



## Registration of a Charge

Company Name: **CLOUD9 MOBILE COMMUNICATIONS LIMITED**

Company Number: **05474679**



Received for filing in Electronic Format on the: **27/07/2022**

XB94786P

### Details of Charge

Date of creation: **18/07/2022**

Charge code: **0547 4679 0003**

Persons entitled: **ARES MANAGEMENT LIMITED AS SECURITY AGENT AND TRUSTEE FOR THE BENEFICIARIES**

Brief description: **ALL CURRENT AND FUTURE MATERIAL LAND (EXCEPT FOR ANY RESTRICTED LAND) OWNED BY THE COMPANY, IN EACH CASE AS SPECIFIED (AND DEFINED) IN THE DEBENTURE REGISTERED BY THIS FORM MR01 (THE "DEBENTURE"). FOR MORE DETAILS PLEASE REFER TO THE DEBENTURE.**

**Contains fixed charge(s).**

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

**Contains negative pledge.**

### Authentication of Form

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

### Authentication of Instrument

Certification statement: **SAVE FOR MATERIAL REDACTED PURSUANT TO S859G OF THE COMPANIES ACT 2006, I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR**

**REGISTRATION IS A TRUE COPY OF THE COMPOSITE ORIGINAL  
INSTRUMENT.**

Certified by:

**BISHER BARGHOTI**



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

Company number: 5474679

Charge code: 0547 4679 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 18th July 2022 and created by CLOUD9 MOBILE COMMUNICATIONS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th July 2022 .

Given at Companies House, Cardiff on 28th July 2022

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



**Companies House**



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

DATED

18 July

2022

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**THE COMPANIES LISTED IN SCHEDULE 1**  
(as Chargors)

- and -

**ARES MANAGEMENT LIMITED**  
(as Security Agent)

**DEBENTURE**

**This Deed is entered into with the benefit of (and subject to the terms of)  
the Intercreditor Agreement (as defined herein)**

**The requirements of the National Security and Investment Act 2021 must  
be checked and, if applicable, complied with before any acquisition  
(including appropriation), by the Security Agent or any Receiver, of the  
shares charged by this security agreement or any of the voting rights  
attaching to those shares.**



Ref: BANKLF/1081403/6972655  
Ref: 151641/000070

Hogan Lovells International LLP  
Atlantic House, Holborn Viaduct, London EC1A 2FG

**CONTENTS**

<b>CLAUSE</b>	<b>PAGE</b>
<b>1. DEFINITIONS AND INTERPRETATION</b>	<b>1</b>
<b>2. COVENANT TO PAY</b>	<b>6</b>
<b>3. CREATION OF SECURITY</b>	<b>7</b>
<b>4. CRYSTALLISATION</b>	<b>11</b>
<b>5. TITLE DOCUMENTS, INSURANCE POLICIES AND TRANSFERS</b>	<b>13</b>
<b>6. NEGATIVE PLEDGE AND OTHER RESTRICTIONS</b>	<b>13</b>
<b>7. RIGHT OF APPROPRIATION</b>	<b>14</b>
<b>8. CONTINUING SECURITY</b>	<b>14</b>
<b>9. MATERIAL LAND</b>	<b>14</b>
<b>10. SPECIFIED INVESTMENTS</b>	<b>15</b>
<b>11. OPENING OF NEW ACCOUNTS</b>	<b>16</b>
<b>12. POWERS OF SALE, LEASING AND ACCEPTING SURRENDERS</b>	<b>16</b>
<b>13. APPOINTMENT OF A RECEIVER OR AN ADMINISTRATOR</b>	<b>16</b>
<b>14. POWERS OF A RECEIVER</b>	<b>17</b>
<b>15. POWER OF ATTORNEY</b>	<b>19</b>
<b>16. OTHER POWERS EXERCISABLE BY THE SECURITY AGENT</b>	<b>19</b>
<b>17. APPLICATION OF MONEY RECEIVED BY THE SECURITY AGENT OR A RECEIVER</b>	<b>20</b>
<b>18. PROTECTION OF THIRD PARTIES</b>	<b>20</b>
<b>19. PROTECTION OF THE SECURITY AGENT, ANY NOMINEE AND RECEIVER</b>	<b>21</b>
<b>20. SECURITY AGENT</b>	<b>21</b>
<b>21. SET-OFF</b>	<b>21</b>
<b>22. TRANSFER BY A BENEFICIARY</b>	<b>21</b>
<b>23. ACCESSION OF A NEW CHARGOR</b>	<b>22</b>
<b>24. RELEASE OF SECURITY</b>	<b>22</b>
<b>25. THIRD PARTY RIGHTS</b>	<b>22</b>
<b>26. JOINT AND SEPARATE LIABILITY</b>	<b>23</b>
<b>27. FORBEARANCE, SEVERABILITY, VARIATIONS AND CONSENTS</b>	<b>23</b>
<b>28. COUNTERPARTS</b>	<b>23</b>
<b>29. NOTICES</b>	<b>23</b>
<b>30. SECURITY AGENT</b>	<b>24</b>
<b>31. GOVERNING LAW</b>	<b>24</b>
<b>32. ENFORCEMENT</b>	<b>24</b>
<b>SCHEDULE 1</b>	<b>25</b>
<b>The Chargors</b>	<b>25</b>

<b>SCHEDULE 2</b>	<b>27</b>
<b>Registered Land to be mortgaged</b>	<b>27</b>
<b>SCHEDULE 3</b>	<b>28</b>
<b>Form of Deed of Accession and Charge for a New Chargor</b>	<b>28</b>
<b>SCHEDULE 4</b>	<b>38</b>
<b>Forms of Notice of Assignment/Charge</b>	<b>38</b>

THIS DEBENTURE is made on

18 July

2022

**BETWEEN:**

- (1) **THE COMPANIES** named in Part A and Part B of Schedule 1 (*The Chargors*); and
- (2) **ARES MANAGEMENT LIMITED** as Security Agent.

**BACKGROUND**

- A. On the 2022 Effective Date, the Facilities Agreement (as defined below) was amended and restated pursuant to the terms of the Amendment and Restatement Agreement (2022) (as defined below).
- B. On 20 December 2018, the Existing Chargors acceded to the Existing Debenture (as defined below) to support their obligations under the Facilities Agreement.
- C. The Existing Chargors enter into this Debenture in addition to, and without prejudice to, the Existing Debenture in order to grant further continuing security to the Security Agent for the payment of the Secured Sums (as defined below).
- D. On or about the date of this Deed, the Acceding Chargors will accede to the Facilities Agreement and the Intercreditor Agreement and enter into this Debenture in order to grant primary continuing security to the Security Agent for the payment of the Secured Sums (as defined below) in accordance with the terms of the Facilities Agreement.

**WITNESSES AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 **Definitions:** Unless the context otherwise requires, words or expressions defined in the Facilities Agreement shall have the same meanings in this Debenture and this construction shall survive the termination of the Facilities Agreement. In addition, in this Debenture:

**"Acceding Chargor"** means each company listed in Part B of Schedule 1 (*The Chargors*).

**"Acquisition Agreement Claims"** in relation to each Chargor, means all of its rights, title and interest and benefit in and to, and any sums payable to it pursuant to all representations, warranties, undertakings and indemnities to, agreements with and security to be provided in favour of that Chargor, and any rights of abatement or set-off, and all other rights of recovery of that Chargor under or pursuant to the Acquisition Agreement or any other Acquisition Document.

**"Amendment and Restatement Agreement (2022)"** means the amendment and restatement agreement dated 4 May 2022, among others, the Parent and the Agent.

**"Assets"** means in relation to a Chargor, all its undertaking, property, assets, revenues and rights of every description, or any part of them.

**"Assigned Agreements"** means the Hedging Agreements and the Insurance Policies.

**"Beneficiary"** means each Finance Party, each Hedge Counterparty and any Receiver or Delegate.

**"Chargor"** means each company named in Part A and Part B of Schedule 1 (*The Chargors*) and (with effect from its accession) each other company which executes a Deed of Accession and Charge and any other company which subsequently adopts the obligations of a Chargor.

**"Declared Default"** means the occurrence of an Event of Default which has resulted in a notice being served by the Agent in accordance with Clause 28.16 (*Acceleration*) of the Facilities Agreement.

**"Deed of Accession and Charge"** means a deed of accession and charge substantially in the form of Schedule 3 (*Form of Deed of Accession and Charge for a New Chargor*).

**"Default"** means a Default under and as defined in the Facilities Agreement.

**"Derivative Rights"** includes:

- (a) allotments, rights, money or property arising at any time in relation to any Investments by way of conversion, exchange, redemption, bonus, preference, option or otherwise;
- (b) dividends, distributions, interest and other income paid or payable in relation to any Investments; and
- (c) stock, shares and securities offered in addition to or in substitution for any Investments.

**"Event of Default"** means an Event of Default under and as defined in the Facilities Agreement.

**"Existing Chargor"** means each company listed in Part A of Schedule 1 (*The Chargors*).

**"Existing Debenture"** means the debenture dated 24 July 2018 and entered into by, amongst others, the Chargors and the Security Agent.

**"Facilities Agreement"** means the facilities agreement originally dated 24 July 2018, as amended and restated from time to time including on or around the date of this Debenture between, amongst others, Blue Midco Limited (as the Parent), Blue Bidco Limited (as the Company), the companies listed as Original Borrowers, the companies listed as Original Guarantors, Ares Management Limited (as Mandated Lead Arranger), the financial institutions listed as Original Lenders and Ares Management Limited (as Agent and Security Agent).

**"Finance Document"** means the Facilities Agreement, any Accession Deed, any Ancillary Document, any Compliance Certificate, any Fee Letter, any Hedging Agreement, any Incremental Facility Notice, the Intercreditor Agreement, the Amendment and Restatement Agreement, the Amendment and Restatement Agreement (2022), the Amendment and Restatement Agreement (RFR), any Letter of Credit, any Resignation Letter, any Compounded Rate Supplement, any Compounding Methodology Supplement, any Selection Notice, any Transaction Security Document, any Utilisation Request, any Investor Proceeds Letter, any Spanish Public Document granted in relation to the Facilities Agreement and any other document designated as a "Finance Document" by the Agent and the Company.

**"Finance Party"** means the Agent, the Security Agent, the Mandated Lead Arranger, the Lenders, the Issuing Bank and any Ancillary Lender.

**"Financial Collateral"** in relation to a Chargor, means any of its Assets comprising financial collateral within the meaning of the Financial Collateral Regulations.



**"Financial Collateral Regulations"** means the Financial Collateral Arrangements (No. 2) Regulations 2003, as amended.

**"Fixed Asset"** means any Plant of a fixed nature.

**"Fixed Security Asset"** means an Asset for the time being comprised within an assignment created by Clause 3.1 (*Security Assignments*) or within a mortgage or fixed charge created by Clause 3.2 (*Fixed Security*) or arising on crystallisation of a floating charge whether under Clause 4 (*Crystallisation*) or otherwise and includes all Assets assigned, mortgaged or charged by the equivalent provisions in any Deed of Accession and Charge.

**"Floating Charge Asset"** means an Asset for the time being comprised within the floating charge created by Clause 3.3 (*Creation of Floating Charge*) (or by the equivalent provision of any Deed of Accession and Charge) but, in relation to Assets situated in Scotland and charged by clause 3.3(b) (or by the equivalent provision of any Deed of Accession and Charge) only in so far as concerns the floating charge over that Asset.

**"Group"** means the Parent and its Subsidiaries for the time being.

**"Hedge Counterparty"** has the meaning given to that term in the Facilities Agreement.

**"Hedging Agreements"** has the meaning given to that term in the Facilities Agreement.

**"Insurance Policy"** means any contract or policy of insurance of any Chargor (including all cover notes) of whatever nature which are from time to time taken out by or on behalf of any Chargor or (to the extent of its interest) in which any Chargor has an interest at any time but excluding any liability insurance and any directors' and officers' insurance.

