

# MR01

## Particulars of a charge

053729/23.

Oyez



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

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

☒ **What this form is NOT for**  
You may not use this form to  
register a charge where the  
instrument. Use form MR08.



\*A75C4BAZ\*

A09 05/05/2018 #264  
COMPANIES HOUSE

A10 25/04/2018 #262  
COMPANIES HOUSE

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

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

### 1 Company details

Company number 0 8 5 8 7 6 8 6

Company name in full AFINITI EUROPE TECHNOLOGIES LIMITED

2 For official use

#### Filing in this form

Please complete in typescript or in  
bold black capitals.

All fields are mandatory unless  
specified or indicated by \*

### 2 Charge creation date

Charge creation date 2 3 0 4 2 0 1 8

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

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

Name STRUCTURAL CAPITAL INVESTMENTS II, LP

Name STRUCUTRAL CAPITAL SPV II LLC

Name

Name

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

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

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Particulars of a charge

4

**Brief description**

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument.

Brief description

None

Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument".

Please limit the description to the available space.

5

**Other charge or fixed security**

Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box.

☒ Yes

☐ No

6

**Floating charge**

Is the instrument expressed to contain a floating charge? Please tick the appropriate box.

☒ Yes Continue

☐ No Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☒ Yes

7

**Negative Pledge**

Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box.

☒ Yes

☐ No

8

**Trustee statement <sup>1</sup>**

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge.

☐

<sup>1</sup> This statement may be filed after the registration of the charge (use form MR06).

9

**Signature**

Please sign the form here.

Signature

Signature

X

*Fox Williams LLP*

X

This form must be signed by a person with an interest in the charge.

# MR01

## Particulars of a charge



### Presenter information

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

Contact name

Jonathan Segal

Company name

Fox Williams LLP

Address

10 Finsbury Square

Post town

County/Region

London

Postcode

E

C

2

A

1

A

F

Country

DX

Telephone

+44 (0) 20 7614 2591



### Certificate

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



### Checklist

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

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

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



### Important information

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



### How to pay

**A fee of £23 is payable to Companies House in respect of each mortgage or charge filed on paper.**

Make cheques or postal orders payable to 'Companies House.'



### Where to send

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

#### For companies registered in England and Wales:

The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ.  
DX 33050 Cardiff.

#### For companies registered in Scotland:

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

#### For companies registered in Northern Ireland:

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



### Further information

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

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



**FILE COPY**

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

Company number: 8587686

Charge code: 0858 7686 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 23rd April 2018 and created by AFINITI EUROPE TECHNOLOGIES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 5th May 2018.

Given at Companies House, Cardiff on 14th May 2018



**Companies House**



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

Dated 23 April 2018

- (1) **AFINITI EUROPE TECHNOLOGIES LIMITED**
- (2) **STRUCTURAL CAPITAL INVESTMENTS II, LP**  
**STRUCTURAL CAPITAL SPV II LLC**

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**DEBENTURE**

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I certify that this is a true copy of the original,  
save for redactions made pursuant to s859G of  
the Companies Act 2006.

Signed ..... *Fox Williams LLP*

Dated ..... *3 May 2018*

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**THIS DEBENTURE** is dated 23 April 2018

#### **PARTIES**

- (1) **Afiniti Europe Technologies Limited**, a private limited company incorporated under the laws of England and Wales with registered number 08587686 whose registered office is at 3<sup>rd</sup> Floor, 1 Ashley Road, Altrincham, Cheshire WA14 2DT (**Chargor**); and
- (2) **Structural Capital Investments II, LP**, a limited partnership registered in the State of Delaware with an address at 3555 Alameda De Las Pulgas, Suite 208, Menlo Park, CA 94025, USA (**SCII**) and **Structural Capital SPV II LLC**, a limited liability company registered in the State of Delaware with an address at 3555 Alameda De Las Pulgas, Suite 208, Menlo Park, CA 94025, USA (**SCSPVII**) and together with SCII, collectively, **Chargee**.

#### **BACKGROUND**

- (A) The Chargee has agreed to provide debt financing to Satmap Incorporated, a corporation incorporated under the laws of Delaware, having its address at 1700 Pennsylvania Avenue NW, Suite 560, Washington, D.C. 20006, USA (**Borrower**), in the amount of US\$40,000,000.00 (**Loan**).
- (B) The Borrower is the wholly owned subsidiary of the Chargor and, accordingly, the Chargor will obtain substantial direct and indirect benefit from the Loan made by Chargee to Borrower under the Loan and Security Agreement (as defined herein).
- (C) As consideration for the Loan the Chargor grants the Chargee security as against the assets, and upon the terms of this Debenture and the Unconditional Guaranty, as defined below.

