



Registration of a Charge

Company name: **PASSIVSYSTEMS LIMITED**

Company number: **06692246**



X77K1H15

Received for Electronic Filing: **06/06/2018**

Details of Charge

Date of creation: **05/06/2018**

Charge code: **0669 2246 0003**

Persons entitled: **GCP ASSET BACKED INCOME (UK) LIMITED**

Brief description:

Contains fixed charge(s).

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

Certified by: **BURGES SALMON LLP (CH15)**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 6692246

Charge code: 0669 2246 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 5th June 2018 and created by PASSIVSYSTEMS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 6th June 2018 .

Given at Companies House, Cardiff on 8th June 2018

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

5 June 2018

SHARE CHARGE

PASSIVSYSTEMS LIMITED (the **Chargor**) (1)

GCP ASSET BACKED INCOME (UK) LIMITED (the **Security Agent**) (2)

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THIS DEED is dated

5 June

2018 and made

BETWEEN:

- (1) **PASSIVSYSTEMS LIMITED** a company incorporated in England and Wales (Registered No. 06692246) whose registered office is at First Floor, Benyon House, Newbury Business Park, London Road, Newbury, Berkshire RG14 2PZ (the "**Chargor**"); and
- (2) **GCP ASSET BACKED INCOME (UK) LIMITED** as arranger, agent, original lender and security agent for the Secured Parties (as defined below) (the "**Security Agent**").

BACKGROUND

- (A) The Original Lenders have agreed, pursuant to the Facility Agreement, to provide the Borrower with a loan facility on a secured basis.
- (B) Under this Deed, the Chargor provides security to the Security Agent for the loan facility made or to be made available under the Facility Agreement.

IT IS AGREED as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

Terms defined in the Facility Agreement shall, unless otherwise defined in this Deed, have the same meaning in this Deed. In addition, the following definitions apply in this Deed.

"Authorisation" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

"Borrower" means Passiv Capital Limited a company incorporated in England and Wales (Registered No. 11172294) whose registered office is at First Floor, Benyon House, Newbury Business Park, London Road, Newbury, Berkshire RG14 2PZ .

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

"Default Rate" means the rate specified in Clause 8.2 (Default interest) of the Facility Agreement.

"Enforcement Event" means:

- (a) any event described in paragraph (a) of Clause 7.3 (*Mandatory prepayment and cancellation*) of the Facility Agreement; or
- (b) an Event of Default.

"Facility Agreement" means the facility agreement dated on or around the date of this Deed between the Borrower and the Security Agent, for the provision of a loan facility.

"Financial Collateral" means shall have the meaning given to that expression in the Financial Collateral Regulations.

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

"Legal Reservations" means each and all of the following reservations that:

- (a) equitable remedies may be granted or refused at the discretion of the court;
- (b) there are limitations on enforcement by laws relating to insolvency generally and other laws generally affecting the rights of creditors;
- (c) there is time barring of claims under the Limitation Act 1980 or other applicable laws;
- (d) there is the possibility that an undertaking to assume liability for or to indemnify against non-payment of United Kingdom stamp duty land tax may be void; and
- (e) there may be defences of set-off or counterclaim (provided that nothing in this definition purports to grant to the relevant person any such right and is without prejudice to any restriction contained in the Finance Documents) and similar principles, rights and defences under the laws of any foreign jurisdiction in which relevant obligations may have to be performed.

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

"Party" means a party to this Deed.

"Receiver" means a receiver, receiver and manager or administrative receiver of any or all of the Charged Assets appointed by the Security Agent under Clause 12 (*Receiver*).

"Related Rights" means any:

- (a) dividend, interest or other distribution (whether in cash or in specie and whether of a capital or income nature) declared, paid or payable in relation to the Shares at any time; and

- (b) accretion, right, benefit, money or property accruing, offered or issued at any time in relation to any Share by way of rights, capitalisation, pre-emption, redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise and all interest or rights (whether legal or equitable having regard to applicable law) in relation to the Shares.

"Rights" means any Security or other right or benefit whether arising by set-off, counterclaim, subrogation, indemnity, proof in liquidation or otherwise and whether from contribution or otherwise.

"Secured Liabilities" means all present and future obligations and liabilities of the Borrower or the Chargor (whether actual or contingent and whether owed jointly or severally or in any other capacity whatever) which are, or are expressed to be, or may become, due, owing or payable to the Security Agent (whether for its own account or as agent or trustee for the Secured Parties) or to any of the other Secured Parties under or in connection with any of the Finance Documents, together with all costs, charges, losses, liabilities, expenses and other sums and any taxes thereon incurred by the Security Agent or any other Secured Party which are, or are expressed to be, or may become due, owing or payable by the Borrower or the Chargor under or in connection with any Finance Document.

"Secured Parties" means each Finance Party from time to time party to the Facility Agreement and any Receiver or Delegate (and **"Secured Party"** means any of them).

"Security Financial Collateral Arrangement" shall have the meaning given to that expression in the Financial Collateral Regulations.

"Security Period" means the period starting on the date of this Deed and ending on the date on which the Security Agent is satisfied acting reasonably that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.