**"Investments"** means all shares, stock, debentures, debenture stock, bonds and other investments (as listed in Schedule 2, Part II of the Financial Services and Markets Act 2000), whether certificated or uncertificated and whether in registered or bearer form, including all depository interests representing any of them and including all rights and benefits of a capital nature accruing at any time in respect of any Investments by way of redemption, repayment, substitution, exchange, bonus or preference, option, rights or otherwise.

**"Land"** means freehold and leasehold, and any other estate in, land and immovable property and in each case all buildings and structures upon and all things affixed to Land (including trade and tenant's fixtures).

**"Liability"** means any liability, damage, loss, costs, claim or expense of any kind or nature, whether direct, indirect, special, consequential or otherwise.

**"Material Land"** means all present and future Land (excluding Short Leasehold Property) held by any Chargor which:

- (a) has a market value of £7,500,000 (or its equivalent in other currencies) or more; or
- (b) is a leasehold property with an annual rent of £750,000 (or its equivalent in other currencies) or more.

**"Material Subsidiary"** means, at any time:

- (a) any Obligor;

- (b) a wholly owned member of the Group that is an immediate Holding Company of an Obligor (who is an Obligor other than by reason of this paragraph (b)); and
- (c) a member of the Group which has earnings before interest, tax, depreciation and amortisation calculated on the same basis as EBITDA (calculated on an unconsolidated basis and excluding intra group items), representing five (5) per cent. or more of EBITDA of the Group.

For the purposes of calculating EBITDA for the purposes of this definition, if the earnings before interest, tax, depreciation and amortisation of any member of the Group is less than zero, the earnings before interest, tax, depreciation and amortisation of that member of the Group shall be treated as zero.

**"New Chargor"** means a member of the Group which becomes a Chargor under this Debenture in accordance with Clause 23 (*Accession of a New Chargor*).

**"Party"** means a party to this Debenture.

**"Plant"** means all of each Chargor's present and future fixed and moveable plant, machinery, vehicles, furniture, fittings, computers and office equipment and other equipment, utensils and chattels of whatever nature and wherever situate, but excluding any of the same for the time being forming part of each Chargor's stock-in-trade or work in progress.

**"Receivables"** in relation to a Chargor, means all sums of money receivable by it at any time consisting of or payable under or derived from any Asset described in Clause 3.2 (*Fixed Security*) or described in the equivalent provision of any Deed of Accession and Charge.

**"Receiver"** means any receiver or receiver and manager appointed under Clause 13 (*Appointment of a Receiver or an Administrator*) including (where the context requires or permits) any substituted receiver or receiver and manager.

**"Relevant System"** has the meaning given to that term by the Uncertificated Securities Regulations 2001 and includes the CREST system and also any other system or facility (whether established in the United Kingdom or elsewhere) providing means for the deposit of, and clearance of transactions in, Investments.

**"Restricted Land"** means any leasehold property held by a Chargor under a lease which precludes either absolutely or conditionally that Chargor from creating a mortgage or charge over its leasehold interest in that property and in respect of which consent has not yet been obtained pursuant to Clause 3.5 (*Third Party Consents*).

**"Secured Sums"** means all present and future obligations and liabilities (whether actual or contingent and whether incurred jointly or severally and whether as principal or surety or in any other capacity whatsoever and whether incurred originally by a Chargor or by some other person) of each Chargor to all or any of the Beneficiaries under each or any of the Finance Documents, in each case together with:

- (a) all costs, charges and expenses incurred by any Beneficiary in connection with the protection, preservation or enforcement of its rights under any Finance Document; and
- (b) all moneys, obligations and liabilities due, owing or incurred in respect of any variations or increases in the amount or composition of the facilities provided under

any Finance Document or the obligations and liabilities imposed under such documents.

**"Security Agent"** means Ares Management Limited acting as security agent and trustee for the Beneficiaries including any successor appointed by the Beneficiaries pursuant to the Finance Documents.

**"Sellers"** has the meaning given to that term in the Acquisition Agreement.

**"Short Leasehold Property"** means a leasehold property held by a Chargor now or in the future under a lease granted at a rack rent or which has an unexpired term of 25 years or less as at the date of this Debenture (or in the case of future acquired leasehold property, at the date of the acquisition of such property by the relevant Chargor).

**"Specified Investments"** means, in relation to a Chargor, all Investments which at any time:

- (a) represent a holding in a Material Subsidiary of such Chargor;
- (b) are held in the name of the Security Agent or its nominee or to its order; or
- (c) that Chargor has deposited certificates for with the Security Agent or which, if uncertificated, are held in an escrow or other account in favour of the Security Agent or its nominee.

**"Structural Intra-Group Loan"** means any loan between two members of the Group in respect of which the creditor is a Chargor that is set out in the Tax Structure Memorandum.

**"Trade Receivables"** means any Receivables arising in the ordinary course of business.

1.2 **Interpretation:** Unless the context otherwise requires, the interpretative provisions set out in the paragraphs below shall apply in this Debenture.

- (a) References to any Party shall be construed so as to include that Party's respective successors in title, permitted assigns and permitted transferees.
- (b) **"Including"** and **"in particular"** shall not be construed restrictively but shall mean respectively "including, without prejudice to the generality of the foregoing" and "in particular, but without prejudice to the generality of the foregoing".
- (c) A **"person"** includes any person, firm, company, corporation, government, state or agency of a state or any association, joint venture, trust or partnership (whether or not having separate legal personality) of two or more of the foregoing.
- (d) **"Property"** includes any interest (legal or equitable) in real or personal property and any thing in action.
- (e) **"Variation"** includes any variation, amendment, accession, novation, restatement, modification, assignment, transfer, supplement, extension, deletion or replacement however effected and **"vary"** and **"varied"** shall be construed accordingly.
- (f) **"Writing"** includes facsimile transmission legibly received except in relation to any certificate, notice or other document which is expressly required by this Debenture to be signed and **"written"** has a corresponding meaning.

- (g) Subject to Clause 27.4 (*Variations*), references to this Debenture or to any other document (including any Finance Document) include references to this Debenture or such other document as varied in any manner from time to time, even if changes are made to the composition of the parties to this Debenture or such other document or to the nature or amount of any facilities made available under such other document and, in addition, references to this Debenture shall include (with effect from the date on which it comes into force) each Deed of Accession and Charge executed pursuant to it.
- (h) References to uncertificated Investments are to Investments the title to which can be transferred by means of an electronic or other entry in a Relevant System and references to certificated Investments are to Investments which are not uncertificated Investments.
- (i) The singular shall include the plural and vice versa and any gender shall include the other genders.
- (j) Clauses, paragraphs and Schedules shall be construed as references to Clauses and paragraphs of, and Schedules to, this Debenture.
- (k) Any reference to any statute or statutory instrument or any section of it shall be deemed to include a reference to any statutory modification or re-enactment of it for the time being in force in relation to the particular circumstances.
- (l) Headings in this Debenture are inserted for convenience and shall not affect its interpretation.
- (m) A Default (or an Event of Default) is "**continuing**" for the purposes of the Finance Documents if it has not been remedied or waived.
- (n) "**Blank stock transfer form**" means a stock transfer form validly executed by the relevant Chargor but with the section relating to the consideration and the transferee left blank.

1.3 **Inconsistency between this Debenture and the Facilities Agreement:** If there is any conflict or inconsistency between this Debenture and any provision of the Facilities Agreement, the provision of the Facilities Agreement shall prevail.

## 2. **COVENANT TO PAY**

2.1 **Covenant to pay:** Each Chargor (as primary obligor and not merely as surety) covenants with the Security Agent (as trustee for the Beneficiaries) that it will, on the Security Agent's written demand, pay or discharge the Secured Sums when due at the times and in the manner provided in the relevant Finance Documents.

2.2 **Proviso:** The covenants contained in this Clause and the security created by this Debenture shall not extend to or include any liability or sum which would otherwise cause any such covenant or security to be unlawful or prohibited by any applicable law.

### 2.3 **Demands:**

- (a) The making of one demand shall not preclude the Security Agent from making any further demands.

- (b) Any third party dealing with the Security Agent or any Receiver shall not be concerned to see or enquire as to the validity of any demand under this Debenture.

### 3. CREATION OF SECURITY

3.1 **Security assignments:** Each Chargor, with full title guarantee (subject to, in the case of each Existing Chargor only, the Security created by that Existing Chargor in the Existing Debenture), as security for the payment or discharge of all Secured Sums, assigns and agrees to assign absolutely (subject to a proviso for reassignment on redemption) to the Security Agent (as trustee for the Beneficiaries):

- (a) the benefit of all of its Acquisition Agreement Claims;
- (b) all of its rights, title and interest from time to time in respect of any sums payable to it pursuant to the Insurance Policies;
- (c) all its rights, title and interest from time to time in respect of any Hedging Agreements; and
- (d) all its rights, title and interest from time to time in respect of any Structural Intra-Group Loans.

3.2 **Fixed Security:** Each Chargor, with full title guarantee (subject to, in the case of each Existing Chargor only, the Security created by that Existing Chargor in the Existing Debenture), as security for the payment or discharge of all Secured Sums, charges in favour of the Security Agent (as trustee for the Beneficiaries):

- (a) by way of legal mortgage, all Material Land in England and Wales now vested in it and registered at HM Land Registry or which will be subject to first registration at HM Land Registry upon the execution and delivery of this Debenture, in each case as described in Schedule 2 (*Registered Material Land to be Mortgaged*);
- (b) by way of fixed charge:
  - (i) with the exception of any Restricted Land, all other Material Land which is now, or in the future becomes, its property;
  - (ii) all Material Land which has ceased to fall within the definition of Restricted Land by virtue of receipt of the relevant landlord's consent to charge that Material Land, but only with effect from the date on which that consent is obtained;
  - (iii) all other interests and rights in or relating to Material Land or in the proceeds of sale of Material Land now or in the future belonging to it;
  - (iv) all rental and other income and all debts and claims now or in the future due or owing to it under or in connection with any lease, agreement or licence relating to Material Land;
  - (v) all Specified Investments which are now its property, including all proceeds of sale derived from them;
  - (vi) all Specified Investments in which that Chargor may in the future acquire any interest (legal or equitable), including all proceeds of sale derived from them;

- (vii) all Derivative Rights of a capital nature now or in the future accruing or offered in respect of its Specified Investments;
- (viii) all Derivative Rights of an income nature now or in the future accruing or offered at any time in respect of its Specified Investments;
- (ix) all insurance or assurance contracts or policies now or in the future held by or otherwise benefiting it which relate to Fixed Security Assets or which are now or in the future deposited by it with the Security Agent, together with all its rights and interests in such contracts and policies (including the benefit of all claims arising and all money payable under them) apart from any claims which are otherwise subject to a fixed charge or assignment (at law or in equity) in this Debenture;
- (x) all its goodwill and uncalled capital for the time being;
- (xi) all other debts now or in the future owing to it, excluding those arising on fluctuating accounts with other members of the Group;
- (xii) the benefit of all instruments, guarantees, charges, pledges and other security and all other rights and remedies available to it in respect of any Fixed Security Asset except to the extent that such items are for the time being effectively assigned under Clause 3.1 (*Security Assignments*);
- (xiii) any beneficial interest, claim or entitlement it has to any pension fund now or in the future;
- (xiv) all rights, money or property accruing or payable to it now or in the future under or by virtue of a Fixed Security Asset except to the extent that such rights, money or property are for the time being effectively assigned or charged by fixed charge under the foregoing provisions of this Debenture; and
- (xv) the benefit of all licences, consents and authorisations held in connection with its business or the use of any Asset and the right to recover and receive all compensation which may be payable in respect of them.

**3.3 Creation of floating charge:** Each Chargor, with full title guarantee (subject to, in the case of each Existing Chargor only, the Security created by that Existing Chargor in the Existing Debenture), charges to the Security Agent (as trustee for the Beneficiaries) as security for the payment or discharge of all Secured Sums, by way of floating charge:

- (a) all its Assets, except to the extent that such Assets are for the time being effectively assigned by way of security by virtue of Clause 3.1 (*Security Assignments*) or charged by any fixed charge contained in Clause 3.2 (*Fixed Security*), including any Assets comprised within a charge which is reconverted under Clause 4.4 (*Reconversion*); and
- (b) without exception, all its Assets in so far as they are for the time being situated in Scotland,

but in each case so that such Chargor shall not create any Security over any such Floating Charge Asset (whether having priority over, or ranking *pari passu* with or subject to, this floating charge) or take any other step referred to in Clause 6 (*Negative pledge and other restrictions*) with respect to any such Floating Charge Asset, and such Chargor shall not,

without the consent of the Security Agent, sell, transfer, part with or dispose of any such Floating Charge Asset (except as permitted by Clause 27.14 (*Disposals*) of the Facilities Agreement).

