



**Registration of a Charge**

Company name: **ADBRAIN LTD**

Company number: **08297181**



X51A0860

Received for Electronic Filing: **24/10/2016**

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**Details of Charge**

Date of creation: **20/10/2016**

Charge code: **0829 7181 0001**

Persons entitled: **KREOS CAPITAL V (UK) LIMITED**

Brief description: **INTELLECTUAL PROPERTY INCLUDES THE FOLLOWING TRADE MARK NUMBERS, AS REGISTERED WITH THE INTELLECTUAL PROPERTY OFFICE: UK00003009412 UK00003009413 UK00003009416 FOR FURTHER DETAILS OF INTELLECTUAL PROPERTY CHARGED, PLEASE SEE SCHEDULE 1 IN THE DEED.**

**Contains fixed charge(s).**

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

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

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

Certified by: **BIRD & BIRD LLP**



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

Company number: 8297181

Charge code: 0829 7181 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 20th October 2016 and created by ADBRAIN LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 24th October 2016 .

Given at Companies House, Cardiff on 25th October 2016

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: 20 October 2016

**ADBRAIN LTD**

and

**KREOS CAPITAL V (UK) LIMITED**

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**DEBENTURE**

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We hereby certify that,  
save for material redacted  
pursuant to s859G of the  
Companies Act 2006, this copy  
instrument is a correct copy of  
the original instrument

**Bird & Bird**

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London EC4A 1JP

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Ref: STAP/ALIG/KRECF.0030

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24 October 2016

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THIS DEBENTURE is dated 20 October 2016

**BETWEEN:**

- (1) **ADBRAIN LTD**, a company incorporated in England and Wales under registration number 08297181 whose registered office is at Albert House, 256-260 Old Street, London, EC1V 9DD (the "**Borrower**"); and
- (2) **KREOS CAPITAL V (UK) LIMITED**, a company incorporated in England & Wales under registration number 09728300 whose registered office is at 25 Old Burlington Street, London W1S 3AN (the "**Lender**").

**BACKGROUND:**

Under the terms of the Loan Agreement, the Lender has agreed to advance monies to the Borrower on condition, inter alia, that the Borrower will execute and deliver to the Lender this Debenture to secure the payment of the Secured Obligations.

**AGREED PROVISIONS:**

**1. INTERPRETATION**

- 1.1 In this Debenture, the following words and expressions shall, unless the context otherwise requires, bear the following meanings:

"**Business Day**" means a day (other than a Saturday or Sunday) on which clearing banks are open for business in the City of London;

"**Competitor**" has the meaning as defined in the Loan Agreement;

"**Debenture**" means this debenture including its recitals;

"**Finance Documents**" means the Loan Agreement, the Security Documents and any other applicable document creating a Security Interest in favour of the Lender;

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

"**Intellectual Property**" means all legal and beneficial interests of the Borrower (in any part of the world) in present and future inventions, improvements, modifications, processes, formulae, know-how, confidential information, models, prototypes, sketches, drawings, plans, business names, licences, patents, patent applications, trademarks, trade names, service marks, designs, copyrights, rights in computer software, topographical or similar rights and any other intellectual property rights of every kind whether or not registered, together with all applications and rights to apply for registration, choses in action and claims and all fees, royalties and other rights of every kind deriving from them now or in the future belonging to the Borrower, including without limitation the intellectual property specified in Schedule 1;

"**IT System**" means all computer hardware (including network and telecommunications equipment), databases and software (including associated user manuals, object code and source code);

"**Loan Agreement**" means the loan facility agreement between the Lender and the Borrower dated on around the date of this Debenture, as may be amended, restated, supplemented or replaced from time to time in accordance with its terms;

**"Permitted Security"** means (i) any Security Interest created in favour of the Lender under the Finance Documents; (ii) the Security Interest, in the cash collateral account holding in aggregate £200,000, held with Silicon Valley Bank to secure the Borrower's foreign exchange, credit card and transfer facilities with Silicon Valley Bank; and (iii) any Security Interest permitted by the Lender in writing from time to time;

**"Receivables"** means all present and future book debts and other debts, rentals, fees, VAT and monetary claims and all other amounts at any time recoverable or receivable by, or due or owing to, the Borrower (whether actual or contingent and whether arising under contract or in any other manner whatsoever) together with:

- (i) the benefit of all rights, guarantees, securities and remedies relating to any of the foregoing (including, without limitation, negotiable instruments, indemnities, reservations of property rights, rights of tracing and unpaid vendor's liens and similar association rights); and
- (ii) all proceeds of any of the foregoing;

**"Receiver"** has the meaning given in clause 9.1;

**"Secured Obligations"** means all indebtedness, liabilities and obligations which are now or may at any time in the future be due, owing or incurred by the Borrower to the Lender in any manner whatsoever, whether actual or contingent and whether owed jointly or severally, as principal or surety and whether under the Finance Documents or otherwise;

**"Securities"** has the meaning given in clause 4.1.2(g);

**"Security Assets"** means all property and assets from time to time charged or assigned (or expressed to be charged or assigned) by or pursuant to this Debenture; and

**"Security Interest"** means any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, hypothecation, assignment by way of security or otherwise, trust arrangement, title retention or encumbrance or enforceable right of a third party, any other type of security interest or preferential arrangement having a similar effect to any of the foregoing or in the nature of security of any kind whatsoever and in any jurisdiction.