#### **AGREED TERMS**

##### **1. DEFINITIONS AND INTERPRETATION**

##### **1.1 Definitions**

*In this Debenture:*

**Administrator:** means an administrator appointed to manage the affairs, business and property of the Borrower pursuant to clause 18.8;

**Book Debts:** means all present and future book and other debts, and monetary claims due or owing to the Chargor, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by the Chargor in relation to any of them;

**Borrower:** has the meaning given in Recital (A);

**Business Day:** a day (excluding Saturdays) on which banks are generally open in London for the transaction of normal banking business;



**Charged Property:** the assets mortgaged, charged or assigned to the Chargee by this Debenture;

**Collection Accounts:** the bank accounts of the Chargor set out in Schedule 4;

**Dangerous Substance:** any radioactive emissions and any natural or artificial substance (whether in solid or liquid form or in the form of a gas or vapour and whether alone or in combination with any other substance) capable of causing harm to man or any other living organism or damaging the environment or public health or welfare, including any controlled, special, hazardous, toxic, radioactive or dangerous waste;

**Declared Default:** an Event of Default which has resulted in the Chargee exercising any of its rights under clause 7.2 of the Loan and Security Agreement;

**Default Rate:** the rate at which default interest is payable under clause 7.2 of the Loan and Security Agreement;

**Developed Software:** any software developed by or on behalf of the Chargor;

**Environmental Law:** any law, regulation, code of practice, circular, guidance notice or the like (in the United Kingdom) concerning the protection of human health or the environment or the conditions of the work place or the generation, transportation, storage, treatment or disposal of Dangerous Substances;

**Environmental Licence:** any permit, licence, authorisations, consent or other approval required by any Environmental Law;

**Equipment:** shall have the same meaning as applied to such term in the Loan and Security Agreement;

**Event of Default:** an event of default set-out in clause 7.1 of the Loan and Security Agreement (or any analogous event under applicable law);

**[Finance Documents:** This Debenture, the Loan and Security Agreement, Warrant, Subordination Agreement, Intellectual Property Security Agreement, Unconditional Guaranty, Debenture, Assignment Separate From Certificate, Control Agreements, Bailee Waivers, Landlord Consent and any other document designated a finance document by the Chargee each as may be amended from time to time;]

**Floating Charge Asset:** an asset charged under clause 3.3;

**Indebtedness:** all money or liabilities due, owing or incurred to the Chargee by the Borrower under the Finance Documents at present or in the future, in any manner whether actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all interest accruing thereon and including, all liabilities in connection

with any notes, bills or other instruments accepted by the Chargee for or at the request of the Chargor;

**Insurances:** all policies of insurance and all proceeds of them either now or in the future held by, or written in favour of, the Chargor or in which it is otherwise interested, but excluding any third party liability or public liability insurance and any directors and officers insurance;

**Intellectual Property:** "Intellectual Property" means, without limitation:

- (i) all patents (including applications, divisions, extensions and rights to apply for them in any part of the world) copyrights, design rights, (whether registered or unregistered), trade marks and service marks (whether registered or unregistered), utility models, rights in trade and business names, domain names, knowhow, formulae, confidential information, trade secrets, rights in computer software programs and systems and any similar rights existing in any country (including the benefit of any licences or consents relating to any of the above); and
- (ii) all Related Rights;

**Intellectual Property Rights:** all (a) copyrights, copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative work thereof, whether published or unpublished, (b) trade secret rights, including all rights to unpatented inventions and know-how, and confidential information; (c) mask work or similar rights available for the protection of semiconductor chips; (d) patents, patent applications and like protections including without limitation improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same; (e) trademarks, servicemarks, trade styles, and trade names, whether or not any of the foregoing are registered, and all applications to register and registrations of the same and like protections, and the entire goodwill of the business of Borrower connected with and symbolized by any such trademarks; (f) computer software and computer software products; (g) designs and design rights; (h) technology; (i) all claims for damages by way of past, present and future infringement of any of the rights included above; and (j) all licenses or other rights to use any property or rights of a type described above including, but not limited to, the intellectual property specified in Schedule 1.