### 3.4 **Excluded Assets:**

- (a) There shall be excluded from the fixed charges created under Clause 3.2 (*Fixed Security*) of this Debenture:
  - (i) all Trade Receivables, all rights and remedies in connection with the Trade Receivables and all proceeds and claims arising from them; and
  - (ii) the Fixed Assets and the benefits of all contracts, licenses and warranties relating to the same.

### 3.5 **Third Party Consents:**

In the case of each Existing Chargor only, to the extent such consent has not been obtained by that Existing Chargor pursuant to clause 3.5(a) (*Third Party Consents*) of the Existing Debenture, if a Chargor has an interest in any Restricted Land that is also Material Land, that Chargor shall:

- (a) within 10 Business Days of its execution of this Debenture or a Deed of Accession and Charge (as the case may be), or in the case of any relevant Restricted Land acquired after the date of this Debenture or a Deed of Accession and Charge (as the case may be), within 30 days of the delivery of the Annual Financial Statements to the Agent in accordance with Clause 25.1 (*Financial Statements*) of the Facilities Agreement, use its reasonable endeavours to obtain the consent of each landlord of such Restricted Land to the creation of the charges envisaged by Clause 3.2(b)(ii) (*Fixed Security*) (including paying the reasonable costs and any reasonable consent fee of any such landlord);
- (b) on request, keep the Security Agent informed of the progress of its negotiations with any such landlord; and
- (c) provide the Security Agent with a copy of each such consent promptly after its receipt.

### 3.6 **Acknowledgment of Structural Intra-Group Loans**

Each relevant Chargor (including each acceding Chargor) shall be deemed to have notice of and to have acknowledged notice of any assignment of, or other security created under this Debenture (or any Deed of Accession and Charge) over, each Chargor's rights, title and interest from time to time in respect of any Structural Intra-Group Loans pursuant to which any amounts or other obligations are owed to it by another Chargor.

### 3.7 **Notices:**

- (a) In the case of an Existing Chargor only, to the extent such notice has not been served by that Existing Chargor pursuant to clause 3.7(a) (*Notices*) of the Existing Debenture, each relevant Chargor shall on the date of this Debenture, execute a notice of assignment in respect of the Acquisition Agreement Claims in substantially the form set out in Part 4 of Schedule 4 (*Forms of Notice of Assignment/Charge*) and, as soon as reasonably practicable, deliver that notice to the Sellers.

- (b) In the case of an Existing Chargor only, to the extent such notice has not been served by that Existing Chargor pursuant to clause 3.7(b) (Notices) of the Existing Debenture, each relevant Chargor shall as soon as reasonably practicable and in any event within 20 Business Days of the entry into this Debenture, execute a notice of assignment in respect of the Hedging Agreements in substantially the form set out in Part 1 of Schedule 4 (*Forms of Notice of Assignment/Charge*) and, as soon as reasonably practicable, deliver that notice to each Hedge Counterparty.
- (c) In relation to Hedging Agreements entered into after the date of the entry into this Debenture or a Deed of Accession and Charge (as applicable), each relevant Chargor shall, within 30 days of the delivery of each set of Annual Financial Statements to the Agent in accordance with Clause 25.1 (*Financial Statements*) of the Facilities Agreement, execute a notice of assignment in respect of the Hedging Agreements in substantially the form set out in Part 1 of Schedule 4 (*Forms of Notice of Assignment/Charge*) and, as soon as reasonably practicable, deliver that notice to each Hedge Counterparty.
- (d) In the case of an Existing Chargor only, to the extent such notice has not been served by that Existing Chargor pursuant to clause 3.7(d) (Notices) of the Existing Debenture, the Chargors shall each, as soon as reasonably practicable and in any event within 20 Business Days of the entry into this Debenture (or, if acceding to this Debenture, on the date of the relevant Deed of Accession and Charge):
  - (i) execute a notice of charge to the insurers (and any broker) of the security over the Insurance Policies and their proceeds created by this Debenture in substantially the form set out in Part 2 of Schedule 4 (*Forms of Notice of Assignment/Charge*) and, as soon as reasonably practicable, serve that notice on each such insurer and broker; and
  - (ii) if notice and acknowledgment has not been received under Clause 3.6 (*Acknowledgement of Structural Intra-Group Loans*), execute a notice of assignment in respect of the Structural Intra-Group Loans in substantially the form set out in Part 3 of Schedule 4 (*Forms of Notice of Assignment/Charge*) and, as soon as reasonably practicable, serve that notice on each debtor party to such Structural Intra-Group Loans.
- (e) In relation to Insurance Policies entered into after the date of this Debenture or a Deed of Accession and Charge (as applicable) each relevant Chargor shall, within 30 days of the delivery of each set of Annual Financial Statements to the Agent in accordance with Clause 25.1 (*Financial Statements*) of the Facilities Agreement, execute a notice of charge to the insurers (and any broker) of the security over the Insurance Policies and their proceeds created by this Debenture in substantially the form set out in Part 2 of Schedule 4 (*Forms of Notice of Assignment/Charge*) and, as soon as reasonably practicable, serve that notice on each such insurer and broker.
- (f) Each Chargor shall use reasonable endeavours (including expending reasonable costs and expenses) to procure the execution and delivery to the Security Agent of acknowledgments by the addressees of the notices delivered to them pursuant to paragraphs (a), (b), (c), (d) and (e) above provided that the obligation to use reasonable endeavours shall lapse 20 Business Days after the service of the relevant notice.



- (g) Unless and until the occurrence of a Declared Default, each Chargor may continue to deal with the counterparties to the relevant Assigned Agreements.

### 3.8 **Priority:**

- (a) Any fixed Security created by a Chargor and subsisting in favour of the Security Agent shall (save as the Security Agent may otherwise declare at or after the time of its creation) have priority over the floating charge created by Clause 3.3 (*Creation of floating charge*).
- (b) Any Security created in the future by a Chargor (except in favour of the Security Agent) shall be expressed to be subject to this Debenture and shall rank in order of priority behind the charges created by this Debenture (except to the extent mandatorily preferred by law).

### 3.9 **Application to HM Land Registry:**

Each Chargor:

- (a) in relation to each register of title of any present and future Material Land of that Chargor which is charged to the Security Agent under this Deed or pursuant to the further assurance undertakings in the Facilities Agreement, consents to the Security Agent (or its solicitors) (with prior written notice to the applicable Chargor) at any time submitting to HM Land Registry any and all of the following:
- (i) a form AP1 (*application to change the register*) in respect of the security created by this Debenture;
  - (ii) a form AN1 (*application to enter an agreed notice*) in respect of the security created by this Debenture;
  - (iii) a form RX1 (*application to register a restriction*) in the following terms:  
  
"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [date] in favour of [Chargee] referred to on the charges register or their conveyancer."; and
  - (iv) a form CH2 (application to enter an obligation to make further advances); and
- (b) covenants to submit an application to the appropriate Land Registry for the first registration of any unregistered Material Land in England and Wales mortgaged by Clause 3.2 (*Fixed security*) at its own expense, immediately following its execution of this Debenture.

## 4. **CRYSTALLISATION**

4.1 **Crystallisation by notice:** The floating charge created by each Chargor in Clause 3.3 (*Creation of floating charge*) may, subject to Clauses 4.5 (*Moratorium Assets*) and 4.6 (*Crystallisation exceptions*), be crystallised into a fixed charge by notice in writing given at any time by the Security Agent to the relevant Chargor if:

- (a) a Declared Default has occurred;

- (b) an Event of Default under Clause 28.6 (*Insolvency*) or Clause 28.7 (*Insolvency Proceedings*) of the Facilities Agreement has occurred and is continuing; or
- (c) the Security Agent in good faith reasonably considers that any of the Assets expressed to be charged to the Security Agent by this Debenture may be in danger of being seized or sold pursuant to any form of legal process,

Such crystallisation shall take effect over the Floating Charge Assets or class of Assets specified in the notice. If no Floating Charge Assets are specified, it shall take effect over all Floating Charge Assets of the relevant Chargor.

**4.2 Automatic crystallisation:** If, without the Security Agent's prior written consent:

- (a) any Chargor, in contravention of any Finance Document, resolves to take or takes any step to:
  - (i) charge or otherwise encumber any of its Floating Charge Assets;
  - (ii) create a trust over any of its Floating Charge Assets; or
  - (iii) dispose of any Floating Charge Asset (except by way of sale in the ordinary course of such Chargor's business to the extent that such disposal is not otherwise prohibited by any Finance Document); or
- (b) any person resolves to take or takes any step to seize or sell any Floating Charge Asset pursuant to any form of legal process; or
- (c) an Event of Default under Clause 28.6 (*Insolvency*) or 28.7 (*Insolvency Proceedings*) of the Facilities Agreement has occurred,

then the floating charge created by Clause 3.3 (*Creation of floating charge*) shall, subject to Clauses 4.5 (*Moratorium Assets*) and 4.6 (*Crystallisation exceptions*), be automatically and instantly crystallised (without the necessity of notice) into a fixed charge over such Floating Charge Asset or, in the case of paragraph (c) above into a fixed charge over all Floating Charge Assets of the relevant Chargor.

**4.3 Future Floating Charge Assets:** Except as otherwise stated in any notice given under Clause 4.1 (*Crystallisation by notice*) or unless the crystallisation relates to all its Floating Charge Assets, prospective Floating Charge Assets acquired by any Chargor after crystallisation has occurred under Clause 4.1 (*Crystallisation by notice*) or Clause 4.2 (*Automatic crystallisation*) shall become subject to the floating charge created by Clause 3.3 (*Creation of floating charge*), so that the crystallisation shall be effective only as to the specific Floating Charge Assets affected by the crystallisation.

**4.4 Reconversion:** Any charge which has crystallised under Clause 4.1 (*Crystallisation by notice*) or Clause 4.2 (*Automatic crystallisation*) may, by notice in writing given at any time by the Security Agent to the relevant Chargor, be reconverted into a floating charge in relation to the Assets specified in such notice.

**4.5 Moratorium Assets:** Save as permitted by Part A1 of the Insolvency Act 1986, where a Chargor obtains a moratorium under that Part A1, and whilst the moratorium continues, the floating charge created by that Chargor in Clause 3.3 (*Creation of floating charge*):

- (a) may not be converted into a fixed charge by notice in writing under Clause 4.1 (*Crystallisation by notice*); and

- (b) shall not automatically convert into a fixed charge under Clause 4.2 (*Automatic crystallisation*).

4.6 **Crystallisation exceptions:** Notwithstanding Clauses 4.1 and 4.2, and save as permitted under Part A1 of the Insolvency Act 1986, nothing done for or by a Chargor with a view to obtaining a moratorium under that Part A1 shall give rise to any right to crystallise by notice under Clause 4.1 or cause the automatic crystallisation under Clause 4.2 of the floating charge created by that Chargor under Clause 3.3 (*Creation of floating charge*).