1.2 In this Debenture unless the context requires otherwise:

- 1.2.1 capitalised terms not defined in this Debenture shall have the respective meanings given to those terms in the Loan Agreement;
- 1.2.2 any reference to a clause, Schedule or appendix (other than a Schedule to a statutory provision) is a reference to a clause of or Schedule or appendix to this Debenture and the Schedule and appendices form part of and are deemed to be incorporated in and in references to this Debenture;
- 1.2.3 references to this Debenture and to any provisions of this Debenture or to any other document or agreement shall be construed as references to this Debenture or that document or agreement in force for the time being and as amended, varied, supplemented, substituted or novated from time to time;
- 1.2.4 words importing the singular number only shall include the plural number and vice versa; and words importing the masculine gender only shall include the feminine gender;
- 1.2.5 references to persons includes a reference to firms, corporations, unincorporated associations or personal representatives;

- 1.2.6 references to any person are to be construed to include that person's assigns or transferees or successors in title, whether direct or indirect;
- 1.2.7 references to any statute or statutory provision means that statutory provision as amended, supplemented, re-enacted or replaced from time to time (whether before or after the date of this Debenture) and are to include any orders, regulations, instruments or other subordinate legislation made under the relevant statutory provision except to the extent that any amendment, supplement, re-enactment or replacement coming into force after the date of this Debenture would increase or extend the liability of the parties to one another;
- 1.2.8 the rule known as the ejusdem generis rule shall not apply and general words shall not be given a restrictive interpretation by reason of their being preceded or followed by words indicating a particular class of acts, matters or things;
- 1.2.9 clause headings are for ease of reference only and are not to affect the interpretation of this Debenture;
- 1.2.10 for the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Loan Agreement and of any side letters or agreements between any parties in relation to the Loan Agreement are incorporated into this Debenture;
- 1.2.11 it is intended by the parties to this Debenture that this document shall take effect as a deed notwithstanding the fact that a party may only execute this document underhand; and
- 1.2.12 "**continuing**" means, in relation to an Event of Default, an Event of Default which has not been waived by the Lender or remedied.

## 2. COVENANT TO PAY

- 2.1 The Borrower covenants (when the same shall be or become due) on demand to pay and discharge to the Lender the Secured Obligations.
- 2.2 Any amount which is not paid under this Debenture when due shall bear interest (both before and after judgment) payable on demand from the due date until the date on which that amount is unconditionally and irrevocably paid and discharged in full at the rate and in the manner specified in the Loan Agreement.

## 3. NATURE OF SECURITY

- 3.1 All mortgages, charges, assignments and other security made or created under this Debenture are made or created:
  - 3.1.1 in favour of the Lender;
  - 3.1.2 with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994; and
  - 3.1.3 as a continuing security for the payment or discharge of all Secured Obligations hereby covenanted to be paid or discharged by the Borrower.
- 3.2 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 (incorporated by section 248 of and Schedule 16 to the Enterprise Act 2002) applies to any floating charge created by or pursuant to this Debenture (and each such floating charge is a qualifying floating charge for the purposes of the Insolvency Act 1986).



- 3.3 If the Lender reasonably considers that an amount paid by the Borrower in respect of the Secured Obligations is capable of being avoided or otherwise set aside on the liquidation or administration of the Borrower or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Debenture.

#### 4. **SECURITY**

- 4.1 The Borrower charges and agrees to charge all the present and future right, title and interest of the Borrower in and to the following assets which are at any time owned by the Borrower or in which the Borrower from time to time has an interest:

4.1.1 by way of first legal mortgage all freehold, leasehold or other immovable property now vested in or charged to the Borrower;

4.1.2 by way of first fixed charge:

- (a) all other freehold, leasehold and other immovable property now or in the future belonging to the Borrower (and not charged by clause 4.1.1);
- (b) all plant and machinery now or in the future belonging to the Borrower other than fixed plant and machinery charged under clauses 4.1.1 and 4.1.2(a);
- (c) all present and future rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to all freehold, leased or other immovable property charged under this Debenture;
- (d) all IT Systems, computers, vehicles, office equipment and other equipment now or in the future belonging to the Borrower;
- (e) all licences, consents and authorisations (statutory or otherwise) held or required in connection with the Borrower's business or the use of any Security Asset, and all rights in connection with them;
- (f) all Receivables;
- (g) all stocks, shares, loan capital, bonds and other securities now or in the future belonging to the Borrower (either legally or beneficially) and whether or not marketable, together with all dividends and all other rights deriving from them from time to time (the "**Securities**");
- (h) the goodwill of the Borrower and its uncalled capital both present and future;
- (i) all Intellectual Property; and
- (j) all policies and contracts of insurance issued or entered into for the benefit of or by the Borrower and all rights, claims and interests which the Borrower has from time to time in any such policy or contract.

- 4.2 The Borrower assigns and agrees to assign absolutely to the Lender (to the fullest extent assignable or capable of assignment without first infringing any contractual provision restricting the same (unless any applicable consent or waiver to any such consent has been granted)) and subject to a proviso for reassignment on redemption in accordance with clause 21, the benefit of all its right, title and interest to, in and under all present and future:

