any Insurance Policy invalid, void, voidable or unenforceable or render any proceeds of any such policy irrecoverable whether in whole or in part, shall not agree to any alteration to the terms of any such policy which could reduce the scope of the cover under it, increase the level of any deductibles or otherwise be prejudicial to the interests of the Lender and shall not allow any such policy to lapse,

**5 Maintenance**

Keep all of the Charged Assets which comprise tangible assets, and shall procure that any Subsidiary shall keep its tangible assets, in good and substantial repair and in good working order and condition (ordinary wear and tear excepted) and shall

permit the Lender and its agents and representatives to enter on any Property and view the state and condition of any of the Charged Assets,

6 Compliance with applicable laws

Comply, and shall procure that any Subsidiary shall comply, in all material respects with the terms of all laws to which the Borrower or such Subsidiary is subject from time to time including all Environmental Laws and the Planning Acts,

7 Preservation of Charged Assets

Do all acts and things (including the taking of legal proceedings) necessary or desirable to maintain, defend or preserve its right, title and interest in any Charged Assets and not do, or permit to be done, any act or thing which will or might materially diminish the value of any of the Charged Assets or the effectiveness of the security created by this deed,

8 Costs and expenses on enforcement

Pay to the Lender on demand the amount of all costs, expenses or liabilities which the Lender may incur in, or with a view to, perfecting or enforcing the security created by this deed, together with interest thereon at the rate referred to in clause 3.2,

9 Insolvency

Notify the Lender immediately in the event that the Borrower or any Subsidiary becomes Insolvent,

10 Centre of main interest

Maintain its centre of main interest (COMI), for the purposes of the EU Regulation on Insolvency Proceedings (1346/2000/EC) in the United Kingdom,

11 Compliance with obligations

Comply with its obligations in the Finance Documents and with every covenant, obligation or liability by which it is bound (and use its reasonable endeavours to procure compliance by each other party thereto with each covenant, obligation or liability by which such other party is bound) whether imposed by law, contract, lease, licence or grant affecting or constituting any of the Charged Assets or the use and enjoyment of any Charged Assets and shall not enter into any onerous or restrictive obligations affecting any of the Charged Assets,

12 Registrations

Make all such filings and registrations and take all such other steps as may be necessary in connection with the creation, perfection or protection of the security constituted or intended to be constituted by this deed and pay all application, registration, renewal and other fees necessary for effecting, protecting, maintaining or renewing registrations in respect of any of the Charged Assets, and

13 Value of the security

Not do or cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value of the security constituted or intended to be constituted by this deed

## **Part 2: Covenants relating to Debts**

The Borrower shall not, except with the prior written consent of the Lender, sell, assign, charge, factor, discount, release, exchange, compound, set-off, grant time or indulgence in respect of or subordinate its rights in respect of the Debts to the rights of any other person in relation to debts owed to such person, or in any other manner deal with, all or any of the Debts save as hereinafter expressly provided

The Borrower shall

- 1 deal with the Debts (both collected and uncollected) in accordance with the instructions of the Lender from time to time and, in the absence of such instructions, pay all monies which it receives in respect of the Debts into the Borrower's current account or such other account as the Lender may specify and, pending such payment, shall hold the Debts and the proceeds of sale or collection of such Debts on trust for the benefit of the Lender in accordance with this deed,
- 2 immediately upon being called upon to do so by the Lender, execute a legal assignment of the Debts to the Lender in such terms as the Lender may require and immediately following such assignment give notice thereof to the debtors from or by whom the Debts are due, owing or incurred in the form specified by the Lender and use its reasonable endeavours to procure that each such debtor delivers to the Lender a written acknowledgement, and
- 3 after the security constituted by this deed becomes enforceable, comply with any notice served by the Lender on the Borrower prohibiting the Borrower from withdrawing all or any monies from time to time standing to the credit of its accounts with any bank, financial institution or other person, except with the prior written consent of the Lender