**Investment:** any stock, share, debenture, loan stock, security, interest in any investment fund and any other comparable investment (whether or not marketable) whether owned directly by or to the order of the Chargor or by any trustee, fiduciary or clearance system on its behalf (including, unless the context otherwise requires, the Subsidiary Shares);

**Loan and Security Agreement:** the loan and security agreement dated 19 March 2018 under which the Chargee has made available a facility in the amount of USD\$40,000,000 to the Borrower;

**LPA 1925:** the Law of Property Act 1925;

**Other Debts:** all debts and monetary claims of the Chargor (other than Book Debts);

**Patents:** the registered patents, patent applications and licences briefly described in Schedule 1;

**Premises:** all freehold and leasehold property from time to time owned by the Chargor or in which the Chargor is otherwise interested;

**Receiver:** has the meaning given to it in clause 19 and shall include any substituted receiver(s) and manager(s);

**Related Rights:** means, in relation to any Charged Property including but not limited to Intellectual Property Rights,

- (i) the proceeds of sale of any part of that Charged Property;
- (ii) all rights under any licence, agreement for sale or agreement for lease in respect of that Charged Property;
- (iii) all rights, benefits, claims, contracts, warranties, remedies, security, indemnities or covenants for title in respect of that Charged Property; and
- (iv) any income, royalties, moneys and proceeds paid or payable in respect of that Charged Property or the use of that Charged Property;

**Security Interest:** any mortgage, pledge, lien, charge, assignment, hypothecation or security interest or any other agreement or arrangement having the effect of conferring security;

**Security Period:** the period starting on the date of this Debenture and ending on the date on which all Indebtedness has been unconditionally and irrevocably paid;

**Subsidiary Shares:** the shares owned by the Chargor in the Subsidiaries specified in Schedule 2; and

**Unconditional Guaranty:** the unconditional guaranty dated 19 March 2018 and made between the Chargor and the Chargee in connection with the Loan and Security Agreement.

## 1.2 Interpretation

In this Debenture, unless a contrary intention appears, a reference to:

- (a) an **agreement** includes any legally binding arrangement, concession, contract, deed or franchise (in each case whether oral or written);

- (b) **an amendment** includes any amendment, supplement, variation, novation, modification, replacement or restatement and **amend, amending** and **amended** shall be construed accordingly;
- (c) **assets** includes property, business, undertaking and rights of every kind, present, future and contingent (including uncalled share capital) and every kind of interest in an asset;
- (d) **consent** includes an authorisation, approval, exemption, licence, order, permission or waiver;
- (e) **Debenture** or any other agreement or document includes a reference to this Debenture or such other agreement or document as the same may from time to time be amended, varied, replaced, supplemented, substituted, novated or assigned;
- (f) **including** means including without limitation and **includes** and **included** shall be construed accordingly;
- (g) **losses** includes losses, actions, damages, claims, proceedings, costs, demands, expenses (including fees) and liabilities and **loss** shall be construed accordingly;
- (h) a **month** means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:
  - (i) if any such period would otherwise end on a day which is not a Business Day, it shall end on the next Business Day in the same calendar month or, if none, on the preceding Business Day; and
  - (ii) if a period starts on the last Business Day in a calendar month, or if there is no numerically corresponding day in the month in which that period ends, that period shall end on the last Business Day in that later month,
  - (iii) and references to **months** shall be construed accordingly;
  - (iv) a **person** includes any person, individual, firm, company, corporation, government, state or agency of a state or any undertaking or other association (whether or not having separate legal personality) or any two or more of the foregoing;
  - (v) unless the context otherwise requires or unless otherwise defined in this Debenture, words and expressions defined in the Loan and Security Agreement have the same meanings when used in this Debenture;
  - (vi) the terms of the documents under which the Indebtedness arises and of any side letters between the Chargor and the Chargee relating to the Indebtedness

are incorporated in this Debenture to the extent required for any purported disposition of the Charged Property contained in this Debenture to be a valid disposition;

(vii) the parties intend that this document shall take effect as a Debenture.