4.2.1 Receivables;

- 4.2.2 goodwill of the Borrower and its uncalled capital both present and future;
  - 4.2.3 Intellectual Property; and
  - 4.2.4 policies and contracts of insurance issued or entered into for the benefit of or by the Borrower and all rights, claims and interests which the Borrower has from time to time in any such policy or contract.
- 4.3 To the extent not validly and effectively charged by way of first mortgage pursuant to clause 4.1.1 or fixed charge pursuant to clause 4.1.2 or effectively assigned pursuant to clause 4.2, the Borrower by way of first floating charge charges the whole of the Borrower's undertaking and all its property and assets whatsoever and wheresoever present and future.
- 4.4 The Lender may, in its sole discretion, at any time convert the floating charge by notice in writing to the Borrower into a fixed charge as regards all the property and assets which for the time being are the subject of such floating charge or, as the case may be, such of the said property and assets as are specified by such notice.
- 4.5 The floating charge created by clause 4.3 shall, unless otherwise agreed in writing by the Lender automatically, immediately and without notice be converted into a fixed charge over the relevant Security Assets in the event that: (i) the Borrower shall create or permit to subsist any Security Interest as described in clause 5.1.1 (other than Permitted Security) or a trust in favour of another person on all or any part of the Security Assets; (ii) any third party levies (or attempts to levy) any distress, attachment, execution or other legal process against all or any part of the Security Assets that are subject to the floating charge; (iii) the Borrower disposes or attempts to dispose of, all or any part of the Security Assets (other than Security Assets that are only subject to the floating charge while it remains uncrystallised); (iv) a receiver is appointed over all or any of the Security Assets that are subject to the floating charge; or (v) the Lender receives notice of the appointment of, or a proposal or an intention to appoint, an administrator of the Borrower.
- 4.6 Any assets acquired by the Borrower after crystallisation of the floating charge created under this Debenture, which, but for that crystallisation, would be subject to a floating charge under this Debenture, shall (unless the Lender confirms otherwise to the Borrower in writing) be charged to the Lender by way of first fixed charge.
- 4.7 A reference in this Debenture to a mortgage, assignment or charge of any freehold or leasehold property includes all buildings and fixtures on the property, the proceeds of sale of any part of that property, any licence, agreement for sale or agreement for lease in relation to that property and the benefit of any covenants for title given or entered into by any predecessor in title of the Borrower in respect of that property or any monies paid or payable in respect of those covenants.
- 4.8 The security from time to time constituted by or pursuant to this Debenture shall be in addition to and shall not prejudice, determine or affect any other security which the Lender may from time to time hold for or in respect of all or any part of the Secured Obligations hereby secured. No prior security held by the Lender over the whole or any part of the Security Assets shall merge in the security created hereby or pursuant to this Debenture which will remain in full force and effect as a continuing security until discharged by the Lender.
- 4.9 There shall be excluded from the charge created by clause 4.1 and from the operation of clause 18 any leasehold property held by the Borrower under a lease which either precludes absolutely or conditionally (including requiring the consent of any third party) the Borrower from creating any Security Interest over its leasehold interest in that property (each an "**Excluded Property**") until the relevant condition or waiver has been satisfied or obtained.

- 4.10 For each Excluded Property, the Borrower undertakes to apply for the relevant consent or waiver of prohibition or condition within fourteen (14) days of the date of this Debenture and, in respect of each Excluded Property which provides that the relevant third party will not unreasonably withhold its consent to charging, to use all reasonable endeavours to obtain that consent as soon as possible and to keep the Lender informed of the progress of its negotiations.
- 4.11 Forthwith upon receipt of the relevant waiver or consent the Borrower undertakes to provide the Lender with a copy of that consent or waiver, and immediately on receipt by the Borrower of the relevant consent or waiver, the relevant formerly Excluded Property shall stand charged to the Lender under clause 4.1. If required by the Lender at any time following receipt of that waiver or consent, the Borrower will forthwith and at its own cost, execute a valid legal mortgage in such form as the Lender shall reasonably require.
- 4.12 There shall be excluded from the charge created by clause 4.1 and from the assignment in clause 4.2.4 any contracts, licences and contracts of insurance which either preclude absolutely or conditionally (including requiring the consent of any third party) the Borrower from creating any Security Interest over its interest in that contract or licence (each an "**Excluded Contract**") until the relevant condition or waiver has been satisfied or obtained.

## 5. RESTRICTIONS ON DEALING

- 5.1 Other than as set out at clause 5.2, the Borrower shall not without the prior written consent of the Lender:
- 5.1.1 create or permit to subsist any Security Interest on or in relation to the Security Assets other than this Debenture and Permitted Security;
- 5.1.2 save in the normal course of trading at not less than market value sell, assign, transfer, lease, lend or otherwise dispose of in any manner (or purport to do so) the whole or any material part of or any interest in the Security Assets (whether by a single transaction or a number of transactions and whether related or not) or enter into any agreement or grant any option for any such sale, assignment, transfer, lease, loan or other disposal;
- 5.1.3 part with possession of any freehold or leasehold property (including the real property), grant or agree to grant any option or any licence tenancy or other right of occupation to any person or exercise the powers of leasing or agreeing to lease or of accepting or agreeing to accept surrenders conferred by Sections 99 and 100 of the Law of Property Act 1925 provided that such restrictions shall not be construed as a limitation on the powers of any receiver appointed under this Debenture and being an agent of the Borrower and the Lender may grant or accept surrenders of leases without restriction.
- 5.2 Nothing in this Debenture shall prevent the continuing existence or enforcement of Permitted Security.

## 6. COVENANTS BY THE BORROWER

- 6.1 The Borrower shall:
- 6.1.1 keep and maintain all buildings and all plant, machinery, fixtures and fittings in good repair and condition and permit any person or persons nominated by the Lender free access upon reasonable notice to view the state and condition of them;
- 6.1.2 the Borrower maintain adequate risk protection through insurances on and in

relation to its business and assets to the extent reasonably required on the basis of good business practice taking into account, *inter alia*, its financial position and nature of operations;