## 5. TITLE DOCUMENTS, INSURANCE POLICIES AND TRANSFERS

5.1 **Documents:** Subject to the rights of any prior chargee and except as otherwise expressly agreed in writing by the Security Agent, and, in the case of an Existing Chargor only, to the extent not previously provided by that Existing Chargor to the Security Agent pursuant to the Existing Debenture, each Chargor shall:

- (a) deposit with the Security Agent, and the Security Agent shall be entitled to retain during the continuance of the security created by this Debenture, all deeds and documents of title relating to its Fixed Security Assets that are necessary to give effect to or to perfect the fixed security described in Clause 3.2 (*Fixed Security*), including:
  - (i) certificates of registration;
  - (ii) certificates constituting or evidencing Specified Investments together with appropriate blank stock transfer forms; and
  - (iii) all deeds and documents of title relating to any Material Land which by virtue of receipt of the relevant landlord's consent to charge that Land pursuant to Clause 3.5 (*Third Party Consents*) has ceased to fall within the definition of Restricted Land.
- (b) if, at any time and from time to time, an Investment which represents a holding in a Subsidiary of a Chargor falls within the definition of Specified Investment by virtue of that Subsidiary becoming a Material Subsidiary, the relevant Chargor shall promptly deposit with the Security Agent, and the Security Agent shall be entitled to retain during the continuance of the security created by this Debenture, all certificates constituting or evidencing that Specified Investment together with blank stock transfer forms.
- (c) as soon as reasonably practicable, and in any event within 10 Business Days of request, execute and deliver to the Security Agent such documents and transfers and give such instructions and perform such other acts as the Security Agent may reasonably require at any time to constitute or perfect an equitable charge or legal mortgage (at the Security Agent's option) over its Specified Investments, including any eligible to participate in a Relevant System.

## 6. NEGATIVE PLEDGE AND OTHER RESTRICTIONS

Without the prior written consent of the Security Agent, except as specifically permitted by the Facilities Agreement, no Chargor shall:

- (a) create, or agree or attempt to create, or permit to subsist, any Security or any trust over any of its Assets; or

- (b) sell, assign, lease, license or sub-license, or grant any interest in, any of its Fixed Security Assets, or part with possession or ownership of them, or purport or agree to do so.

## 7. **RIGHT OF APPROPRIATION**

7.1 **Financial Collateral Arrangement:** To the extent applicable, the Parties acknowledge and intend that the charges over each Chargor's Financial Collateral provided under or pursuant to this Debenture will each constitute a "security financial collateral arrangement" for the purposes of the Financial Collateral Regulations.

7.2 **Right of Appropriation:** The Security Agent may, on or at any time after the security constituted by this Debenture becomes enforceable in accordance with its terms, by notice in writing to the relevant Chargor appropriate with immediate effect all or any of its Financial Collateral charged by this Debenture which is subject to a security financial collateral arrangement (within the meaning of the Financial Collateral Regulations) and apply it in or towards the discharge of the Secured Sums, whether such Assets are held by the Security Agent or otherwise.

7.3 **Value:** The value of any Financial Collateral appropriated under Clause 7.2 shall be:

- (a) in the case of cash, its face value at the time of appropriation; and
- (b) in the case of financial instruments or other financial collateral, their market value at the time of appropriation as determined (after appropriation) by the Security Agent by reference to a public index or other applicable generally recognised source or such other process as the Security Agent may reasonably select, including a valuation carried out by an independent firm of accountants or valuers appointed by the Security Agent;

as converted, where necessary, into sterling at a market rate of exchange prevailing at the time of appropriation selected by the Security Agent.

7.4 **Surplus or Shortfall:** The Security Agent will account to the relevant Chargor for any amount by which the value of the appropriated Assets exceeds the Secured Sums and the Chargors shall remain liable to the Security Agent for any amount by which the value of the appropriated Assets is less than the Secured Sums.

7.5 **Confirmation:** Each Chargor agrees that the method of valuing Financial Collateral under Clause 7.3 is commercially reasonable.

## 8. **CONTINUING SECURITY**

This Debenture shall be a continuing security for the Beneficiaries, notwithstanding any intermediate payment or settlement of accounts or other matter whatever, and shall be in addition to and shall not prejudice or be prejudiced by any right of set-off, combination, lien or other rights exercisable by any Beneficiary as banker against any Chargor or any security, guarantee, indemnity and/or negotiable instrument now or in the future held by any Beneficiary.

## 9. **MATERIAL LAND**

9.1 **Positive Covenants:** Each Chargor covenants that it shall notify the Security Agent promptly (and in any event within 30 days of delivery of the preceding set of Annual

Financial Statements to the Agent in accordance with Clause 25.1 (*Financial Statements*) of the Facilities Agreement) following its acquisition of any Material Land.

- 9.2 **Supplemental Legal Mortgage:** if, at any time and from time to time, a Chargor has any interest in any Material Land which is registered at HM Land Registry (or which would be subject to first registration at HM Land Registry on the creation of a mortgage over it), but which is not Restricted Land at that time, and which (for any reason) is also not subject to a legal mortgage under this Debenture or under any Deed of Accession at that time, then the relevant Chargor will promptly execute and deliver to the Security Agent a supplemental legal mortgage, in the agreed terms, over that Material Land as security for the Secured Sums.
- 9.3 **Consolidation of Mortgages:** Section 93 of the Law of Property Act 1925, dealing with the consolidation of mortgages, shall not apply to this Debenture.
10. **SPECIFIED INVESTMENTS**
- 10.1 **Voting and other rights:** Each Chargor undertakes not to exercise any voting powers or rights in a way which would prejudice the value of its Specified Investments or otherwise to jeopardise the Security constituted by this Debenture over them.
- (a) **Before Enforcement:** Unless and until the occurrence of a Declared Default all voting powers and rights attaching to Specified Investments (including Derivative Rights) belonging to a Chargor shall continue to be exercised by such Chargor for so long as it remains their registered owner and such Chargor shall not permit any person other than such Chargor, the Security Agent or the Security Agent's nominee to be registered as holder of such Specified Investments or any part of them; and
- (b) **After Enforcement:** At any time after the occurrence of a Declared Default:
- (i) the Security Agent may, for the purposes of protecting its interests in relation to the Secured Sums and preserving the value of the security created by this Debenture (in each case in its absolute discretion) and/or realising the security created by this Debenture, exercise (but is not obliged to exercise) in the name of a Chargor or otherwise and without any further consent or authority on the part of any Chargor, all voting powers and rights attaching to the Specified Investments (including Derivative Rights) as it sees fit, including any rights to nominate or remove a director, as if the Security Agent were the sole beneficial owner of the Specified Investments;
  - (ii) all Derivative Rights shall, if received by a Chargor or the Security Agent's nominee, be held on trust for and forthwith paid or transferred to the Security Agent; and
  - (iii) each Chargor shall (and shall procure that the Security Agent's nominees shall) accept short notice for and attend any shareholders meetings relating to the Specified Investments, appoint proxies and exercise voting and other rights and powers exercisable by the holders of the Specified Investments as the Security Agent may direct from time to time as it sees fit for the purpose of protecting its interests in relation to the Secured Sums.

For the avoidance of doubt, unless and until the Security Agent takes any steps to exercise any voting powers or rights attaching to the Specified Investments after becoming entitled

(but not obliged) to do so under this Clause, all such powers and rights (including the right to receive Derivative Rights) remain with the relevant Chargor.

## 10.2 **Waiver of voting rights**

(a) At any time and in its absolute discretion, and (notwithstanding any provision to the contrary in any other Finance Document and, in particular, Clause 41.2(a) (*Required consents*) of the Facilities Agreement) without any requirement for any consent or authority from any Chargor for it to do so, the Security Agent may by written notice to any one or more of the Chargors elect to give up the right to exercise all voting powers and rights attaching to those Specified Investments specified in that notice and which would otherwise potentially be capable of being conferred upon it pursuant to this Debenture.

(b) Any notice served by the Security Agent under this Clause 10.2 shall be irrevocable.

10.3 **Negative covenant:** Each Chargor covenants with the Security Agent that, unless permitted by the Facilities Agreement, it will not, without the prior written consent of the Security Agent consent to its Specified Investments being consolidated, sub-divided or converted or any rights attached to them being varied.

## 11. **OPENING OF NEW ACCOUNTS**

11.1 **Creation of new account:** On receiving notice that any Chargor has granted Security over or otherwise encumbered or disposed of any of its Assets in contravention of any Finance Document, a Beneficiary may rule off all its accounts and open new accounts with such Chargor.

11.2 **Credits to new account:** If a Beneficiary does not open a new account immediately on receipt of such notice, it shall nevertheless be treated as if it had done so on that day. From that day, all payments made by the Chargor to that Beneficiary shall be treated as having been credited to a new account and shall not operate to reduce the amount owing from the Chargor to such Beneficiary at the time when it received such notice.

## 12. **POWERS OF SALE, LEASING AND ACCEPTING SURRENDERS**

12.1 **Section 103 of the LPA:** Section 103 of the Law of Property Act 1925 shall not apply to this Debenture, and for the purposes of the statutory power of sale the Secured Sums are deemed to have fallen due on the execution of this Debenture. However, the Security Agent shall not exercise such power of sale until a Declared Default has occurred.

12.2 **Powers of sale extended:** The statutory powers of sale, leasing and accepting surrenders exercisable by the Security Agent by virtue of this Debenture are extended so as to authorise the Security Agent (whether in its own name or that of the Chargor concerned) to:

- (a) grant a lease of any Land vested in a Chargor or in which it has an interest on such terms and conditions as the Security Agent shall think fit; and
- (b) sever any fixtures from Land vested in a Chargor and sell them separately.

## 13. **APPOINTMENT OF A RECEIVER OR AN ADMINISTRATOR**

13.1 **Appointment:** Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to this Debenture and the floating charges contained in this Debenture. At any time after:

- (a) the occurrence of a Declared Default;
- (b) in relation to any Chargor, a step or proceeding is taken, or a proposal made, for the appointment of an administrator or for a voluntary arrangement under Part I of the Insolvency Act 1986; or
- (c) a request has been made by a Chargor to the Security Agent for the appointment of a Receiver or an administrator over its Assets or in respect of a Chargor,

then this Debenture shall become enforceable and, notwithstanding the terms of any other agreement between such Chargor and any Beneficiary, the Security Agent may (unless precluded by law) appoint in writing any person or persons to be a receiver or a receiver and manager (or receivers or receivers and managers) of all or any part of the Assets of such Chargor or, an administrator or administrators of such Chargor, as the Security Agent may choose in its entire discretion.

Notwithstanding anything to the contrary in this Deed, neither the obtaining of a moratorium by a Chargor under Part A1 of the Insolvency Act 1986 nor the doing of anything for or by a Chargor with a view to obtaining such a moratorium (including any preliminary decision or investigation) shall be, or be construed as, a ground under this Deed for the appointment of a Receiver save where such an appointment would be permitted under that Part A1.

- 13.2 **Power to act separately:** Where more than one Receiver or administrator is appointed, the appointees shall have power to act separately unless the Security Agent shall specify to the contrary.
- 13.3 **Receiver's remuneration:** The Security Agent may from time to time determine the remuneration of a Receiver.
- 13.4 **Removal of Receiver:** The Security Agent may (subject to section 45 of the Insolvency Act 1986) remove a Receiver from all or any of the Assets of which he is the Receiver.
- 13.5 **Further appointments of a Receiver:** Such an appointment of a Receiver shall not preclude:
- (a) the Security Agent from making any subsequent appointment of a Receiver over all or any Assets over which a Receiver has not previously been appointed or has ceased to act; or
  - (b) the appointment of an additional Receiver to act while the first Receiver continues to act.
- 13.6 **Receiver's agency:** The Receiver shall be the agent of the relevant Chargor (which shall be solely liable for his acts, defaults and remuneration) unless and until such Chargor goes into liquidation, after which time he shall act as principal and shall not become the agent of the Security Agent or any other Beneficiary.