"Shares" means the shares detailed in Schedule 1 (*The Shares*) issued to the Chargor.

1.2 Construction

- (a) Unless a contrary indication appears, any reference in the Deed to:
- (i) the **"Security Agent"**, any **"Secured Party"**, any **"Finance Party"**, any **"Original Lender"**, the **"Borrower"**, the **"Chargor"** or any **"Party"** shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents;

- (ii) "**assets**" includes present and future properties, revenues and rights of every description;
 - (iii) this "**Deed**", a "**Finance Document**" or any other agreement or instrument is a reference to, this Deed, that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
 - (iv) "**enforceable**" has the meaning given in Clause 10.1;
 - (v) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent and whether owed jointly or severally or in any other capacity;
 - (vi) a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
 - (vii) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
 - (viii) a provision of law is a reference to that provision as amended or re-enacted; and
 - (ix) a time of day is a reference to London time.
- (b) Clause and Schedule headings are for ease of reference only.
 - (c) Unless a contrary indication appears, a term used in any notice given under or in connection with this Deed has the same meaning in that notice as in this Deed.
 - (d) an Enforcement Event is "**continuing**" if it has not been remedied or expressly waived in writing by the Security Agent.

1.3 Clawback

If the Security Agent reasonably considers that an amount paid by the Borrower or the Chargor in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Borrower or the Chargor or

otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.

1.4 Perpetuity period

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

1.5 Schedules

The Schedules form part of this Deed and shall have effect as if set out in full in the body of this Deed. Any reference to this Deed includes the Schedules.

1.6 Effect as a Deed

This Deed is intended to take effect as a Deed notwithstanding that the Security Agent may have executed it under hand only.

1.7 Third party rights

- (a) Unless expressly provided to the contrary in this Deed a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.
- (b) Notwithstanding any term of this Deed the consent of any other person who is not a Party is not required to rescind or vary this Deed at any time.

2 COVENANT TO PAY

2.1 Covenant to pay

The Chargor will on written demand pay or otherwise discharge all Secured Liabilities from time to time, at the times at which, in the manner in which, and in the currencies in which they are expressed to be due and payable or due for discharge under the Finance Documents, provided always that the liability of the Chargor to the Security Agent under this Deed is limited to the total amount of all enforcement proceeds from the Charged Assets, plus interest, fees, costs and expenses incurred by the Security Agent in connection with the Chargor's obligations to pay and discharge the Secured Liabilities.

2.2 Certain liabilities

The Secured Liabilities shall, without limitation, include all liabilities arising under this Deed and the Finance Documents, interest (both before and after judgment) from the date such liabilities are due, owing or incurred up to the date of payment at such rates

and upon such terms as specified in the Facility Agreement and all legal, administrative and other costs, charges and expenses on a full and unqualified indemnity basis which may be incurred by the Secured Parties in relation to any such moneys, obligations or liabilities or the release of all or any of the Charged Assets or the enforcement of the security hereby created or generally in respect of the Chargor or otherwise incurred in dealing with any matter in relation to this Deed.

2.3 Interest

The Chargor shall pay interest at the Default Rate on unpaid sums (whether before or after any judgment) in accordance with the terms of Clause 8.2 (*Default interest*) of the Facility Agreement.

3 GRANT OF SECURITY

3.1 Fixed charges

As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor with full title guarantee charges to the Security Agent (for the benefit of, and as trustee for itself and each of the other Secured Parties) by way of first fixed charge:

- (a) the Shares and their proceeds of sale; and
- (b) all Related Rights.

3.2 Trust

- (a) Subject to paragraph (b) of this Clause 3.2, if or to the extent that the charging of any Charged Asset is prohibited, the Chargor holds it on trust for the Security Agent (for the benefit of, and as trustee for itself and each of the other Secured Parties).

- (b) If the reason referred to in paragraph (a) of this Clause 3.2 is that:

- (i) a consent or waiver must be obtained;
- (ii) a condition must be satisfied

then:

- (A) subject to paragraph (c) of Clause 3.2, the Chargor shall apply for the consent or waiver; and
- (B) the Chargor shall use its best endeavours to satisfy the condition

in each case within 30 days of the date of this Deed or, if the Charged Asset is acquired after that date of this Deed, within 30 days of the date of the acquisition.

- (c) Where the consent or waiver is not to be unreasonably withheld, the Chargor shall:
 - (i) use its best endeavours to obtain it as soon as possible; and
 - (ii) keep the Security Agent informed of the progress of the negotiations to obtain it.
- (d) On the waiver or consent being obtained, or the condition being satisfied, the Charged Asset shall be mortgaged, charged or assigned (as appropriate) under this Clause 3.2 and, in relation to such Charged Asset, the trust referred to in paragraph (a) of this Clause 3.2 shall terminate.