- 6.1.3 apply any insurance proceeds in making good the loss or damage or at the Lender's option in or towards the discharge of the Secured Obligations;
- 6.1.4 punctually pay all rents, taxes, duties, assessments and other outgoings and observe and perform all restrictive and other covenants under which any of the property subject to this Debenture is held;
- 6.1.5 permit the Borrower's bank to furnish directly to the Lender from time to time upon request full statements and particulars of all the Borrower's accounts with bank and such other financial statements information regarding the assets and liabilities of the Borrower as are from time to time available to bank;
- 6.1.6 if so requested in writing, deposit with the Lender all deeds certificates and documents constituting or evidencing title to the property or any part of the property charged by this Debenture and all insurance policies;
- 6.1.7 comply with the provisions of all present or future law, regulations, instruments and directives and every notice, order or direction made under any of the foregoing and any requirements of any competent authority and all other licences, approvals and consents;
- 6.1.8 provide the Lender with all financial and other information with respect to the assets, liabilities and affairs of the Borrower and its subsidiaries and associated companies (if any) that the Lender may from time to time reasonably require;
- 6.1.9 notify the Lender within ten (10) Business Days of receipt of every material notice, order or proposal given or made in relation to the Security Assets by any competent authority, and (if reasonably required by the Lender) immediately provide it with a copy of the same and either: (i) comply with the same; or (ii) make any objections which the Lender may reasonably require or approve;
- 6.1.10 comply with all covenants and obligations affecting any of the Security Assets (or the manner of use of any of them);
- 6.1.11 not, except with the prior written consent of the Lender, enter into any onerous or restrictive obligation affecting any of the Security Assets;
- 6.1.12 not do, cause or permit to be done anything which may in any way materially depreciate, jeopardise or otherwise prejudice the value or marketability of any of the Security Assets or the effectiveness of the security created by this Debenture (or make any omission which has such an effect);
- 6.1.13 without prejudice to clause 5.1.1 but in addition to the restrictions in that clause, not sell, assign, charge, factor or discount or in any other manner deal with any of the Receivables (other than in the ordinary course of business) and all licence fees, royalties and other monies deriving from its Intellectual Property without the prior written consent of the Lender and must collect all Receivables and all licence fees, royalties and other monies deriving from its Intellectual Property promptly in the ordinary course of trading as agent for the Lender **PROVIDED THAT** prior to the occurrence of an Event of Default, Receivables may be used and applied by the Company for any lawful purpose;
- 6.1.14 notify the Lender if it intends to acquire any estate or any interest in any freehold or leasehold property and will further notify the Lender promptly in writing of the actual acquisition by it of any such freehold or leasehold land;

- 6.1.15 promptly on becoming aware of any of the same, give the Lender notice in writing of any breach of this Debenture or of any other Finance Documents;
- 6.1.16 within five (5) days of being requested to do so by the Lender give notice to any bank or other financial institution with whom the Borrower has an account, and to any other applicable third party, of the creation of the Security Interests under this Debenture and use reasonable efforts to procure that each addressee of any such notice promptly provides an acknowledgement of the Lender's interest to the Lender. The Borrower shall obtain the Lender's prior approval of the form of any notice or acknowledgement to be used under this clause;
- 6.1.17 without prejudice to the generality of clause 6.1.16, following the occurrence of an Event of Default which is continuing, give notice to each counterparty in relation to a Receivable and use best endeavours to procure that each addressee of any such notice as soon as practicable provides an acknowledgement of the notice of the Lender's interest to the Lender, each in form and substance reasonably acceptable to the Lender;
- 6.1.18 permit the Lender, any Receiver and any person appointed by either of them to enter on and inspect any property on reasonable prior notice;
- 6.1.19 duly and promptly pay all calls, instalments and other monies that may be payable from time to time in respect of the Securities. The Borrower acknowledges that the Lender shall not be under any liability in respect of any such calls, instalments or other monies;
- 6.1.20 not, so as to without the prior written consent of the Lender, amend, or agree to the amendment of, the memorandum or articles of association, or any other constitutional documents, of any issuer of Securities that is not a public company, or the rights or liabilities attaching to any of the Securities, in each case, to the extent such amendment would reasonably be expected to be prejudicial to the interests of the Lender;
- 6.1.21 ensure (as far as it is able to by the exercise of all voting rights, powers of control and other means available to it) that any issuer of Securities that is not a public company shall not:
- (a) consolidate or subdivide any of its Securities, or reduce or re-organise its share capital in any way;
  - (b) issue any new shares or stock; or
  - (c) refuse to register any transfer of any of its Securities that may be lodged for registration by, or on behalf of, the Lender or the Borrower in accordance with this Debenture;
- 6.1.22 if so requested by the Lender, place and maintain on each item of plant, machinery or equipment, in a conspicuous place, a clearly legible identification plate in a form approved by the Lender specifying that such item is subject to the security created under this Debenture;
- 6.1.23 take all commercially reasonable actions to safeguard and maintain present and future rights in, or relating to, the Intellectual Property including (without limitation) observing all covenants and stipulations relating to such rights, and paying all applicable renewal fees, licence fees and other outgoings;
- 6.1.24 use all reasonable efforts to register applications for the registration of any Intellectual Property, and shall keep the Lender informed of all matters relating to each such registration;

- 6.1.25 inform the Lender in writing within seven (7) days of any Intellectual Property being registered in the name of the Borrower which is not specified on Schedule 1;
  - 6.1.26 on the request of the Lender, provide the Lender with copies of all licences and other agreements or documents relating to the Intellectual Property; and
  - 6.1.27 unless such Intellectual Property has been the subject of a valid resolution of a quorate and duly-convened meeting of the Company's board of directors confirming that any such Intellectual Property is either (i) immaterial or (ii) no longer required in the ordinary course of the Company's business, not permit any Intellectual Property to be abandoned, cancelled or to lapse, except with the prior written consent of the Lender;
- 6.2 After the security constituted by this Debenture has become enforceable:
- 6.2.1 all dividends and other distributions paid in respect of the Securities and received by the Borrower shall be held by the Borrower on trust for the Lender and immediately paid into an account directed by the Lender in writing or, if received by the Lender, shall be retained by the Lender; and
  - 6.2.2 all voting and other rights and powers attaching to the Securities shall be exercised by, or at the direction of, the Lender and the Borrower shall, and shall procure that its nominees shall, comply with any directions the Lender may give, in its absolute discretion, concerning the exercise of those rights and powers.
- 6.3 If the Borrower shall fail to perform any of its obligations under this clause 6.1, then the Lender may take such steps as it considers appropriate to procure the performance of such obligation and shall not thereby be deemed to be a mortgagee in possession and the monies reasonably expended by the Lender shall be reimbursed by the Borrower on demand and until so reimbursed shall carry interest as mentioned in clause 2.2 from the date of payment to the date of reimbursement.