#### 14. **POWERS OF A RECEIVER**

The Receiver may exercise, in relation to each Chargor over whose Assets he is appointed, all the powers, rights and discretions set out in Schedules 1 and 2 to the Insolvency Act 1986 and in particular, by way of addition to and without limiting such powers, the Receiver may, with or without the concurrence of others:

- (a) sell, lease, let, license, grant options over and vary the terms of, terminate or accept surrenders of leases, licences or tenancies of, all or any of the Assets of the relevant Chargor, without the need to observe any of the provisions of Sections 99 and 100 of the Law of Property Act 1925, in such manner and generally on such terms and conditions as he shall think fit in his absolute and unfettered discretion and any such sale or disposition may be for cash, Investments or other valuable consideration (in each case payable in a lump sum or by instalments) and carry any such transactions into effect in the name of and on behalf of such Chargor;
- (b) promote the formation of a Subsidiary of the relevant Chargor with a view to such Subsidiary purchasing, leasing, licensing or otherwise acquiring interests in all or any of the Assets of such Chargor;
- (c) sever any fixtures from Land and/or sell them separately;
- (d) exercise all voting and other rights attaching to Investments owned by the relevant Chargor;
- (e) arrange for the purchase, lease, licence or acquisition of all or any Assets of the relevant Chargor by any Subsidiary contemplated by paragraph (b) above on a basis whereby the consideration may be for cash, Investments, shares of profits or sums calculated by reference to profits or turnover or royalties or licence fees or otherwise, whether or not secured on the assets of such Subsidiary and whether or not such consideration is payable or receivable in a lump sum or by instalments over such period as the Receiver may think fit;
- (f) make any arrangement or compromise with any Beneficiary or others as he shall think fit;
- (g) make and effect all repairs, renewals and improvements to the Assets of the relevant Chargor and effect, renew or increase insurances on such terms and against such risks as he shall think fit;
- (h) appoint managers, officers and agents for the above purposes at such remuneration as the Receiver may determine;
- (i) redeem any prior encumbrance and settle and pass the accounts of the encumbrancer and any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the relevant Chargor and the money so paid shall be deemed an expense properly incurred by the Receiver;
- (j) pay the proper administrative charges of any Beneficiaries in respect of time spent by their agents and employees in dealing with matters raised by the Receiver or relating to the receivership of the relevant Chargor;
- (k) commence and/or complete any building operations upon any Land of the relevant Chargor and apply for and obtain any planning permissions, building regulation consents or licences, in each case as he may in his absolute discretion think fit; and
- (l) do all such other acts and things as may be considered by the Receiver to be incidental or conducive to any of the above matters or powers or otherwise incidental or conducive to the preservation, improvement or realisation of the relevant Assets.



**15. POWER OF ATTORNEY**

**15.1 Appointment of attorney:** Each Chargor, by way of security and to more fully secure the performance of its obligations under this Debenture, hereby irrevocably appoints the Security Agent and separately any nominee and/or any Receiver to be its attorney (with full power to appoint substitutes and to delegate) with power in its name and on its behalf, and as its act and deed or otherwise (whether or not a Receiver or administrator has been appointed),

- (a) after the occurrence of a Declared Default to:
  - (i) do anything which that Chargor is expressly obliged to do in accordance with this Debenture, including to execute and deliver and otherwise perfect any agreement, assurance, deed, instrument or document; or
  - (ii) enable the Security Agent or any such nominee and/or Receiver to exercise (or to delegate) all or any of the rights conferred on it by this Debenture or by statute in relation to this Debenture or the Assets charged, or purported to be charged, by it, or
- (b) at any other time prior to the occurrence of a Declared Default to do anything which that Chargor is expressly obliged to do in accordance with this Debenture or under Clauses 27.26 (*Further Assurance*) of the Facilities Agreement, including to execute and deliver and otherwise perfect any agreement, assurance, deed, instrument or document, and which that Chargor has not done within 20 Business Days of the Security Agent giving notice to the relevant Chargor and/or the Parent of such failure to comply.

**15.2 Ratification:** Each Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to his appointment under this clause.

**15.3 Sums recoverable:** All sums expended by the Security Agent, any nominee and/or any Receiver under this Clause 15 shall be recoverable from each Chargor under the terms of Clause 20 (*Costs and Expenses*) and Clause 21 (*Other Indemnities*) of the Intercreditor Agreement.

**16. OTHER POWERS EXERCISABLE BY THE SECURITY AGENT**

**16.1 Receiver's powers:** All powers of a Receiver conferred by this Debenture may be exercised by the Security Agent after this Debenture has become enforceable. In that event, paragraph (i) of Clause 14 (*Powers of Receiver*) shall be read and construed as if the words "be charged on the Assets of the relevant Chargor" were substituted for the words "be deemed an expense properly incurred by the Receiver".

**16.2 Receipt of debts:** Following the occurrence of a Declared Default, the Security Agent, its nominee or any manager, officer or agent of the Security Agent is hereby irrevocably empowered to:

- (a) receive all trade debts and other debts and claims which may be assigned to the Security Agent pursuant to this Debenture and/or under any other Transaction Security Document;
- (b) on payment give an effectual discharge for them and on non-payment to take and institute (if the Security Agent in its sole discretion so decides) all steps and

proceedings either in the name of the relevant Chargor or in the name of the Security Agent for their recovery; and

(c) agree accounts and make allowances and give time to any surety.

Each Chargor ratifies and confirms whatever the Security Agent or any manager or officer of the Security Agent shall do or purport to do under this clause.

16.3 **Security Agent's powers:** The Security Agent shall have no liability or responsibility to any Chargor arising out of the exercise or non-exercise of the powers conferred on it by this Clause 16, except for gross negligence or wilful default.

16.4 **No duty of enquiry:** The Security Agent need not enquire as to the sufficiency of any sums received by it in respect of any debt or claim or make any claim or take any other action to collect in or enforce them.

#### 17. **APPLICATION OF MONEY RECEIVED BY THE SECURITY AGENT OR A RECEIVER**

17.1 **Order of priority:** Any money received or realised under the powers conferred by this Debenture shall be paid or applied in accordance with the terms of the Intercreditor Agreement.

17.2 **Suspense account:** Until all the Secured Sums have been unconditionally and irrevocably paid and discharged in full, the Security Agent may place and keep to the credit of a suspense account any money received from or realised in respect of any Chargor's liability under this Debenture. The Security Agent shall have no intermediate obligation to apply such money in or towards the discharge of any of the Secured Sums. Amounts standing to the credit of any such suspense account shall bear interest at a rate considered by the Security Agent in good faith to be a fair market rate.

17.3 **Discretion to apply:** Subject to Clause 17.1 above, until all Secured Sums have been unconditionally and irrevocably paid and discharged in full, the Security Agent may refrain from applying or enforcing any other moneys, security or rights held by it in respect of the Secured Sums or may apply and enforce such moneys, security or rights in such manner and in such order as it shall decide in its unfettered discretion.

#### 18. **PROTECTION OF THIRD PARTIES**

18.1 **No duty to enquire:** No purchaser from, or other person dealing with, the Security Agent, its nominee or any Receiver or administrator appointed under this Debenture shall be concerned to enquire whether any of the powers which the Security Agent has exercised or purported to exercise has arisen or become exercisable, or whether this Debenture has become enforceable, or whether any nominee, Receiver or administrator has been validly appointed, or whether any event or cause has happened to authorise the Security Agent, any nominee or a Receiver or administrator to act or as to the propriety or validity of the exercise or purported exercise of any such power, and the title of such a purchaser and the position of such a person shall not be impeachable by reference to any of those matters.

18.2 **Receipt:** The receipt of the Security Agent shall be an absolute and a conclusive discharge to a purchaser and shall relieve him of any obligation to see to the application of any money paid to or by the direction of the Security Agent.

19. **PROTECTION OF THE SECURITY AGENT, ANY NOMINEE AND RECEIVER**

- 19.1 **Limitation:** Neither the Security Agent nor any nominee nor Receiver shall be liable in respect of any Liability which arises out of the exercise or the purported exercise of, or the failure to exercise, any of their respective powers under or by virtue of this Debenture, except if and in so far as such Liability results from its own gross negligence or wilful default.
- 19.2 **Entry into possession:** Without prejudice to the generality of Clause 19.1 (*Limitation*), neither the Security Agent, any nominee nor any Receiver shall be liable to account as mortgagee in possession or otherwise for any sum not actually received by it or him respectively. If and whenever the Security Agent, or any nominee enters into possession of any Assets, it shall be entitled at any time at its discretion to go out of possession.

20. **SECURITY AGENT**

- 20.1 **Security Agent as trustee:** The Security Agent declares itself to be a trustee of this Debenture (and any other Security created in its favour pursuant to this Debenture) for the Beneficiaries. The retirement of the person for the time being acting as Security Agent and the appointment of a successor shall be effected in the manner provided for in the Intercreditor Agreement.
- 20.2 **Trustee Act 2000:** The Parties agree that the Security Agent shall not be subject to the duty of care imposed on trustees by the Trustee Act 2000.
- 20.3 **No partnership:** Nothing in this Debenture shall constitute or be deemed to constitute a partnership between any of the Beneficiaries and the Security Agent.

21. **SET-OFF**

- 21.1 **By Security Agent:** After the occurrence of an Event of Default which is continuing, the Security Agent may (but is not obliged to) retain any money it is holding (in any capacity) standing to the credit of any Chargor in any currency upon any account or otherwise (whether or not in such Chargor's name) as cover for any Secured Sums and/or at any time or times without notice to such Chargor set off all or any of such money against all or such part of the Secured Sums due, owing or incurred by that Chargor as the Security Agent may select. If the obligations are in different currencies, the Security Agent may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

22. **TRANSFER BY A BENEFICIARY**

- (a) Any Beneficiary may at any time assign and transfer all or any of its rights in relation to this Debenture to any person or otherwise grant an interest in them to any person to the extent that it is permitted to transfer its rights under the terms of the Facilities Agreement.
- (b) The Security Agent may assign and transfer all of its rights and obligations under this Debenture to any replacement Security Agent appointed in accordance with the Intercreditor Agreement. Upon such assignment and transfer becoming effective, the replacement Security Agent shall be, and be deemed to be, acting as agent and trustee for each of the Beneficiaries (including itself) for the purposes of this Debenture in replacement of the previous Security Agent.

**23. ACCESSION OF A NEW CHARGOR**

23.1 **Method:** Any member of the Group may at any time, with the prior written approval of the Security Agent, become a party to this Debenture by delivering to the Security Agent in form and substance satisfactory to it:

- (a) a Deed of Accession and Charge; and
- (b) certified extracts from the minutes of a meeting of its Board of Directors evidencing the due authorisation and execution of the Deed of Accession and Charge and any other conditions precedent required by the Finance Documents.

23.2 **New Chargor bound:** The New Chargor shall become a Chargor under this Debenture with effect from the time when the Deed of Accession and Charge takes effect, at which point:

- (a) the New Chargor shall become bound by all the terms of this Debenture and shall assume the same obligations as "Chargor" as if it were an original Party to this Debenture; and
- (b) the other Chargors shall assume the same obligations in respect of the New Chargor as if it were an original Party to this Debenture.

**24. RELEASE OF SECURITY**

24.1 **Redemption:** Subject to Clause 24.2 (*Avoidance of Payments*), if all Secured Sums have been irrevocably paid in full and none of the Beneficiaries are under any further actual or contingent liability to make advance or provide other financial accommodation to any person under any Finance Document, the Security Agent will (at the request and cost of the Chargors), execute and do all such reasonable acts as may be necessary to release the Assets from the Security constituted by this Debenture.

24.2 **Avoidance of Payments:** If the Security Agent considers in good faith that any amount received in payment or purported payment of the Secured Sums is capable of being avoided or reduced by virtue of any insolvency, bankruptcy, liquidation or other similar laws, the liability of each Chargor under this Debenture and the Security constituted by this Debenture shall continue and such amount shall not be considered to have been irrevocably paid.

**25. THIRD PARTY RIGHTS**

25.1 **Directly enforceable rights:** Pursuant to the Contracts (Rights of Third Parties) Act 1999:

- (a) the provisions of Clause 21 (*Set-off*), and Clause 22 (*Transfer by a Beneficiary*) shall be directly enforceable by a Beneficiary;
- (b) the provisions of Clause 13 (*Appointment of a Receiver or an Administrator*) to Clause 19 (*Protection of the Security Agent, any nominee and Receiver*) inclusive shall be directly enforceable by any nominee or Receiver; and
- (c) the provisions of Clause 18 (*Protection of third parties*) shall be directly enforceable by any purchaser.

25.2 **Exclusion of Contracts (Rights of Third Parties) Act 1999:** Save as otherwise expressly provided in Clause 25.1 (*Directly enforceable rights*), no person other than a Party shall have any right by virtue of either the Contracts (Rights of Third Parties) Act 1999 or any

other provision of English law under which rights might accrue to persons other than a Party, to enforce any term (express or implied) of this Debenture.