4 LIABILITY OF THE CHARGOR AND SECURITY AGENT'S PROTECTIONS

4.1 Liability not discharged

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

- (a) any intermediate payment, settlement of account or discharge in part of the Secured Liabilities;
- (b) any variation, extension, discharge, compromise, dealing with, exchange or renewal of any right or remedy which a Secured Party may now or after the date of this Deed have from or against the Borrower or the Chargor or any other person in connection with the Secured Liabilities;
- (c) any act or omission by a Secured Party or any other person in taking up, perfecting or enforcing any Security, indemnity, or guarantee from or against the Borrower or the Chargor or any other person;
- (d) any termination, amendment, variation, novation or supplement of or to any of the Secured Liabilities;
- (e) any grant of time, indulgence, waiver or concession to the Borrower or the Chargor or any other person;
- (f) any insolvency, bankruptcy, liquidation, administration, winding up, incapacity, limitation, disability, the discharge by operation of law, or any change in the constitution, name or style of the Borrower or the Chargor or any other person;

- (g) any invalidity, illegality, unenforceability, irregularity or frustration of any actual or purported obligation of, or Security held from, the Borrower or the Chargor or any other person in connection with the Secured Liabilities;
- (h) any claim or enforcement of payment from the Borrower or the Chargor or any other person; or
- (i) any other act or omission which would not have discharged or affected the liability of the Chargor had it been a principal debtor or by anything done or omitted by any person which, but for this provision, might operate to exonerate or discharge the Chargor or otherwise reduce or extinguish its liability under this Deed.

4.2 Immediate recourse

The Chargor waives any right it may have to require a Secured Party:

- (a) to take any action or obtain judgment in any court against the Borrower or any other person;
- (b) to make or file any claim in a bankruptcy, liquidation, administration or insolvency of the Borrower or any other person; or
- (c) to make demand, enforce or seek to enforce any claim, right or remedy against the Borrower or any other person

before taking steps to enforce any of its rights or remedies under this Deed.

4.3 Non-competition

The Chargor warrants to the Security Agent that it has not taken or received, and shall not during the Security Period take, exercise or receive the benefit of any Rights from or against the Borrower, a liquidator of the Borrower, an administrator, co-guarantor or any other person in connection with any liability of, or payment by, the Chargor under this Deed but:

- (a) if any of the Rights is taken, exercised or received by the Chargor, those Rights and all monies at any time received or held in respect of those Rights shall be held by the Chargor on trust for the Security Agent for application in or towards the discharge of the Secured Liabilities under this Deed; and
- (b) on demand by the Security Agent, the Chargor shall promptly transfer, assign or pay to the Security Agent all Rights and all monies from time to time held on trust by the Chargor under this Clause 4.3.

5 REPRESENTATIONS

5.1 Representations

The Chargor makes the representations and warranties set out in this Clause 5 (*Representations*) to the Security Agent as trustee for itself and for the benefit of each of the other Secured Parties, on the date of this Deed and on each date on which the Repeating Representations are made under the Facility Agreement.

5.2 Status

- (a) The Chargor is a limited liability company, duly incorporated and validly existing under the laws of England and Wales.
- (b) The Chargor has the power to own its assets and carry on its business as it is currently conducted and as contemplated by the Transaction Documents.

5.3 Binding obligations

The obligations expressed to be assumed by it in this Deed are, subject to the Legal Reservations, legal, valid, binding and enforceable obligations and this Deed is, and will continue to be, effective security overall and every part of the Charged Assets in accordance with its terms.

5.4 Non-conflict with other obligations

Subject to the Legal Reservations, the entry into and performance by it of, and the transactions contemplated by, this Deed do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets.

5.5 Power and authority

- (a) It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Deed and the transactions contemplated by it.
- (b) No limit on its powers will be exceeded as a result of the grant of security or contemplated by this Deed.

5.6 Validity and admissibility in evidence

All Authorisations required or desirable:

(a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Deed; and

(b) to make this Deed admissible in evidence in its jurisdiction of incorporation

have been obtained or effected and are in full force and effect.

5.7 Governing law and enforcement

(a) The choice of English law as the governing law of this Deed will be recognised and enforced in its jurisdiction of incorporation.

(b) Any judgment obtained in England in relation to this Deed will be recognised and enforced in its jurisdiction of incorporation.

5.8 Shares

(a) The Shares are fully paid and are not subject to any option to purchase or similar rights.

(b) The Shares represent the whole of the issued share capital of the Borrower and no person has any option, warrant or other similar right to subscribe for any shares of the Borrower.

(c) The Chargor is the sole legal and beneficial owner of the Shares.

(d) The constitutional documents of an issuer of any Charged Assets do not:

(i) restrict or inhibit any transfer of the Shares on creation or enforcement of the security constituted by this Deed; or

(ii) contain any rights of pre-emption.

(e) The Chargor has complied with all notices relating to all or any of the Shares received by it pursuant to sections 790D and 790E of the Companies Act 2006.

(f) No warning notice has been issued under paragraph 1(2) of Schedule 1B of the Companies Act 2006, and no restrictions notice has been issued or received under paragraph 1(3) of Schedule 1B of the Companies Act 2006, in respect of all or any of the Shares.

5.9 No Security

The Charged Assets are free from any Security other than the Security created by this Deed.