## **7. WARRANTIES**

- 7.1 The Borrower warrants to the Lender on the date of this Debenture and on each day that the Secured Obligations or any of them remain outstanding, with reference to the facts and circumstances then existing, that:
- 7.1.1 the Schedules to this Debenture lists all the freehold and leasehold property and registered Intellectual Property beneficially owned by it as at the date of this Debenture;
  - 7.1.2 there are no proceedings, actions, or circumstances relating to any of the property referred to in clause 7.1.1 which materially and adversely affect that property's value or the Borrower's ability to use that property for the purposes for which it is currently used;
  - 7.1.3 the Borrower is the legal and beneficial owner of the Security Assets;
  - 7.1.4 the Security Assets are free from any Security Interest other than Permitted Security;
  - 7.1.5 the Borrower has not received or acknowledged notice of any adverse claim by any person in respect of the Security Assets or any interest in them;

- 7.1.6 there are no covenants, agreements, reservations, conditions, interests, rights or other matters whatsoever, that materially and adversely affect the Security Assets; and
- 7.1.7 there is no breach by the Borrower of any law or regulation that materially and adversely affects the Security Assets.

## 8. ENFORCEMENT

- 8.1 This Debenture shall become enforceable on the occurrence of an Event of Default which is continuing or on the occurrence of any other event which in the reasonable opinion of the Lender puts in jeopardy or materially imperils all or any material part of the Security Assets.
- 8.2 Section 103 of the Law of Property Act 1925 shall not apply and the statutory power of sale and all other powers under that or any other Act as varied or extended by this Debenture shall arise on and be exercisable at any time after the Lender shall have demanded the payment or discharge by the Borrower of all or any of the Secured Obligations secured by this Debenture.
- 8.3 Section 93 of the Law of Property Act 1925 dealing with the consolidation of mortgages shall not apply to this Debenture.
- 8.4 To the extent that:
  - 8.4.1 the Security Assets constitutes Financial Collateral (as defined in the Financial Collateral Regulations); and
  - 8.4.2 this Debenture and the obligations of the Borrower hereunder constitute a Security Financial Collateral Arrangement (as defined in the Financial Collateral Regulations),

the Lender shall have the right, at any time after the security constituted by this Debenture has become enforceable, to appropriate all or any of that Security Assets in or towards the payment or discharge of the Secured Obligations in such order as the Lender may, in its absolute discretion, determine.

- 8.5 The value of any Security Assets appropriated in accordance with clause 8.4 shall be the price of that Security Assets at the time the right of appropriation is exercised as listed on any recognised market index, or determined by such other method as the Lender may select (including independent valuation).
- 8.6 The Borrower agrees that the methods of valuation provided for in clause 8.5 are commercially reasonable for the purposes of the Financial Collateral Regulations.

## 9. RECEIVER

- 9.1 At any time after this Debenture has become enforceable or if the Borrower so requests in writing the Lender may without further notice to the Borrower appoint by writing, under hand or under seal any one or more persons either singly, jointly, severally or jointly and severally to be a receiver, or receiver and manager or administrative receiver (each a **Receiver**) of all or any part of the Security Assets and either at the time or appointment or any time after may fix his or their remuneration and except as otherwise required by statute may remove any such Receiver and appoint another or others in his or their place.
- 9.2 Any Receiver shall be the agent of the Borrower and the Borrower shall be solely responsible for his acts and defaults and the payment of his remuneration.

9.3 Any Receiver shall have all the powers conferred by the Law of Property Act 1925 and the Insolvency Act 1986 on mortgagors, mortgagees in possession (but without liability as such), receivers, administrative receivers and administrators appointed under those Acts which in the case of joint receivers may be exercised either jointly or severally. In addition, but without prejudice to the generality of the foregoing the Receiver shall have power (in the name of the Borrower or otherwise and in such manner and on such terms and conditions as he shall think fit) to:

- 9.3.1 take possession of, collect and get in all or any part of the property in respect of which he is appointed and for that purpose to take any proceedings;
- 9.3.2 carry on or concur in carrying on the business of the Borrower and to raise money from the Lender or others on the security of any Security Assets;
- 9.3.3 purchase or acquire any land and purchase, acquire and grant any interest in or right over land;
- 9.3.4 sell or concur in selling, let or concur in letting and terminate or accept surrenders of leases or tenancies of any of the property charged by this Debenture and to carry any such transactions into effect;
- 9.3.5 sell, assign, let or otherwise dispose of or concur in selling, assigning, letting or otherwise disposing of all or any of the debts and any other property in respect of which he is appointed;
- 9.3.6 make any arrangement or compromise between the Borrower and any other person which he may think expedient;
- 9.3.7 make and effect all repairs, improvement and insurances;
- 9.3.8 purchase materials, tools, equipment, goods or supplies;
- 9.3.9 call up any uncalled capital of the Borrower with all the powers conferred by the articles of association of the Borrower in relation to calls;
- 9.3.10 employ, engage and appoint managers and other employees and professional advisers; and
- 9.3.11 do all such other acts and things as may be considered to be incidental or conducive to any other matters or powers aforesaid or to the realisation of the Security Assets and which he lawfully may or can do.

## 10. APPLICATION OF PROCEEDS

10.1 Any monies received by the Lender or any Receiver shall subject to the repayment of any claims having priority to the charges created by this Debenture be applied in the following order but without prejudice to the right of the Lender to recover any shortfall from the Borrower:

- 10.1.1 first, in the payment of all costs, charges and expenses of and incidental to the appointment of the Receiver and the exercise of all or any of his powers and of all outgoings paid by him;
- 10.1.2 secondly, in the payment of the Receiver's remuneration (as agreed between the Receiver and the Lender);
- 10.1.3 thirdly, in or towards the satisfaction of the Secured Obligations secured by this Debenture in such order as the Lender in its absolute discretion thinks fit; and



10.1.4 finally, in payment of the surplus (if any) to the person or persons entitled to it.