## **Part 3: Covenants relating to the Properties**

The Borrower shall

- 1 Preservation of Property, fixtures and Equipment

Not without the prior written consent of the Lender pull down or remove the whole or any part of any buildings forming part of any Property, make any material alterations to any Property or sever or unfix or remove any of the fixtures thereto, or do or permit to be done anything which would in the opinion of the Lender (acting reasonably) have a material adverse effect on the value or marketability of any Property, nor (except for the purpose of effecting necessary repairs thereto or of replacing the same with new or improved models or substitutes) remove or make any material alterations to any of the Equipment thereon or therein belonging to or in use by the Borrower and shall whenever any of the said Equipment is destroyed or damaged or deteriorates forthwith repair, replace and make good the same,

- 2 Conduct of business on Properties

Carry on its trade and business on such parts (if any) of the Properties as are now or may hereafter be used for the purposes of trade or business in accordance with the standards of good management from time to time current in such trade or business,

- 3 Information

Within five Business Days after becoming aware thereof give full particulars to the Lender of any notice, order, direction, designation, resolution or proposal having

specific application to any Property or to the locality in which it is situated given or made by any planning authority or other public body or authority whatsoever and (if the Lender so requires) forthwith and at its own cost take all steps which are reasonably necessary to comply with any such notice, order, direction, designation or resolution and make or join with the Lender in making such objections or representations in respect of any such proposal as the Lender may desire,

4 Compliance with covenants and payment of rent

Observe and perform all covenants, stipulations and conditions to which each Property or the user thereof is at any time subjected and (if the Lender so requires) produce to the Lender evidence sufficient to satisfy the Lender that such covenants, stipulations and conditions have been observed and performed and (without prejudice to the generality of the foregoing), as regards any lease under which any Property or part of a Property is held, duly and punctually pay all rents falling due from time to time thereunder, perform and observe all the covenants and conditions on the part of the tenant which are therein contained and shall not agree any rent review in respect of any Property without the prior written consent of the Lender,

5 Registration restrictions

Procure that no person shall be registered under the Land Registration Acts 1925 to 2002 as proprietor of any Property or any part thereof without the prior written consent of the Lender and the Borrower shall be liable for the costs incurred by the Lender in lodging from time to time any notice or restriction in respect of this deed against the registration of the title to any Property or any part thereof,

6 Development restrictions

Not without the prior written consent of the Lender or other than in full compliance with the Planning Acts carry out or permit or suffer to be carried out on any Property anything which constitutes "development" within the meaning of the Planning Acts or change or permit or suffer to be changed the user of any Property,

7 Environment

Properly discharge all duties of care and responsibility placed upon it by Environmental Law and observe and perform all the requirements of Environmental Law both in the conduct of its general business and in the management, possession or occupation of each Property and apply for and obtain all authorisations necessary to ensure that it does not breach Environmental Law or any Environmental Licence affecting the Borrower or any of the Properties and allow the Lender and its agents and representatives access to the Properties and to test or take samples at the cost of the Borrower to verify the Borrower's compliance with Environmental Law and any of such Environmental Licences,

8 No restrictive obligations

Not without the prior consent of the Lender enter into any onerous or restrictive obligations affecting any Property or any part thereof or create or permit to arise any unregistered interest which overrides first registration under schedule 1 to the Land Registration Act 2002 or any unregistered interest which overrides registered dispositions under schedule 3 to the Land Registration Act 2002, or any easement or other right whatsoever in or over any Property or any part thereof,

9 Proprietary rights



Procure that no person shall become entitled to assert any proprietary or other like right or interest over any Property or any part thereof without the prior written consent of the Lender,

**10 Payment of Property outgoings**

Promptly pay and indemnify the Lender and any Administrator or Receiver against all taxes, fees, duties, rates, charges and other outgoings payable in respect of the Properties from time to time and produce evidence of payment thereof to the Lender promptly upon request,

**11 Inspection**

Permit the Lender, any Administrator and any Receiver and any agent or representative of any of them to enter upon and inspect any Property, any of the Charged Assets and any of the Borrower's books and records or the books and records of any Subsidiary from time to time upon reasonable prior notice and shall provide (at the expense of the Borrower) such administrative and other assistance which the Lender may reasonably require to conduct any such inspection, and