5.10 No adverse claims

The Chargor has not received, or acknowledged notice of, any adverse claim by any person in respect of the Charged Assets or any interest in them.

5.11 No adverse covenants

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

5.12 No breach of laws

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

5.13 No interference in enjoyment

No facility necessary for the enjoyment and use of the Charged Assets is subject to terms entitling any person to terminate or curtail its use.

5.14 Avoidance of Security

No Security expressed to be created under this Deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Chargor or otherwise.

5.15 No prohibitions or breaches

The entry into this Deed by the Chargor does not and will not constitute a breach of any policy, agreement, document, instrument or obligation binding on the Chargor or its assets.

5.16 Repetition

The representations and warranties set out in Clause 5.2 (*Status*) to Clause 5.15 (*No prohibitions or breaches*) are deemed to be repeated on each date on which the Repeating Representations are made under the Facility Agreement.

6 INFORMATION UNDERTAKINGS

The Chargor makes the undertakings set out in this Clause 6 to the Security Agent as trustee for itself and for the benefit of each of the other Secured Parties for the continuance of the Security Period.

6.1 Information

The Chargor shall:

- (a) promptly following receipt, send to the Security Agent copies of any notice, circular, report, accounts and any other document received by it that relates to the Charged Assets;
- (b) give the Security Agent such other information concerning the Charged Assets as the Security Agent may reasonably require;
- (c) promptly notify the Security Agent in writing of any action, claim, notice or demand made by or against it in connection with all or any part of a Charged Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, the Chargor's proposals for settling, liquidating, compounding or contesting any such action, claim, notice or demand and shall, subject to the Security Agent's prior approval, implement those proposals at its own expense.

6.2 Notification of misrepresentation and breaches

The Chargor shall, promptly on becoming aware of any of the same, notify the Security Agent in writing of:

- (a) any representation or warranty set out in Clause 5 (*Representations*) which is incorrect or misleading in any material respect when made or deemed to be repeated; and
- (b) any breach of any covenant or undertaking set out in this Deed.

7 GENERAL UNDERTAKINGS

The Chargor makes the undertakings set out in this Clause 7 to the Security Agent as trustee for itself and for the benefit of each of the other Secured Parties for the continuance of the Security Period.

7.1 Authorisations

The Chargor shall:

- (a) comply with the requirements of any law and regulation relating to or affecting the Charged Assets or the use of it or any part of them; and
- (b) obtain, and promptly renew from time to time, and comply with the terms of all Authorisations that are required in connection with the Charged Assets or their use or that are necessary to preserve or renew any Charged Asset.

7.2 Compliance with laws

The Chargor shall not without the Security Agent's prior written consent, use or permit the Charged Assets to be used in any way contrary to law.

7.3 Negative pledge

The Chargor shall not at any time, except with the prior written consent of the Security Agent create, purport to create or permit to subsist any Security on, or in relation to, any Charged Asset other than any Security created by this Deed.

7.4 Disposals

The Chargor shall not at any time, except with the prior written consent of the Security Agent:

- (a) sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Charged Assets; or
- (b) create or grant (or purport to create or grant) any interest in the Charged Assets in favour of a third party.

7.5 Preservation of Charged Assets

The Chargor shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Security Agent, or materially diminish the value of any of the Charged Assets or the effectiveness of the security created by this Deed.

7.6 Compliance with laws and regulations

- (a) The Chargor shall not use or permit the Charged Assets to be used in any way contrary to law.
- (b) The Chargor shall comply with the requirements of any law or regulation relating to or affecting the Charged Assets or the use of it or any part of it.

7.7 Chargor's waiver of set-off

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

7.8 Enforcement of rights

The Chargor shall use its best endeavours to enforce any rights and institute, continue or defend any proceedings relating to any of the Charged Assets that the Security Agent may require from time to time.

7.9 Payment of outgoings

The Chargor shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Charged Assets and, promptly on request, produce evidence of payment to the Security Agent.

7.10 Notice of misrepresentations and breaches

The Chargor shall, promptly on becoming aware of any of the same, give the Security Agent notice in writing of:

- (a) any representation or warranty set out in this Deed that is incorrect or misleading in any material respect when made or deemed to be repeated; and
- (b) any breach of any covenant set out in this Deed.

7.11 Title to Charged Assets

The Chargor shall on the execution of this Deed, deliver to the Security Agent, or as the Security Agent may direct:

- (a) all share certificates and other documents of title or evidence of ownership relating to the Charged Assets;
- (b) all stock transfer forms relating to the Charged Assets duly completed and executed by or on behalf of the Chargor, but with the name of the transferee, the consideration and the date left blank; and
- (c) any other documents (in each case duly completed and executed by or on behalf of the Chargor) that the Security Agent may reasonably request to enable it or any of its nominees, or any purchaser or transferee, to be registered as the owner of, or otherwise obtain legal title to, or to perfect its security interest in any of the Charged Assets,

so that the Security Agent may, at any time and without notice to the Chargor, complete and present those stock transfer forms and other documents to the issuer of the Charged Assets for registration.