- 25.3 **Rights of the Parties to vary:** The Parties (or the Security Agent (on behalf of the Beneficiaries)) may by written agreement vary any term of this Debenture (including this Clause 25) without the necessity of obtaining any consent from any other person.

26. **JOINT AND SEPARATE LIABILITY**

All covenants, agreements, representations and warranties on the part of the Chargors contained in this Debenture are given by them jointly and separately and shall be construed accordingly.

27. **FORBEARANCE, SEVERABILITY, VARIATIONS AND CONSENTS**

- 27.1 **Delay etc:** All rights, powers and privileges under this Debenture shall continue in full force and effect, regardless of any Beneficiary, nominee or Receiver exercising, delaying in exercising or omitting to exercise any of them.

- 27.2 **Severability:** No provision of this Debenture shall be avoided or invalidated by reason only of one or more other provisions being invalid or unenforceable.

- 27.3 **Illegality, invalidity, unenforceability:** Any provision of this Debenture which is or becomes illegal, invalid or unenforceable shall be ineffective only to the extent of such illegality, invalidity and unenforceability, without invalidating the remaining provisions of this Debenture.

- 27.4 **Variations:** No variation of this Debenture shall be valid and constitute part of this Debenture, unless such variation shall have been made in writing and signed by the Security Agent (on behalf of the Beneficiaries) or by all Parties.

- 27.5 **Consents:** Save as otherwise expressly specified in this Debenture, any consent of the Security Agent may be given absolutely or on any terms and subject to any conditions as the Security Agent may determine in its reasonable discretion.

28. **COUNTERPARTS**

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

29. **NOTICES**

- 29.1 **Notices provision:** Any communications to be made under or in connection with this Debenture shall be made in accordance with the notice provisions of the Facilities Agreement.

- 29.2 **Addresses:** If no address and fax number has been provided for any Chargor under the Facilities Agreement, then the address and fax number (and the officer, if any, for whose attention the communication is to be made) of each Chargor for any communication or document to be made or delivered under or in connection with the Finance Documents is that identified with its name in Schedule 1 (*The Chargors*) or any substitute address, fax number or department or officer as that Chargor may notify to the Security Agent by not less than five Business Days' notice.

**30. SECURITY AGENT**

The provisions of Clause 18 (*The Security Agent*) and Clause 25 (*Consents, Amendments and Override*) of the Intercreditor Agreement shall apply to the Security Agent's rights, obligations and duties under this Debenture as if set out in this Debenture in full.

**31. GOVERNING LAW**

This Debenture and all non-contractual obligations arising in any way whatsoever out of or in connection with this Debenture shall be governed by, construed and take effect in accordance with English law.

**32. ENFORCEMENT****32.1 Jurisdiction:**

- (a) The courts of England shall have exclusive jurisdiction to settle any claim, dispute or matter of difference which may arise in any way whatsoever out of or in connection with this Debenture (including a dispute regarding the existence, validity or termination of this Debenture or any claim for set-off) or the legal relationships established by this Debenture (a "**Dispute**"), only where such Dispute is the subject of proceedings commenced by a Chargor.
- (b) The parties agree that the courts of England and Wales are the most appropriate and convenient courts to settle any Dispute and accordingly no party shall argue to the contrary.
- (c) This Clause 32.1 (*Jurisdiction*) is for the benefit of the Beneficiaries only. As a result no Beneficiary shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law the Beneficiaries may take concurrent proceedings in any number of jurisdictions.

**THIS DEBENTURE** has been executed by each Chargor as a deed and signed by the Security Agent and it has been delivered and shall take effect on the date stated at the beginning of this document.

**SCHEDULE 1****The Chargors****PART A – Existing Chargors**

<b>Name of Chargor</b>	<b>Registered Number</b>	<b>Address for Service</b>
WL One Holdco Limited	09415388	FAO: Richard Miller Horizon Honey Lane, Hurley, Maidenhead, Berkshire, SL6 6RJ
WL One Midco 1 Limited	09415448	FAO: Richard Miller Horizon Honey Lane, Hurley, Maidenhead, Berkshire, SL6 6RJ
WL One Midco 2 Limited	09415467	FAO: Richard Miller Horizon Honey Lane, Hurley, Maidenhead, Berkshire, SL6 6RJ
WL One Bidco Limited	09415478	FAO: Richard Miller Horizon Honey Lane, Hurley, Maidenhead, Berkshire, SL6 6RJ
Mtwom 1 Limited	07734719	FAO: Richard Miller Horizon Honey Lane, Hurley, Maidenhead, Berkshire, SL6 6RJ
Mtwom B Limited	07736150	FAO: Richard Miller Horizon Honey Lane, Hurley, Maidenhead, Berkshire, SL6 6RJ
PDJ (Shelf 1) Limited	07033866	FAO: Richard Miller Horizon Honey Lane, Hurley, Maidenhead, Berkshire, SL6 6RJ
Wireless Logic Group Limited	07033895	FAO: Richard Miller Horizon Honey Lane, Hurley, Maidenhead, Berkshire, SL6 6RJ
Wireless Logic Limited	03880663	FAO: Richard Miller Horizon Honey Lane, Hurley, Maidenhead, Berkshire, SL6 6RJ
Bluemango Technologies Limited	05923984	FAO: Richard Miller

		Horizon Honey Lane, Hurley, Maidenhead, Berkshire, SL6 6RJ
Nucleus Networks Limited	06588701	FAO: Richard Miller Horizon Honey Lane, Hurley, Maidenhead, Berkshire, SL6 6RJ
Cloud9 Communications Limited	07153956	FAO: Richard Miller Horizon Honey Lane, Hurley, Maidenhead, Berkshire, SL6 6RJ
Cloud9 Mobile Communications Limited	05474679	FAO: Richard Miller Horizon Honey Lane, Hurley, Maidenhead, Berkshire, SL6 6RJ
Cloud 9 Mobile (SIMS) Ltd	09234724	FAO: Richard Miller Horizon Honey Lane, Hurley, Maidenhead, Berkshire, SL6 6RJ

**PART B – Acceding Chargors**

<b>Name of Chargor</b>	<b>Registered Number</b>	<b>Address for Service</b>
Nexus Bidco Limited	11331753	FAO: Richard Miller Horizon Honey Lane, Hurley, Maidenhead, Berkshire, SL6 6RJ
Arkessa Limited	06917673	FAO: Richard Miller Horizon Honey Lane, Hurley, Maidenhead, Berkshire, SL6 6RJ



**SCHEDULE 2**

**Registered Land to be mortgaged**

None as at the date of this Deed.

**Unregistered land subject to first registration upon the execution of this Debenture**

None as at the date of this Deed.

The address for service of the Security Agent in the case of registered land is Ares Management Limited, 10 New Burlington St, 6<sup>th</sup> Floor, London W1S 3BE, att: David Ribchester / Nishal Patel.

**SCHEDULE 3****Form of Deed of Accession and Charge for a New Chargor**

**THIS DEED OF ACCESSION AND CHARGE** is made on 20\*\*

**BETWEEN:**

- (1) **\*\*\*INSERT THE NAME OF THE NEW CHARGOR\*\*\*** (registered in [England and Wales] under number [ \*\*\* ]) (the **"New Chargor"**);
- (2) **\*\*\*Insert the name of the Parent\*\*\*** (registered in [England and Wales] under number [ \*\*\* ]) (the **"Parent"**); and
- (3) **\*\*\*Insert the name of the Security Agent\*\*\*** (the **"Security Agent"**).

**WHEREAS:**

- (A) This Deed is supplemental to a debenture (the **"Principal Deed"**) dated [\*\*\*insert date\*\*\*] between (1) the [\*\*\*Identify original Chargors\*\*\*] and (2) the Security Agent as agent and trustee for the Beneficiaries named in the Principal Deed (the **"Beneficiaries"**).

**\*\*\*Note: Set out details of any previous Deed of Accession and Charge.\*\*\***

- (B) The New Chargor has agreed, on the terms contained in the Principal Deed, to charge in favour of the Security Agent (acting as security agent and trustee for the Beneficiaries), all of its property, undertaking and assets to secure the Secured Sums, and to accede to the Principal Deed.

**THIS DEED WITNESSES as follows:**

1. **DEFINITIONS AND INTERPRETATION**

- 1.1 **Incorporation:** Words or expressions defined in the Principal Deed and principles of interpretation provided for in the Principal Deed shall, unless the context otherwise requires or unless otherwise re-defined below, have the same meaning and shall apply (as the case may be) in this Deed.

1.2 **Additional Definitions:** In this Deed:

**"Land"** means freehold and leasehold, and any other estate in, land and immovable property and in each case all buildings and structures upon and all things affixed to Land (including trade and tenant's fixtures).

**"Material Land"** means all present and future land (excluding Short Leasehold Property) held by any Chargor which:

- (a) has a market value of £7,500,000 (or its equivalent in other currencies) or more; or
- (b) is a leasehold property with an annual rent of £750,000 (or its equivalent in other currencies) or more.

**"Material Subsidiary"** means, at any time:

- (a) any Obligor;

- (b) a wholly owned member of the Group that is an immediate Holding Company of an Obligor (who is an Obligor other than by reason of this paragraph (b)); and
- (c) a member of the Group which has earnings before interest, tax, depreciation and amortisation calculated on the same basis as EBITDA (calculated on an unconsolidated basis and excluding intra group items), representing five (5) per cent. or more of EBITDA of the Group.

For the purposes of calculating EBITDA for the purposes of this definition, if the earnings before interest, tax, depreciation and amortisation of any member of the Group is less than zero, the earnings before interest, tax, depreciation and amortisation of that member of the Group shall be treated as zero.

**"Restricted Land"** means any leasehold property held by the New Chargor under a lease which precludes either absolutely or conditionally the New Chargor from creating a mortgage or charge over its leasehold interest in that property and in respect of which consent has not yet been obtained pursuant to Clause 3.5 (*Third Party Consents*) of the Principal Deed.

**"Short Leasehold Property"** means a leasehold property held by a Chargor now or in the future under a lease granted at a rack rent or which had an unexpired term of 25 years or less as at the date of this deed (or in the case of future acquired leasehold property, at the date of the acquisition of such property by the relevant Chargor).

## 2. **ACCESSION BY THE NEW CHARGOR TO THE PRINCIPAL DEED**

- 2.1 **Accession:** The New Chargor agrees to be bound by all the terms of the Principal Deed and to perform all obligations of a Chargor under, and in accordance with, the Principal Deed with effect from the date of this Deed, as if it had been an original party to the Principal Deed as a Chargor.
- 2.2 **Covenant to pay:** The New Chargor (as primary obligor and not merely as surety) covenants with the Security Agent that it will, on the Security Agent's written demand, pay or discharge the Secured Sums when due at the times and in the manner provided in the relevant Finance Documents.
- 2.3 **Proviso:** The covenants contained in this Clause and the security created by this Deed shall not extend to or include any liability or sum which would otherwise cause any such covenant or security to be unlawful or prohibited by any applicable law.
- 2.4 **Parent's agreement to the accession:** The Parent (on behalf of itself and the other members of the Group which are parties to the Principal Deed) hereby agrees to the New Chargor's accession.

## 3. **ASSIGNMENTS**

[ \*\*\* Incorporate in the execution copy of the deed of accession the relevant final text from Clause 3.1 (*Security Assignments*) of the Principal Deed. \*\*\* ]

## 4. **FIXED SECURITY**

[ \*\*\* Incorporate in the execution copy of the deed of accession the final text from Clause 3.2 of the Principal Deed with consequential changes. \*\*\* ]

**5. CREATION OF FLOATING CHARGE**

5.1 [ *\*\*\* Incorporate in the execution copy of the deed of accession the final text from Clause 3.3 of the Principal Deed with consequential amendments \*\*\** ]

5.2 The parties agree (without limitation to the general nature of the New Chargor's accession to the Principal Deed contained in Clause 2) that the crystallisation provisions contained in Clause 4 of the Principal Deed shall equally apply to the floating charge contained in this Deed as if set out in full in this Deed.