**12 Property information**

Inform the Lender before contracting to acquire any freehold, leasehold or commonhold property or any interest therein and supply the Lender with such details of the acquisition as the Lender may from time to time request

**Part 4: Covenants relating to the Equipment**

The Borrower shall

**1 Use of equipment**

Not permit the Equipment to be used or handled other than by persons properly qualified and trained or to be overloaded or to be used for any purpose for which the Equipment is not designed or reasonably suitable,

**2 Payment of Equipment taxes**

Promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Equipment and produce on demand evidence of payment thereof to the Lender,

**3 Equipment information**

Give the Lender such information concerning the location, condition, use and operation of the Equipment as the Lender may require and permit any persons designated by the Lender at all reasonable times to inspect and examine the Equipment and the records maintained in connection therewith, and

**4 If so requested by the Lender, place and maintain on each item of Equipment, in a conspicuous place, a clearly legible identification plate containing the following wording**

"NOTICE OF CHARGE

This [description of item] and ancillary equipment is subject to a fixed charge dated [ ] in favour of NEAF LP"

### **Part 5: Covenants relating to the Intellectual Property**

The Borrower shall

**1 Preservation of rights**

Take all necessary action to safeguard and maintain the Intellectual Property including, without limitation, observing all covenants and stipulations relating thereto and paying all applicable renewal fees, licence fees and other outgoings,

**2 Registration of Intellectual Property**

Use all reasonable efforts to effect registration of any applications for registration of any Intellectual Property and keep the Lender promptly informed of all matters relating to such registration, and

**3 Maintenance of Intellectual Property**

Not permit any Intellectual Property to be abandoned, cancelled or to lapse

### **Part 6: Covenants relating to Securities**

The Borrower shall

**1 Calls on Securities**

Duly and promptly pay all calls, instalments and other moneys which may be payable from time to time in respect of the Securities, it being acknowledged by the Borrower that the Lender shall be under no liability whatsoever in respect of any such calls, instalments or other moneys,

**2 No alteration of Securities**

Not without the Lender's prior written consent amend, or agree to or vote in favour of the amendment of, the articles of association (or the equivalent document in any other jurisdiction) of any Issuer or the rights or liabilities attaching to any of the Securities except in a manner expressly envisaged by this deed,

**3 Preservation of Securities**

Exercise all voting rights, powers of control and other means available to it in respect of any Securities so as to procure, so far as it is able, that no Issuer will

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

4 Securities information

Promptly send to the Lender copies of all notices, circulars, reports, accounts and other documents which are sent to holders of any Securities, and

5 CREST

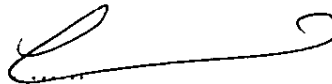
In respect of any Securities which are at any time held in CREST, forthwith procure the withdrawal of such Securities from CREST and their conversion into certificated form and shall procure the deposit of all deeds and other documents of title in respect of such Securities in accordance with and shall take all the steps required by clause 4.2(c) in relation to those Securities

Executed and delivered as a deed by  
**Advantex Network Solutions Limited**  
acting by

  
Director

in the presence of

Witness' signature



Witness' name

*Ward Hadaway*  
Ward Hadaway

Witness' address

Sandgate House  
102 Quayside  
Newcastle upon Tyne  
NE1 3DX

Witness' occupation

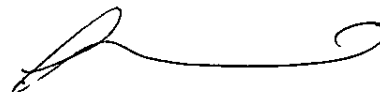
DX 730360 Newcastle upon Tyne 30  
*Solicitor*

Executed and Delivered as a deed by  
**NEAF LP** acting by **NE Angel GP Limited**, its General Partner,  
acting by

  
Director

in the presence of

Witness' signature



Witness' name

*Ward Hadaway*  
Ward Hadaway

Witness' address

Sandgate House  
102 Quayside  
Newcastle upon Tyne  
NE1 3DX

Witness' occupation

DX 730360 Newcastle upon Tyne 30  
*Solicitor*