7.12 Nominations

- (a) The Chargor shall immediately terminate all nominations it may have made in respect of any Charged Asset and, pending such termination, procure that any person so nominated:
 - (i) does not exercise any rights in respect of any Charged Asset without the prior written approval of the Security Agent; and
 - (ii) immediately upon receipt by it, forward to the Security Agent all communications or other information received by it in respect of any Charged Asset for which it has been so nominated.
- (b) The Chargor shall not, during the Security Period, exercise the right to nominate any person other than the Security Agent or the Secured Parties to enjoy or exercise any right relating to the Charged Assets.

7.13 Pre-emption rights and restrictions on transfer

The Chargor shall:

- (a) obtain all consents, waivers, approvals and permissions that are necessary, under the articles of association (or otherwise) of an issuer of any Charged Assets, for the transfer of the Charged Assets to the Security Agent or its nominee, or to a purchaser on enforcement of the security constituted by this Deed; and
- (b) procure the amendment of the share transfer provisions (including, but not limited to, deletion of any pre-emption provisions) under the articles of association, other constitutional document or otherwise of each issuer of the Charged Assets in any manner that the Security Agent may require in order to permit the transfer of the Charged Assets to the Security Agent or its nominee, or to a purchaser on enforcement of the security constituted by this Deed.

7.14 Calls and other obligations

- (a) Notwithstanding the security created by this Deed, the Chargor shall promptly pay all calls, instalments and other payments that may be or become due and payable in respect of all or any part of the Charged Assets.
- (b) If the Chargor fails to do so, the Security Agent may, at its discretion but without obligation, pay the calls, instalments or other payments on behalf of the Chargor.

- (c) The Chargor shall, immediately on request by the Lenders, reimburse the Security Agent for any payment made by it under this Clause 7.14.
- (d) The Chargor shall comply with, and shall remain liable to perform, all of the other conditions and obligations assumed by it in respect of all or any part of the Charged Assets.

7.15 Changes to rights

- (a) The Chargor shall not take, or allow the taking of, any action on its behalf which may result in the rights attaching to, or conferred by, all or any of the Charged Assets being altered.
- (b) The Chargor shall not cause or permit:
 - (i) any of the Charged Assets to be consolidated, sub-divided or converted; or
 - (ii) any further shares in the share capital of an issuer of the Shares to be issued.

7.16 Compliance with Requests for Information

The Chargor shall promptly copy to the Security Agent and comply with all requests for information which are made under the Companies Act 2006 (including, without limitation, under sections 790D and 790E of the Companies Act 2006) relating to all or any part of the Charged Assets. If it fails to do so, the Security Agent may elect to provide such information as it may have on behalf of the Chargor.

7.17 Discharge of Existing Debt and Security

The Chargor shall:

- (a) use such part of the Consideration as is necessary to repay the Existing Debt in full for that purpose; and
- (b) procure the release of the Existing Security and any other Security granted by the Chargor over its assets as Security for the Existing Debt.

8 VOTING RIGHTS AND DIVIDENDS**8.1 Voting rights and dividends- before enforcement**

- (a) Before the security constituted by this Deed becomes enforceable, the Chargor may exercise all voting and other rights and powers in respect of the Charged Assets or, if any of the same are exercisable by the Security Agent or any of its nominees, to direct in writing the exercise of those voting and other rights and powers provided that:
 - (i) it shall not do so in any way that would breach any provision of the Facility Agreement or this Deed or for any purpose inconsistent with the Facility Agreement or this Deed; and
 - (ii) the exercise of, or failure to exercise, those voting rights or other rights and powers would not, in the Security Agent's opinion, have an adverse effect on the value of any of the Charged Assets or otherwise prejudice the Security Agent's security under this Deed.
- (b) Before the security constituted by this Deed becomes enforceable, the Chargor may retain and apply for its own use all dividends, interest and other monies paid or payable in respect of the Charged Assets and, if any are paid or payable to the Security Agent or any of its nominees, the Security Agent will hold all those dividends, interest and other monies received by it for the Chargor and will pay them to the Chargor promptly on request.

- (c) The Chargor shall indemnify the Security Agent against any loss or liability incurred by the Security Agent (or its nominee) as a consequence of the Security Agent (or its nominee) acting in respect of the Charged Assets at the direction of the Chargor.
- (d) The Security Agent shall not, by exercising or not exercising any voting rights or otherwise, be construed as permitting or agreeing to any variation or other change in the rights attaching to or conferred by any of the Charged Assets which the Security Agent considers prejudicial to, or impairing the value of, the security created by this Deed.