- 10.2 All monies received, recovered or realised by the Lender or a Receiver under this Debenture may be credited at the discretion of the Lender or Receiver to any suspense or impersonal account and may be held in such account for so long as the Lender shall think fit pending its application from time to time in or towards the discharge of any of the Secured Obligations secured by this Debenture.

## **11. PROTECTION OF THIRD PARTIES**

No person dealing with a Receiver or the Lender shall be concerned to enquire whether any power which he or it is purporting to exercise has become exercisable or whether any money is due under this Debenture or as to the application of any money paid raised or borrowed or as to the propriety or regularity of any sale by or other dealing with such Receiver or the Lender. All the protection to purchasers contained in Sections 104 and 107 of the Law of Property Act 1925 shall apply to any person purchasing from or dealing with a Receiver or the Lender.

## **12. ENTRY INTO POSSESSION AND LIABILITY TO PERFORM**

- 12.1 If the Lender or any Receiver or any administrator shall enter into possession of the property charged under this Debenture or any part of it, it or he may from time to time and at any time go out of such possession. Neither the Lender nor any Receiver or administrator shall in any circumstances (either by reason of any entry into or taking of possession of any such property or for any other reason and whether as mortgagee in possession or on any other basis) be liable to account to the Borrower for anything except its or his actual receipts or be liable to the Borrower for any loss or damage arising from any realisation of the property hereby charged or from any act, default or omission in relation to that.
- 12.2 Notwithstanding anything contained in this Debenture or implied to the contrary, the Borrower remains liable to observe and perform all of the conditions and obligations assumed by it in relation to the Security Assets. The Lender is under no obligation to perform or fulfil any of those conditions or obligations or make any payment in respect of those conditions or obligations.

## **13. POWER OF ATTORNEY**

By way of security, the Borrower irrevocably appoints the Lender, any Receiver and any person nominated by the Lender jointly and also severally to be the attorney of the Borrower with the power of substitution and in its name and otherwise on its behalf and as its act and deed to sign or execute all deeds instruments and documents which the Lender or any Receiver or any person nominated by the Lender may require or deem proper for any of the purposes of or which the Borrower ought to do under this Debenture. The Borrower agrees to ratify and confirm anything such attorney shall lawfully and properly do.

## **14. APPOINTMENT OF AN ADMINISTRATOR**

The Lender may, without notice to the Borrower, appoint any one or more persons to be an administrator of the Borrower pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the security constituted by this Debenture becomes enforceable. Any appointment under this clause shall: (i) be in writing signed by a duly authorised signatory of the Lender; and (ii) take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986, when the requirements of paragraph 18 of that Schedule B1 are satisfied. The Lender may, subject to any necessary approval from the court, end the appointment of an administrator by notice in writing in accordance with this clause

14 and appoint a replacement for any administrator whose appointment ends for any reason under that paragraph.

**15. NEW ACCOUNTS**

If the Lender shall at any time receive actual or constructive notice of any Security Interest affecting all or any material part of the Security Assets then the Lender may open a new account or accounts for the Borrower in the Lender's books and if the Lender does not do so then (unless the Lender gives express written notice to the contrary) the Lender shall be treated as if it had done so at the time when notice was received or was deemed to have been received and as from that time all payments made by the Borrower to the Lender shall be credited or treated as having been credited to the new account and shall not operate to reduce the Secured Obligations at the time when the Lender received or was deemed to receive notice. Without prejudice to the Lender's right to combine accounts, no money paid to the credit of the Borrower in any such new account shall be apportioned towards, or have the effect of discharging, any part of the Secured Obligations however, for the avoidance of doubt, interest shall cease to accrue hereunder or under the Facility Agreement on any amount so paid.

**16. DEPOSIT OF TITLE DOCUMENTS**

**16.1 The Borrower shall:**

16.1.1 as soon as reasonably practicable, and in any event no later than five (5) Business Days, following execution of this Debenture, deliver to the Lender, or as the Lender may direct, all stock or share certificates and other documents of title relating to any Securities owned by the Borrower at that time; and

16.1.2 on the purchase or acquisition by it of Securities after the date of this Debenture, deposit with the Lender, or as the Lender may direct, all stock or share certificates and other documents of title relating to those Securities.

**16.2 At the same time as depositing documents with the Lender, or as the Lender may direct, in accordance with clause 16.1.1, the Borrower shall also deposit with the Lender, or as the Lender may direct:**

16.2.1 all stock transfer forms relating to the relevant Securities duly completed and executed by or on behalf of the Borrower, but with the name of the transferee, the consideration and the date left blank; and

16.2.2 any other documents (in each case duly completed and executed by or on behalf of the Borrower) that the Lender 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 a legal title to, or to perfect its security interest in any of the relevant Securities,

so that the Lender may, when an Event of Default is continuing, and without notice to the Borrower, complete and present those stock transfer forms and other documents to the issuer of the Securities for registration.

**17. PRIOR SECURITY INTERESTS**

If there is any Security Interest over any of the Security Assets which ranks in priority to this Debenture and any proceedings or steps are taken to exercise or enforce any powers or remedies conferred by such prior Security Interest the Lender or any Receiver appointed under this Debenture in respect of such property may (but without prejudice to any rights the Receiver may have under Section 43 of the Insolvency Act 1986) redeem

such prior Security Interest or any other Security Interest or procure its transfer to itself and may settle any account of the holder of any prior Security Interest. Any accounts so settled and passed shall be conclusive and binding on the Borrower and all the principal, interest, costs, charges and expenses of and incidental to such redemption or transfer shall, as from its payment by the Lender, be due from the Borrower to the Lender and shall be secured as part of the Secured Obligations on the Security Assets and all the powers conferred by any prior Security Interest upon the holder of or any receiver under such Security Interest shall be exercisable by the Lender or a Receiver in like manner as if the same were expressly included in this Debenture.