**6. NEGATIVE PLEDGE AND OTHER RESTRICTIONS**

Without the prior written consent of the Security Agent, except as specifically permitted by the Facilities Agreement, the New Chargor shall not:

- (d) create, or agree or attempt to create, or permit to subsist, any Security or any trust over any of its Assets; or
- (e) sell, assign, lease, license or sub-license, or grant any interest in, any of its Fixed Security Assets, or part with possession or ownership of them, or purport or agree to do so.

**7. RIGHT OF APPROPRIATION**

7.1 To the extent applicable, the parties acknowledge and intend that the charges over the New Chargor's Financial Collateral provided under or pursuant to this Deed will each constitute a "security financial collateral arrangement" for the purposes of the Financial Collateral Regulations.

7.2 The Security Agent may, on or at any time after the security constituted by this Deed becomes enforceable in accordance with the terms of the Principal Deed, by notice in writing to the New Chargor appropriate with immediate effect all or any of its Financial Collateral hereby charged which is subject to a security financial collateral arrangement (within the meaning of the Financial Collateral Regulations) and apply it in or towards the discharge of the Secured Sums, whether such Assets are held by the Security Agent or otherwise.

7.3 The value of any Financial Collateral appropriated under Clause 7.2 shall be:

- (a) in the case of cash, its face value at the time of appropriation; and
- (b) in the case of financial instruments or other financial collateral, their market value at the time of appropriation as determined (after appropriation) by the Security Agent by reference to a public index or other applicable generally recognised price source or such other process as the Security Agent may reasonably select, including a valuation carried out by an independent firm of accountants or valuers appointed by the Security Agent;

as converted, where necessary, into [sterling] at a market rate of exchange prevailing at the time of appropriation selected by the Security Agent.

7.4 The Security Agent will account to the New Chargor for any amount by which the value of the appropriated Assets exceeds the Secured Sums and the New Chargor shall remain liable to the Security Agent for any amount by which the value of the appropriated Assets is less than the Secured Sums.

- 7.5 The New Chargor agrees that the method of valuing such Financial Collateral under Clause 7.3 is commercially reasonable.

## 8. APPLICATION TO HM LAND REGISTRY

The New Chargor:

- (a) in relation to each register of title of any present and future Material Land of the New Chargor which is charged to the Security Agent under this Deed, consents to the Security Agent (or its solicitors) at any time submitting to HM Land Registry:
  - (i) a form AP1 (*application to change the register*) in respect of the security created by this Deed;
  - (ii) a form AN1 (*application to enter an agreed notice*) in respect of the security created by this Deed;
  - (iii) a form RX1 (*application to register a restriction*) in the following terms:
 

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [date] in favour of [Chargee] referred to on the charges register or their conveyancer."; and
  - (iv) a form CH2 (*application to enter an obligation to make further advances*); and
- (b) covenants to submit an application to the appropriate Land Registry for the first registration of any unregistered Material Land in England and Wales mortgaged by Clause 4 (*Fixed security*) at its own expense, immediately following its execution of this Deed.

## 9. POWER OF ATTORNEY

- 9.1 **Appointment of attorney:** Each Chargor, by way of security and to more fully secure the performance of its obligations under this Debenture, hereby irrevocably appoints the Security Agent and separately any nominee and/or any Receiver to be its attorney (with full power to appoint substitutes and to delegate) with power in its name and on its behalf, and as its act and deed or otherwise (whether or not a Receiver or administrator has been appointed), after the occurrence of a Declared Default to:
- (a) do anything which that Chargor is expressly obliged to do in accordance with this Debenture, including to execute and deliver and otherwise perfect any agreement, assurance, deed, instrument or document; or
  - (b) enable the Security Agent or any such nominee and/or Receiver to exercise (or to delegate) all or any of the rights conferred on it by this Debenture or by statute in relation to this Debenture or the Assets charged, or purported to be charged, by it, or
10. at any other time prior to the occurrence of a Declared Default to do anything which that Chargor is expressly obliged to do in accordance with this Deed or under Clauses 27.26 (*Further Assurance*) of the Facilities Agreement, including to execute and deliver and otherwise perfect any agreement, assurance, deed, instrument or document, and which

that Chargor has not done within 20 Business Days of the Security Agent giving notice to the relevant Chargor and/or the Parent of such failure to comply.

- 10.1 **Ratification:** The New Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause.
- 10.2 **Sums recoverable:** All sums expended by the Security Agent or any Receiver under this clause shall be recoverable from the New Chargor under Clause [\*20\*] (*Costs and Expenses*) and Clause [\*21\*] (*Other Indemnities*) of the Intercreditor Agreement.

## 11. NOTICES

All notices or demands to be given or made pursuant to this Deed shall be given or made in the manner set out in Clause 29 (*Notices*) of the Principal Deed. The New Chargor's address for service is set out in Schedule 2 (*Notice Details*).

## 12. COUNTERPARTS

This Deed may be executed in any number of counterparts, each of which when executed and delivered shall be an original, but all of which when taken together shall constitute a single document.

## 13. GOVERNING LAW

This Deed and all non-contractual obligations arising in any way whatsoever out of or in connection with this Deed shall be governed by, construed and take effect in accordance with English law.

## 14. ENFORCEMENT

### 14.1 Jurisdiction:

- (c) The courts of England shall have exclusive jurisdiction to settle any claim, dispute or matter of difference which may arise in any way whatsoever out of or in connection with this Debenture (including a dispute regarding the existence, validity or termination of this Debenture or any claim for set-off) or the legal relationships established by this Debenture (a "**Dispute**"), only where such Dispute is the subject of proceedings commenced by a Chargor.
- (d) The parties agree that the courts of England and Wales are the most appropriate and convenient courts to settle any Dispute and accordingly no party shall argue to the contrary.
- (e) This Clause 14.1 (*Jurisdiction*) is for the benefit of the Beneficiaries only. As a result no Beneficiary shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law the Beneficiaries may take concurrent proceedings in any number of jurisdictions.

### 14.2 **\*\*\*Service of process:** Without prejudice to any other mode of service allowed under any relevant law, the New Chargor:

- (a) irrevocably appoints **\*\*\*the Parent\*\*\*** as its agent for service of process in relation to any proceedings before the English courts in connection with this Deed; and
- (b) agrees that failure by a process agent to notify it of the process will not invalidate the proceedings concerned.**\*\*\***

15. **FINANCE DOCUMENT**

This Deed is a Finance Document.

**THIS DEED OF ACCESSION AND CHARGE** has been executed by the New Chargor and the Parent as a deed and signed by the Security Agent and it has been delivered and shall take effect on the date stated at the beginning of this document.

**Schedule 1 to Deed of Accession**  
**Registered land to be mortgaged**

Name of Chargor/Registered Proprietor	Description of Property	Title Number

**Unregistered land subject to first registration upon the execution of this Deed**


The address for service of the Security Agent in the case of registered land is Ares Management Limited, 10 New Burlington St, 6<sup>th</sup> Floor, London W1S 3BE, attn: David Ribchester / Nishal Patel



**Schedule 2 to Deed of Accession**

**Notice Details**

*\*\*\*Set out here the notice details for the New Chargor\*\*\**

**Execution page to Deed of Accession**

**EXECUTION**

**THE NEW CHARGOR**

Executed as a )  
Deed by [\*\*\*insert name of New Chargor\*\*\*] )  
(pursuant to a resolution of its Board )  
of Directors) acting by: ) Director

in the presence of:

Signature of witness:

\_\_\_\_\_

Name of witness:

\_\_\_\_\_

Address of witness:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**THE PARENT**

Executed as a )  
Deed by Blue Midco Limited )  
(pursuant to a resolution of its Board )  
of Directors) acting by: )  
Director

in the presence of:

Signature of witness:

\_\_\_\_\_

Name of witness:

\_\_\_\_\_

Address of witness:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**THE SECURITY AGENT**

Signed by	)	
for and on behalf of	)	
Ares Management Limited	)	
	)	Authorised Signatory

**SCHEDULE 4****Forms of Notice of Assignment/Charge****Part 1****NOTICE TO HEDGING COUNTERPARTIES****Served by Recorded Delivery or By Hand**

To: [\*Hedge Counterparty\*]

[\*date\*]

Dear Sirs,

**Notice of Assignment**

We refer to a debenture (the "**Debenture**") dated [ \*\*\* ] made between, inter alia, [ \*\*\* ] (the "**Security Agent**") and ourselves. Terms defined in the Debenture are to have the same meanings in this letter.

We hereby give you notice that we have assigned all our rights, title and interest in and to the [\*define \*] (the "**Hedging Agreements**") to the Security Agent by Clause 3.1 (*Security Assignments*) of the Debenture.

Prior to receipt by you of a written notice from the Security Agent specifying that a Declared Default (as defined in the Debenture) has occurred, we will continue to have the sole right to deal with you in relation to the Hedging Agreements (including any amendment, waiver or termination thereof).

Following receipt by you of a written notice from the Security Agent specifying that a Declared Default has occurred (but not at any other time), we irrevocably and unconditionally instruct and authorise you (notwithstanding any previous directions which we may have given you to the contrary):

1. unless otherwise directed by the Security Agent, to furnish or disclose to the Security Agent in addition to ourselves all notices, matters or things required under the Hedging Agreements to be furnished and disclosed to ourselves;
2. to hold to the order of the Security Agent all sums from time to time due and payable by you to us under the Hedging Agreements;
3. to pay or release all or any part of the sums from time to time due and payable by you to us under the Hedging Agreements in accordance with the written instructions given to you by the Security Agent from time to time; and
4. to comply with the terms of any written notice or instructions in any way relating to, or purporting to relate to the Debenture, the sums payable to the Company from time to time under the Hedging Agreements or the debts represented thereby, which you receive from the Security Agent from time to time without reference to or further authority from the Company and without any enquiry by you as to the justification for or validity of such notice or instruction.

The instructions and authorisations contained in this letter shall remain in full force and effect until we and the Security Agent together give you notice in writing revoking them.

This letter and all non-contractual obligations arising in any way whatsoever out of or in connection with this letter shall be governed by, construed and take effect in accordance with English law.

Please confirm your acknowledgement of this Notice by signing the acknowledgements set out at the foot of the enclosed duplicate hereof and by returning the same to Hogan Lovells International LLP at Atlantic House, London EC1A 2FG (Ref: PRM/BANKLF/1081430/151641.000070) and to [ *\*\*\* Security Agent's name and address\*\*\** ] marked for the attention of [ *\*\*\** ].

Signed

.....

for and on behalf of

[ *\*\*\*the Company\*\*\** ]

[on copy]

**ACKNOWLEDGEMENT**

To: Hogan Lovells International LLP

Atlantic House

London EC1A 2FG

Ref: PRM/BANKLF/1081430/151641.000070

To: [ \*\*\* Security Agent \*\*\* ]

For the attention of: [ \*\*\* ]

We, [ \*\*\* Hedge Counterparty\*\*\* ] hereby acknowledge receipt of a notice of assignment from the Company of which the attached is a copy (the "**Notice of Assignment**").

We confirm that we have not received notice of any other assignment of the Hedging Agreements described in the Notice of Assignment or any interest therein.

For and on behalf of

.....