8.2 Voting rights and dividends - following an Event of Default

After the security constituted by this Deed has become enforceable, the Security Agent may at its discretion (in the name of the Chargor and without any further consent or authority from the Chargor and irrespective of any direction given by the Chargor):

- (a) exercise or refrain from exercising (or direct its nominee to exercise or refrain from exercising) all voting rights and any other powers or rights in respect of the Charged Assets, and the Chargor shall comply, or procure compliance, with any directions the Security Agent may give, in its absolute discretion, in respect of the exercise of those voting and other rights and powers;
- (b) apply all dividends, interest or other monies paid or payable in respect of the Charged Assets in accordance with Clause 15 (*Application of proceeds*) and, if any such dividends, interest or other monies are received by or on behalf of the Chargor, the Chargor shall hold all such dividends, interest and other monies on trust for the Security Agent and shall immediately pay them to the Security Agent or as it may direct;
- (c) complete all instruments of transfer held by it in relation to the Charged Assets in favour of itself or such other person as it may select and have the Charged Assets transferred into its name or the name of its nominee or, as applicable, into an account in its own name or the name of its nominee; and
- (d) in addition to any other power created under this Deed, exercise or refrain from exercising (or direct its nominee to exercise or refrain from exercising) all the powers and rights conferred on or exercisable by the legal or beneficial owner of the Charged Assets.

9 POWERS OF THE SECURITY AGENT

9.1 Power to remedy

- (a) The Security Agent shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Chargor of any of its obligations contained in this Deed.
- (b) The Chargor irrevocably authorises the Security Agent and its agents to do all things that are necessary or desirable for that purpose.
- (c) Any monies expended by the Security Agent in remedying a breach by the Chargor of its obligations contained in this Deed shall be reimbursed by the Chargor to the Security Agent on a full indemnity basis and shall carry interest in accordance with Clause 16.1 (*Costs*).

9.2 Exercise of rights

- (a) The rights of the Security Agent under Clause 9.1 (*Power to remedy*) are without prejudice to any other rights of the Security Agent under this Deed.
- (b) The exercise of any rights of the Security Agent under this Deed shall not make the Security Agent liable to account as a mortgagee in possession.

9.3 Security Agent has Receiver's powers

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

9.4 No duties

The Security Agent shall not, in respect of any of the Charged Assets, have any duty or incur any liability for:

- (a) ascertaining or taking action in respect of any calls, instalments, conversions, exchanges, maturities, tenders or other matters relating to any Charged Asset or the nature or sufficiency of any payment whether or not the Security Agent has or is deemed to have knowledge of such matters; or
- (b) taking any necessary steps to preserve rights against prior parties or any other rights relating to any of the Charged Assets.

9.5 Conversion of currency

- (a) For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Security Agent may convert any monies received, recovered or realised by it under this Deed (including the proceeds of any previous conversion under this Clause 9.4 (*Conversion of currency*)) from their existing currencies of denomination into any other currencies of denomination that the Security Agent may think fit.
- (b) Any such conversion shall be effected at the Bank of England's then prevailing spot selling rate of exchange for such other currency against the existing currency.
- (c) Each reference in this Clause 9.4 (*Conversion of currency*) to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

9.6 New accounts

- (a) If the Security Agent receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Charged Assets, the Security Agent may open a new account for the Chargor in the Security Agent's books. Without prejudice to the Security Agent's right to combine accounts, no money paid to the credit of the Chargor in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.
- (b) If the Security Agent does not open a new account immediately on receipt of the notice, or deemed notice, under Clause 9.6(a), then, unless the Security Agent gives express written notice to the contrary to the Chargor, all payments made by the Chargor to the Security Agent shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt or deemed receipt of the relevant notice by the Security Agent.

9.7 Indulgence

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

10 WHEN SECURITY BECOMES ENFORCEABLE

10.1 Security becomes enforceable on Enforcement Event

The security constituted by this Deed shall become immediately enforceable if an Enforcement Event occurs and is continuing.

10.2 Discretion

After the security constituted by this Deed has become enforceable, the Security Agent may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Charged Assets.

11 ENFORCEMENT OF SECURITY

11.1 Enforcement powers

- (a) The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this Deed) shall, as between the Security Agent and a purchaser from the Security Agent, arise on and be exercisable at any time after the execution of this Deed, but the Security Agent shall not exercise such power of sale or other powers until the security constituted by this Deed has become enforceable under Clause 10.1 (*Security becomes enforceable on Enforcement Event*).
- (b) Section 103 of the LPA 1925 (restricting the power of sale) does not apply to the security constituted by this Deed.
- (c) The Security Agent may do anything a Receiver has power to do under this Deed.

11.2 Prior Security

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

- (a) redeem that or any other prior Security;
- (b) procure the transfer of that Security to it; and
- (c) settle and pass any account of the holder of any prior Security.

The settlement and passing of any such account passed shall, in the absence of any manifest error, be conclusive and binding on the Chargor. All monies paid by the Security Agent to an encumbrancer in settlement of any of those accounts shall, as

from its payment by the Security Agent, be due from the Chargor to the Security Agent on current account and shall bear interest at the Default Rate and be secured as part of the Secured Liabilities.

11.3 Protection of third parties

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

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

11.4 Privileges

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

11.5 No liability as mortgagee in possession

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

11.6 Relinquishing possession

If the Security Agent, any Receiver or Delegate enters into or takes possession of the Charged Assets, it or he may at any time relinquish possession.

11.7 Conclusive discharge to purchasers

The receipt of the Security Agent, or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Charged Assets or in making any acquisition in the exercise of their respective powers, the Security Agent, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit.