**18. FURTHER ASSURANCE**

18.1 The Borrower shall at its own cost and whenever requested by the Lender execute and sign, as soon as practicable, all such deeds and documents and do all such things as the Lender may reasonably require from time to time over any property or assets specified by the Lender for the purpose of perfecting security to the Lender for the payment and discharge of the Secured Obligations secured by this Debenture.

18.2 In relation to real property charged by way of legal mortgage under this Debenture situated in England and Wales, the Borrower hereby irrevocably consents to the Lender applying to the Chief Land Registrar for a restriction to be entered on the Register of Title of all that real property (including any unregistered properties subject to compulsory first registration at the date of this Debenture) on the prescribed Land Registry form and in the following or substantially similar 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 Kreos Capital V (UK) Limited referred to in the charges register or, if appropriate, signed on such proprietor's behalf by its authorised signatory."*

18.3 Subject to the terms of the Loan Agreement, the Lender is under an obligation to make further advances to the Borrower (which obligation is deemed to be incorporated into this Debenture) and this security has been made for securing those further advances. In relation to real property charged by way of legal mortgage under this Debenture situated in England and Wales, the Lender may apply to the Chief Land Registrar for a notice to be entered onto the Register of Title of all that real property (including any unregistered properties subject to compulsory first registration at the date of this Debenture) that there is an obligation to make further advances on the security of the registered charge.

18.4 In respect of any part of the Security Assets title to which is registered at Land Registry, it is certified that the security created by this Debenture does not contravene any of the provisions of the memorandum or articles of association of the Borrower.

**19. SET OFF**

The Lender may at any time and without notice to the Borrower combine or consolidate all or any of the Borrower's then existing accounts with liabilities to the Lender and set off or transfer all or any part of the sums standing to the credit of any one or more of such accounts in or towards satisfaction of any of the liabilities of the Borrower to the Lender on any other account that may be in debit or in any other respects. The Lender shall notify the Borrower that such a transfer has been made.

**20. AVOIDANCE OF PAYMENTS**

20.1 No assurance, security or payment which may be avoided or adjusted under any enactment relating to bankruptcy or insolvency or Part IV of the Insolvency Act 1986 or

similar legislation binding on the Borrower in a jurisdiction other than England and Wales and no release, settlement or discharge given or made by the Lender on the faith of any such assurance, security or payment shall prejudice or affect the right of the Lender to recover from the Borrower (including the right to recover any monies which it may have been compelled by due process of law to refund under the provisions of the Insolvency Act 1986 and any costs payable by it pursuant to or otherwise incurred in connection with such process) or to enforce the security created by or pursuant to this Debenture to the full extent of the Secured Obligations secured by this Debenture.

- 20.2 The Lender or its nominees shall, upon giving written notice to the Borrower stating reasonable grounds for believing it necessary, be at liberty to retain the security created by or pursuant to this Debenture for a period of twenty-five (25) months after the Secured Obligations secured by this Debenture shall have been paid or discharged in full notwithstanding any release, settlement, discharge or termination of liability. If at any time within the period of twenty-five (25) months after such payment or discharge a petition shall be presented to a competent court for an order for the winding up of the Borrower or the Borrower shall commence to be wound up or to go into administration or any analogous proceedings shall be commenced by or against the Borrower, the Lender shall be at liberty to continue to retain such security for and during such further period as the Lender may determine. The Borrower agrees that in such event such security shall be deemed to have continued to have been held as security for the payment and discharge to the Lender of all Secured Obligations secured by this Debenture.

## **21. RELEASE**

- 21.1 Upon redemption and payment in full (in accordance with the terms of the Finance Documents) of all the Secured Obligations (but not otherwise), the Lender shall, at the request and cost of the Borrower, do all things reasonably necessary to release the Security Assets of the Borrower from the security constituted by this Debenture, provided that any release shall be subject to clause 19.
- 21.2 The Lender may release any Security Asset of the Borrower from the security constituted by this Debenture at any time and any such release shall not in any way affect, prejudice or invalidate the security created under this Debenture over any of the remaining Security Assets.

## **22. COSTS AND INDEMNITY**

- 22.1 The Lender and any Receiver, attorney or other person appointed by the Lender under this Debenture and their respective employees shall be entitled to be indemnified on a full indemnity basis out of the Security Assets in respect of all liabilities, actions and reasonable expenses incurred by any of them in or directly or indirectly as a result of the lawful exercise or purported exercise of any of the powers authorities or discretions vested in them under this Debenture and against all actions, proceedings, losses, costs, claims and demands in respect of any matter or thing lawfully done or omitted in any way relating to the Security Assets or any default or delay by the Borrower in performing any of its obligations under this Debenture and the Lender and any such Receiver may retain and pay all sums in respect of the same out of the monies received under the powers conferred by this Debenture.
- 22.2 The Borrower shall pay to, or reimburse, the Lender and any Receiver on demand, on a full indemnity basis, all costs, charges, expenses and liabilities of any kind including, without limitation, costs and damages in connection with litigation, professional fees, disbursements and any value added tax charged on costs incurred by the Lender or any Receiver in connection with:

22.2.1 this Debenture or the Security Assets;

22.2.2 protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Lender's or Receiver's rights under this Debenture;

22.2.3 suing for, or recovering, any of the Secured Obligations,

including, without limitation, the costs of any proceedings in connection with this Debenture or the Obligations.

## **23. NOTICES**

23.1 Any notice under this Debenture shall be in writing signed by or on behalf of the party giving it in the case of a company to its registered office and in the case of an individual to the relevant address shown in the preamble to this Debenture or to such other address as shall be notified in writing for these purposes.

23.2 Without prejudice to any other proper method of service approved by the courts, any such notice may be served:

23.2.1 by leaving it or sending it by prepaid, recorded delivery letter sent through the post; or

23.2.2 by email (in which case it shall be deemed to have been signed by or on behalf of the party giving it) to such facsimile number as any party may from time to time notify in writing to the others. A copy of any such notice shall also be sent by first class post to the last known principal place of business of the relevant party and to the relevant party's solicitors.