[ \*\*\* Hedge Counterparty \*\*\* ]

Dated:

**SCHEDULE 4**

**Part 2**

**FORM OF NOTICE OF ASSIGNMENT - INSURANCES**

**Served by Recorded Delivery or By Hand**

To: *[insert name and address of Insurer]*

*[Date]*

Dear Sirs

**Re: *[describe relevant policies]* dated *[date]* between (1) you and (2) *[insert name of Charging Company]***

1. We give notice that, by a debenture (the "**Debenture**") dated *[\*\*\*]* made between inter alia *[\*\*\*]* (the "**Security Agent**") and ourselves, we have assigned by way of security to the Security Agent all our rights, title and interest from time to time in respect of any sums payable to us pursuant to the Policies (together with any other agreement supplementing or amending the same, the "**Policies**").
2. Prior to receipt by you of a written notice from the Security Agent specifying that a Declared Default (as defined in the Debenture) has occurred, we will continue to have the sole right to deal with you in relation to the Policies (including any amendment, waiver or termination thereof).
3. Following receipt by you of a written notice from the Security Agent specifying that a Declared Default has occurred (but not at any other time), we irrevocably authorise and instruct you from time to time:
  - (a) to disclose to the Security Agent (without any reference to or further authority from us and without any enquiry by you as to the justification for such disclosure) such information relating to the Policies as the Security Agent may from time to time request;
  - (b) to hold all sums from time to time due and payable by you to us under the Policies to the order of the Security Agent and to pay or release all or any part of those sums only in accordance with the written instructions given to you by the Security Agent from time to time;
  - (c) to comply with any written notice or instructions relating to the Debenture, the sums payable by you to us from time to time under the Policies (or the debts represented by them) which you may receive from the Security Agent (without any reference to

or further authority from us and without any enquiry by you as to the justification for or validity of such notice or instruction); and

- (d) [to send copies of all notices and other information given or received under the Policies to the Security Agent.]
- 4. We irrevocably instruct you to note on the relevant Policies the Security Agent's interest as first priority assignee of the proceeds under the Policies and the rights, remedies, proceeds and claims referred to above.
- 5. This notice may only be revoked or amended with the prior written consent of the Security Agent.
- 6. Please confirm by completing the enclosed copy of this notice and returning it to the Security Agent (with a copy to us) that you:
  - (a) accept the instructions and authorisations contained in this notice and undertake to comply with this notice; and
  - (b) have not previously received notice of the grant of any security (other than notices which have subsequently been irrevocably withdrawn) or the existence of any other interest of any third party in or to the Policies or any proceeds of them.
- 7. This notice is governed by English law.

Yours faithfully

for and on behalf of

**[Name of Chargor]**



- 43 -

**[on copy]**

To:            *[Name of Security Agent]*  
                 as Security Agent  
                 *[address of Security Agent]*

Copy to:      *[Name of Chargor]*

Dear Sirs

We acknowledge receipt of the above notice and consent and agree to its terms.

for and on behalf of

*[Name of Insurer]*

Dated:

**SCHEDULE 4****Part 3****FORM OF NOTICE OF ASSIGNMENT OF STRUCTURAL INTRAGROUP LOANS****Served by Recorded Delivery or By Hand**

To: [\*Intra Group Debtor\*]

[\*date\*]

Dear Sirs,

**Notice of Assignment**

We refer to [\*\*\* *describe Structural Intra Group Loan* \*\*\*] (the "**Structural Intra Group Loan**").

We refer to a debenture (the "**Debenture**") dated [ \*\*\* ] made between, inter alia, [ \*\*\* ] (the "**Security Agent**") and ourselves. Terms defined in the Debenture are to have the same meanings in this letter.

We hereby give you notice that we have assigned by way of security all of our rights, title and interest from time to time in respect of the Structural Intra-Group Loan to the Security Agent by Clause 3.1 (*Security Assignments*) of the Debenture.

We irrevocably and unconditionally instruct and authorise you (notwithstanding any previous directions which we may have given you to the contrary):

- unless otherwise directed by the Security Agent, to furnish or disclose to the Security Agent in addition to ourselves all notices, matters or things relating to the Structural Intra-Group Loan; and
- to accept from and agree with the Security Agent (and not ourselves) all claims under, discharges for and waivers, variations, terminations and cancellations of the Structural Intra-Group Loan without any reference to or further authority from us.

The instructions and authorisations contained in this letter shall remain in full force and effect until we and the Security Agent together give you notice in writing revoking them.

This letter and all non-contractual obligations arising in any way whatsoever out of or in connection with this letter shall be governed by, construed and take effect in accordance with English law.

Please confirm your acknowledgement of this Notice by signing the acknowledgements set out at the foot of the enclosed duplicate hereof and by returning the same to Hogan Lovells International LLP at Atlantic House, London EC1A 2FG (Ref: PRM/BANKLF/1081430/151641.000070) and to [ \*\*\* *Security Agent's name and address* \*\*\* ] marked for the attention of [ \*\*\* ].

Signed

.....

for and on behalf of

[\*\*\**Relevant Chargor*\*\*\*]

[on copy]

**ACKNOWLEDGEMENT**

To: Hogan Lovells International LLP

Atlantic House

London EC1A 2FG

Ref: PRM/BANKLF/1081430/151641.000070

To: [ \*\*\* Security Agent \*\*\* ]

For the attention of: [ \*\*\* ]

We hereby acknowledge receipt of a notice of assignment from [ \*\*\* *Chargor* \*\*\* ] (the "**Assignor**") of which the attached is a copy (the "**Notice of Assignment**").

We confirm that:

- (a) we have not received notice of any other assignment of the Structural Intra-Group Loan described in the Notice of Assignment or any interest therein;
- (b) we will not, without the prior written consent of the Security Agent, vary, rescind or otherwise alter or terminate the terms of the Structural Intra-Group Loan or in any way prejudice the rights of the Security Agent and the Beneficiaries in respect of the Structural Intra-Group Loan; and
- (c) we confirm that we will act in accordance with the instructions given by the Assignor in the Notice of Assignment.

For and on behalf of

.....

[ \*\*\* *Structural Intra-Group Debtor* \*\*\* ]

Dated:

**SCHEDULE 4**

**Part 4**

**FORM OF NOTICE OF ASSIGNMENT OF ACQUISITION AGREEMENT CLAIMS**

**Served by Recorded Delivery or By Hand**

To: [\*Sellers\*]

[\*date\*]

Dear Sirs,

**Notice of Assignment**

We refer to the Acquisition Agreement dated [ \*\*\* ] made between Yourselfs (1) and [ \*\*\* ] (2) relating to the sale of the shares of [ \*\*\* ] (the "**Sale and Purchase Agreement**").

We refer to a debenture (the "**Debenture**") dated [ \*\*\* ] made between, inter alia, [ \*\*\* ] (the "**Security Agent**") and ourselves. Terms defined in the Debenture are to have the same meanings in this letter.

We hereby give you notice that the Acquisition Agreement Claims have been assigned to the Security Agent by Clause 3.1 (*Security Assignments*) of the Debenture.

We irrevocably and unconditionally instruct and authorise you (notwithstanding any previous directions which we may have given you to the contrary):

- unless otherwise directed by the Security Agent, to furnish or disclose to the Security Agent in addition to ourselves all notices, matters or things required under the Acquisition Agreement or any other Acquisition Document to be furnished and disclosed to ourselves; and
- to accept from and agree with the Security Agent (and not ourselves) all claims under, discharges for and waivers, variations, terminations and cancellations of the Acquisition Agreement, any other Acquisition Document and/or the Acquisition Agreement Claims without any reference to or further authority from us.

The instructions and authorisations contained in this letter shall remain in full force and effect until we and the Security Agent together give you notice in writing revoking them.

This letter and all non-contractual obligations arising in any way whatsoever out of or in connection with this letter shall be governed by, construed and take effect in accordance with English law.

Please confirm your acknowledgement of this Notice by signing the acknowledgements set out at the foot of the enclosed duplicate hereof and by returning the same to Hogan Lovells International LLP at Atlantic House, London EC1A 2FG (Ref: PRM/BANKLF/1081430/151641.000070) and to [ \*\*\**Security Agent's name and address*\*\*\* ] marked for the attention of [ \*\*\* ].

Signed

.....

for and on behalf of

[\*\*\*the Company\*\*\*]

[on copy]

**ACKNOWLEDGEMENT**

To: Hogan Lovells International LLP

Atlantic House

London EC1A 2FG

Ref: PRM/BANKLF/1081430/151641.000070

To: [ \*\*\* Security Agent \*\*\* ]

For the attention of: [ \*\*\* ]

We, [ \*\*\* Vendor\*\*\* ] hereby acknowledge receipt of a notice of assignment from [ \*\*\*the Company\*\*\* ] (the "**Assignor**") of which the attached is a copy (the "**Notice of Assignment**").

We confirm that:

- (a) we have not received notice of any other assignment of the Acquisition Agreement Claims described in the Notice of Assignment or any interest therein;
- (b) we will not, without the prior written consent of the Security Agent, vary, rescind or otherwise alter or terminate any Acquisition Document or in any way prejudice the rights of the Security Agent and the Beneficiaries under the Acquisition Documents; and
- (c) we confirm that we will act in accordance with the instructions given by the Assignor in the Notice of Assignment.

For and on behalf of

.....

[ \*\*\* Vendor\*\*\* ]

Dated:

EXECUTION PAGE

THE CHARGORS

Executed as a  
Deed by **WL ONE HOLDCO LIMITED**  
acting by:

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)  
)

Director



Name: Richard Miller

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)  
)

Director



Name: Oliver Tucker

Executed as a  
Deed by **WL ONE MIDCO 1 LIMITED**  
acting by:

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Director



Name: Richard Miller

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Director



Name: Oliver Tucker

Executed as a  
Deed by **WL ONE MIDCO 2 LIMITED**  
acting by:

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Director



Name: Richard Miller

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Director



Name: Oliver Tucker



Executed as a  
Deed by **WL ONE BIDCO LIMITED**  
acting by:

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)

Director   
Name: Richard Miller

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)

Director   
Name: Oliver Tucker

Executed as a  
Deed by **MTWOM 1 LIMITED**  
acting by:

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Director   
Name: Richard Miller

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Director   
Name: Oliver Tucker

Executed as a  
Deed by **MTWOM B LIMITED**  
acting by:

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Director   
Name: Richard Miller

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)

Director   
Name: Oliver Tucker

Executed as a  
Deed by **PDJ (SHELF 1) LIMITED**  
acting by:

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Director



Name: Richard Miller

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)

Director

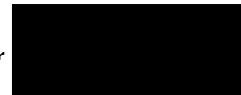


Name: Oliver Tucker

Executed as a  
Deed by **WIRELESS LOGIC GROUP LIMITED**  
acting by:

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)

Director



Name: Richard Miller

)  
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)  
)

Director



Name: Oliver Tucker

Executed as a  
Deed by **WIRELESS LOGIC LIMITED**  
acting by:

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)

Director



Name: Richard Miller

)  
)  
)  
)

Director



Name: Oliver Tucker

Executed as a )  
Deed by **BLUEMANGO TECHNOLOGIES** )  
**LIMITED** )  
acting by: )

Director 

Name: Richard Miller

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)  
)

Director 

Name: Oliver Tucker

Executed as a )  
Deed by **NUCLEUS NETWORKS LIMITED** )  
acting by: )

Director 

Name: Richard Miller

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)

Director 

Name: Oliver Tucker

Executed as a )  
Deed by **CLOUD9 COMMUNICATIONS** )  
**LIMITED** )  
acting by: )

Director 

Name: Richard Miller

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)

Director 

Name: Oliver Tucker

Executed as a )  
Deed by **CLOUD9 MOBILE** )  
**COMMUNICATIONS LIMITED** )  
acting by: )

Director   
Name: Richard Miller

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)

Director   
Name: oliver Tucker

Executed as a )  
Deed by **CLOUD 9 MOBILE (SIMS) LTD** )  
acting by: )

Director   
Name: Richard Miller

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)

Director   
Name: oliver Tucker

Executed as a )  
Deed by **NEXUS BIDCO LIMITED** )  
acting by: )

Director   
Name: Richard Miller

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Director   
Name: oliver Tucker

Executed as a  
Deed by **ARKESSA LIMITED**  
acting by:

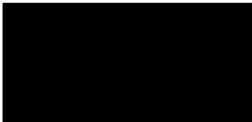
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Director   
Name: Richard Miller

Director   
Name: Oliver Tucker

THE SECURITY AGENT

Signed by )  
for and on behalf of )  
**Ares Management Limited** )



John Atherton  
Authorised Signatory

Address details:     Ares Management Limited  
                             10 New Burlington Street  
                             6<sup>th</sup> Floor  
                             London  
                             W1S 3BE

Fax:                     [Redacted]

Email:                  [Redacted]

Telephone:           [Redacted]

For the attention of:   David Ribchester / Nishal Patel