11.8 Right of appropriation

- (a) To the extent that:

- (i) the Charged Assets constitute Financial Collateral; and
- (ii) this Deed and the obligations of the Chargor under it constitute a Security Financial Collateral Arrangement

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

- (b) The value of any Charged Assets appropriated in accordance with this Clause shall be determined by any other method that the Security Agent may select (including independent valuation).
- (c) The Chargor agrees that the methods of valuation provided for in this Clause are commercially reasonable for the purposes of the Financial Collateral Regulations.

12 RECEIVER

12.1 Appointment

At any time after the security constituted by this Deed has become enforceable, or at the request of the Chargor, the Security Agent may, without further notice, appoint by way of Deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Charged Assets.

12.2 Removal

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

12.3 Remuneration

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

12.4 Power of appointment additional to statutory powers

The power to appoint a Receiver conferred by this Deed shall be in addition to all statutory and other powers of the Security Agent under the Insolvency Act 1986, the

LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise.

12.5 Power of appointment exercisable despite prior appointments

The power to appoint a Receiver (whether conferred by this Deed or by statute) shall be, and remain, exercisable by the Security Agent despite any prior appointment in respect of all or any part of the Charged Assets.

12.6 Agent of the Chargor

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

13 POWERS OF RECEIVER

13.1 Powers additional to statutory powers

- (a) Any Receiver appointed by the Security Agent under this Deed shall, in addition to the powers conferred on him by statute, have the powers set out in Clause 13.3 (*Employ personnel and advisors*) to Clause 13.15 (*Incidental powers*).
- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.
- (c) Any exercise by a Receiver of any of the powers given by Clause 13 (*Powers of Receiver*) may be on behalf of the Chargor or himself.
- (d) A Receiver may do anything the Security Agent has power to do under this Deed.

13.2 Insolvency Act powers

A Receiver may do all the acts and things in Schedule 1 to the Insolvency Act 1986 as if the words "he" and "him" referred to the Receiver and "company" referred to the Chargor.

13.3 Employ personnel and advisers

A Receiver may provide services and employ or engage any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that he thinks fit. A Receiver may discharge any such person or any such person appointed by the Chargor.

13.4 Charge for remuneration

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

13.5 Realise Charged Assets

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

13.6 Dispose of Charged Assets

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

13.7 Give valid receipts

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

13.8 Make settlements

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

13.9 Bring proceedings

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

13.10 Powers under the LPA 1925

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

13.11 Borrow

A Receiver may, for any of the purposes authorised by this Clause 13 (*Powers of Receiver*), raise money by borrowing from the Security Agent (or from any other person) either unsecured or on the security of all or any of the Charged Assets in respect of which he is appointed on any terms that he thinks fit (including, if the Security Agent consents, terms under which that security ranks in priority to this Deed).

13.12 Redeem prior Security

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

13.13 Delegation

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

13.14 Absolute beneficial owner

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

13.15 Incidental powers

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

- (a) may consider desirable or necessary for realising any of the Charged Assets;
- (b) may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this Deed or law; or
- (c) lawfully may or can do as agent for the Chargor.

14 DELEGATION

14.1 Delegation

The Security Agent or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this Deed (including the power of attorney granted under Clause 18.1 (*Appointment of attorneys*)).

14.2 Terms

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

14.3 Liability

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

15 APPLICATION OF PROCEEDS

15.1 Order of application of proceeds

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

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

15.2 Appropriation

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

15.3 Suspense account

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

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

16 COSTS AND INDEMNITY**16.1 Costs**

The Chargor shall, within five Business Days of demand, pay to, or reimburse, the Security Agent and any Receiver, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by the Security Agent, any Receiver or any Delegate in connection with:

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

together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost or expense arose until full discharge of that cost or expense (whether before or after judgment, liquidation, winding up or administration of the Chargor) at the Default Rate.

16.2 Indemnity

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

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

Any past or present employee or agent may enforce the terms of this Clause 16.2 (*Indemnity*) subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

17 FURTHER ASSURANCE

17.1 Further assurance

The Chargor shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices, releases and instructions) at its expense as any Secured Party may reasonably specify and in such form any Secured Party may reasonably require for the exercise of any of the rights, powers and remedies provided to the Secured Parties pursuant to the Finance Documents.

18 POWER OF ATTORNEY

18.1 Appointment of attorneys

By way of security, the Chargor irrevocably appoints the Security Agent, every Receiver and every Delegate separately to be its attorney and, in its name, on its behalf and as its act and Deed, to execute any documents and do any acts and things that:

- (a) the Chargor is required to execute and do under this Deed; and/or
- (b) any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this Deed or by law on the Security Agent, any Receiver or any Delegate.

18.2 Ratification of acts of attorneys

The Chargor ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in Clause 18.1 (*Appointment of attorneys*).