23.3 A notice served by post shall be deemed to have been served two (2) Business Days after the day of posting and in proving such service it shall be sufficient to prove that the notice was properly addressed and posted.

23.4 A notice served personally or by email shall be deemed to have been served on the day of delivery or sending if in the ordinary course of sending it would first be received by the addressee on a Business Day prior to 4.00 pm and otherwise on the next Business Day.

## **24. MISCELLANEOUS**

24.1 The Lender may, at its discretion, without discharging or in any way affecting the security created by this Debenture or any remedy of the Lender, grant time or other indulgence or abstain from exercising or enforcing any remedies, securities, guarantees or other rights which it may now or in the future have from or against the Borrower and may make any arrangement, variation or release with any person or persons without prejudice either to this Debenture or the liability of the Borrower for the Secured Obligations secured by this Debenture.

24.2 All the provisions of this Debenture are severable and distinct from one another and if, at any time, any one or more of the provisions of this Debenture is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity and enforceability of the remaining provisions of this Debenture nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall be in any way affected or impaired as a result.

24.3 The rights and remedies of the Lender provided by this Debenture are cumulative and are not exclusive of any rights powers or remedies provided by law and may be exercised from time to time and as often as the Lender may deem expedient.

- 24.4 This Debenture may be executed in any number of counterparts, each of which when executed and delivered is an original, but all counterparts together constitute the same document.
- 24.5 A person who is not a party to this Debenture shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Debenture. This clause does not affect any right or remedy of any person which exists, or is available, otherwise than pursuant to that Act.
- 24.6 At any time, without the consent of the Borrower, the Lender may assign or transfer the whole or any part of its rights and obligations under this Debenture to any other person who is not a Competitor (the "**Assignee**"). The Borrower may not assign any of its rights, or transfer any of its obligations, under this Debenture, or enter into any transaction that would result in any of those rights or obligations passing to another person.
- 24.7 Any waiver or variation of any right or remedy by the Lender (whether arising under this Debenture or under the general law), or any consent given under this Debenture, will only be effective if it is in writing and signed by the waiving, varying or consenting party, and applies only in the circumstances for which it was given, and shall not prevent the party giving it from subsequently relying on the relevant provision.
- 24.8 No act or course of conduct or negotiation by, or on behalf of, the Lender shall, in any way, preclude the Lender from exercising any right or remedy under this Debenture or constitute a suspension or variation of any such right or remedy.
- 24.9 No delay or failure to exercise any right or remedy under this Debenture shall operate as a waiver of that right or remedy.
- 24.10 No single or partial exercise of any right or remedy under this Debenture shall prevent any further or other exercise of that right or remedy, or the exercise of any other right or remedy under this Debenture.

**25. GOVERNING LAW AND JURISDICTION**

- 25.1 This Debenture and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 25.2 The parties to this Debenture irrevocably agree that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, this Debenture or its subject matter or formation (including non-contractual disputes or claims). Nothing in this clause shall limit the right of the Lender to take proceedings against the Borrower in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of that other jurisdiction.
- 25.3 The Borrower irrevocably consents to any process in any proceedings being served on it in accordance with the provisions of this Debenture relating to service of notices. Nothing contained in this debenture shall affect the right to serve process in any other manner permitted by law.

**EXECUTED** as a Deed and is delivered and takes effect on the date stated above.

**Schedule 1**  
**Registered Intellectual Property**

Trade mark number	Mark text	File date	Nice classes
UK00003009412	adbrain ADBRAIN Adbrain	11/06/2013	35
UK00003009413	MSERVE Mserve	11/06/2013	35
UK00003009416	MBID mbid	11/06/2013	35
012301024	ADBRAIN	12/11/2013	35
013075064	ADSYNAPSE	11/07/2014	9, 35, 42
013075114	ADCORTEX	11/07/2014	9, 35, 42
013075171	ADAXON	11/07/2014	9, 35, 42

**EXECUTION PAGE**

**The Borrower**

**EXECUTED and DELIVERED as a DEED on )**  
behalf of **ADBRAIN LTD** acting by: \_\_\_\_\_

TOBIN IRELAND )  
(print name of director) in the presence of: )

[REDACTED] )  
(signature of director) \_\_\_\_\_

Signature of witness: \_\_\_\_\_

Name of witness: \_\_\_\_\_

Address of witness: \_\_\_\_\_

Occupation of witness: \_\_\_\_\_

**The Lender**

**EXECUTED and DELIVERED as a DEED on )**  
behalf of **KREOS CAPITAL V (UK)** )  
**LIMITED** acting by: \_\_\_\_\_ )

\_\_\_\_\_  
(print name of director) in the presence of: )

\_\_\_\_\_  
(signature of director)

Signature of witness: \_\_\_\_\_

Name of witness: \_\_\_\_\_

Address of witness: \_\_\_\_\_

Occupation of witness: \_\_\_\_\_



**EXECUTION PAGE**

**The Borrower**

EXECUTED and DELIVERED as a DEED on )  
behalf of ADBRAIN LTD acting by: )

\_\_\_\_\_  
(print name of director) in the presence of: )

\_\_\_\_\_  
(signature of director)

Signature of witness: \_\_\_\_\_ )

Name of witness: \_\_\_\_\_ )

Address of witness: \_\_\_\_\_ )  
\_\_\_\_\_ )

Occupation of witness: \_\_\_\_\_ )

**The Lender**

EXECUTED and DELIVERED as a DEED on )  
behalf of KREOS CAPITAL V (UK) )  
LIMITED acting by: )

MAURIZIO PETITIOH )  
(print name of director) in the presence of: )

[REDACTED] )  
(signature of director)

Signature of witness: [REDACTED]

Name of witness: PASQUALE FIOCCA

Address of witness: [REDACTED]

Occupation of witness: ADMINISTRATOR