19 FURTHER PROVISIONS**19.1 Independent security**

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

19.2 Continuing security

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

19.3 Discharge conditional

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

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

19.4 Consolidation

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

20 ASSIGNMENT AND TRANSFER**20.1 Assignment by Security Agent**

- (a) At any time, the Security Agent may assign or transfer (including by way of novation) any of its rights and obligations under this Deed to another bank or financial institution or to a trust, fund or other entity which is regularly engaged

in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets.

- (b) The Security Agent may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Chargor, the Charged Assets and this Deed that the Security Agent considers appropriate.

20.2 Assignments and transfer by the Chargor

The Chargor may not assign any of its rights, or transfer any of its rights or obligations, under this Deed.

21 SET-OFF

21.1 Security Agent's right of set-off

The Security Agent may set off any matured obligation due from the Chargor under this Deed (to the extent beneficially owned by the Secured Party) against any matured obligation owed by the Secured Party to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. 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.

21.2 Exclusion of Chargor's right of set-off

All payments made by the Chargor to the Security Agent or Secured Party under this Deed shall be made without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

22 NOTICES

22.1 Communications in writing

Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by email or letter.

22.2 Addresses

The address and email address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed is that identified with its name below and or any substitute address or email address or department or officer as the party may notify to the other parties to this Deed by not less than five Business Days' notice.

The Chargor

Address: First Floor Benyon House Newbury Business Park, London Road,
Newbury, Berkshire, England, RG14 2PZ

Email: jim.crooks@passivsystems.com

Attention: Jim Crooks

The Security Agent

Address: 24 Savile Row, London, W1S 2ES

Email: david.conlon@gcpuk.com

Attention: David Conlon

22.3 Delivery

(a) Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective:

- (i) if by way or email, when received by the intended recipient in a readable form; or
- (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address;

and, if a particular department or officer is specified as part of its address details provided under Clause 22.2 (*Addresses*), if addressed to that department or officer.

(b) Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by the Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Security Agent's signature below (or any substitute department or officer as the Security Agent shall specify for this purpose).

(c) All notices from or to the Chargor shall be sent through the Security Agent.

(d) Any communication or document which becomes effective, in accordance with paragraphs (a) to (c) above, after 5:00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

22.4 Notification of address and email address

Promptly upon receipt of notification of an address or email address or change of address or email address pursuant to Clause 22.2 (*Addresses*) or changing its own address or email address, the Chargor shall notify the other parties.

22.5 English language

Any notice given under or in connection with this Deed must be in English.

23 CALCULATIONS AND CERTIFICATES**23.1 Accounts**

In any litigation or arbitration proceedings arising out of or in connection with this Deed, the entries made in the accounts maintained by the Security Agent are *prima facie* evidence of the matters to which they relate.

23.2 Certificates and Determinations

Any certification or determination by the Security Agent of a rate or amount under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

23.3 Day count convention

Any interest, commission or fee accruing under this Deed will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days or, in any case where the practice in the London interbank market differs, in accordance with that market practice.

24 PARTIAL INVALIDITY

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

25 REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of the Security Agent, any right or remedy under this Deed shall operate as a waiver, of any such right or remedy or constitute an election to affirm this Deed. No election to affirm this Deed on the part of the Security Agent shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the

exercise of any other right or remedy. The rights and remedies provided by this Deed are cumulative and not exclusive of any rights or remedies provided by law.

26 AMENDMENTS AND WAIVERS

Any term of this Deed may be amended or waived only with the express written consent of the Security Agent and the Chargor and any such amendment or waiver will be binding on all parties.

27 COUNTERPARTS

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

28 GOVERNING LAW

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

29 JURISDICTION

29.1 Jurisdiction

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a "**Dispute**").
- (b) The parties to this Deed agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause 29.1 (*Jurisdiction*) is for the benefit of the Security Agent only. As a result, the Security Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

THIS DOCUMENT HAS BEEN EXECUTED AS A DEED AND IS DELIVERED AND TAKES EFFECT ON THE DATE STATED AT THE BEGINNING OF IT

Schedule 1**The Shares**

Issued by: Company name (and registered number)	Number	Denomination or Type of Security:
Passiv Capital Limited	2	Ordinary Shares of £1 each
Arto.energy Limited	1	Ordinary Share of £1 each

and any further shares substituted or added by simple written instruction of the Chargor or owned by the Chargor in respect of each company detailed in the column "Issued by" above, from time to time.

EXECUTION PAGE

CHARGOR

Executed as a Deed by)

PASSIVSYSTEMS LIMITED acting)

by)

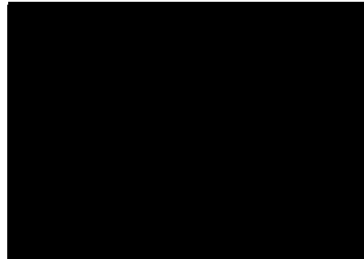
In the presence of: Director

Witness

Name

Address

Occupation



RICHARD CRAWLEY

 Gowling WLG (UK) LLP

 Two Snowhill

 Birmingham

 B4 6WR

 SOLICITOR.

SECURITY AGENT

Signed by

for and on behalf of **GCP ASSET BACKED
INCOME (UK) LIMITED**

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Authorised Signatory