### **1.3 Other References:**

- (a) a reference to any person is, where relevant, deemed to be a reference to or to include, as appropriate, that person's successors and permitted assignees or transferees;
- (b) words importing any gender shall include any other gender and words importing the singular number only shall include the plural number and vice versa and words importing persons and all references to persons shall include corporations and firms;
- (c) references to clauses and schedules are references to, respectively, clauses of and schedules to this Debenture and references to this Debenture include its schedules;
- (d) a reference to (or to any specified provision of) any agreement or document is to be construed as a reference to that agreement or document (or that provision) as it may be amended from time to time, but excluding for this purpose any amendment which is contrary to any provision of this Debenture or the Loan and Security Agreement;
- (e) a reference to a statute, statutory instrument or accounting standard or any provision thereof is to be construed as a reference to that statute, statutory instrument or accounting standard or such provision thereof, as it may be amended or re-enacted from time to time; and
- (f) the index to and the headings in this Debenture are inserted for convenience only and are to be ignored in construing this Debenture.

### **1.4 Law of Property (Miscellaneous Provisions) Act 1989**

For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Loan and Security Agreement and of any side letters between any parties in relation to the Loan and Security Agreement are incorporated into this Debenture.

### **1.5 Perpetuity period**

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

### **1.6 Agreement Among the Finance Documents:**

- (a) Wherever possible, this Debenture will be interpreted to be consistent with, and not more restrictive on the Chargor than, the other Finance Documents.
- (b) To the extent that any provision of this Debenture is deemed to be inconsistent with the any provision or provisions of the Loan and Security Agreement or Unconditional Guaranty, the Loan and Security Agreement or Unconditional Guaranty shall be controlling for all purposes and in any forum.

## **2. COVENANT TO PAY**

The Chargor as principal obligor hereby covenants with the Chargee that it will on demand pay the Indebtedness when it falls due for payment.

## **3. CHARGING CLAUSE**

### **3.1 Fixed Charges**

The Chargor, as continuing security for the payment of the Indebtedness, charges in favour of the Chargee as beneficial owner the following assets, both present and future, from time to time owned by it or in which it has an interest:

- (a) by way of first fixed charge:
  - (i) all interests in any freehold or leasehold property, the buildings and fixtures (including trade fixtures) on that property, all proceeds of sale derived therefrom and the benefit of all warranties and covenants given in respect thereof and all licences to enter upon or use land and the benefit of all other agreements relating to land;
  - (ii) all the Subsidiary Shares and Investments therein and all corresponding rights to distributions thereunder;
  - (iii) all plant, machinery, vehicles, computers and office and other equipment, its interest in any plant and machinery in its possession and the benefit of all contracts, licences and warranties relating thereto;
  - (iv) all sums now or at any time and owing to it by way of grant, subsidy, compensation or referred by any statutory, legal or governmental body, authority or institution or by any body, authority or institution of the Government of the United Kingdom;
  - (v) the Intellectual Property Rights of the Chargor and all Related Rights including:
    - (A) any present or future right of the Chargor to sue for damages or any other remedy in respect of any past, present or future infringement or

alleged infringement by any person whatsoever of any present or future Intellectual Property; and

- (B) any present or future right of the Chargor to apply for, prosecute and obtain patent, trade mark, registered design or any other registration or protection throughout the world in respect of any present or future Intellectual Property or any present or future matter relating thereto;
- (vi) the rights (including, without limitation, rights relating to the receipt of royalties, fees or other monies from time to time vested in the Chargor with respect to, and the benefit of all obligations owed from time to time by any person in relation to, any present or future agreement, document or instrument (including, without limitation, any licence, sub-licence or franchise) entered into or the benefit of which is enjoyed by the Chargor relating to the use of or licensing of or exploitation of any present or future Intellectual Property by the Chargor or any other person whatsoever;
- (vii) any present or future physical, electronic or other materials or media (including, without limitation, manuscripts, drawings, paintings, designs, source codes, computer disks and computer programmes) constituting, comprising, the subject of or containing inventions, works, marks or things which are the subject of any present or future Intellectual Property of the Chargor;
- (viii) the benefit of all consents and agreements held by it in connection with the use of any of its assets;
- (ix) all uncalled capital and present and future goodwill; and
- (x) all of its beneficial interest, claim or entitlement in any pension fund;

it being understood that nothing in the foregoing shall limit Borrower's ability to IPO, as provided for in the Loan and Security Agreement and Unconditional Guaranty.

### 3.2 Miscellaneous

A reference in this Debenture to a charge or mortgage of any freehold or leasehold property includes:

- (a) both present and future and all buildings and fixtures (including trade fixtures) on that property;
- (b) the proceeds of sale of that property; and
- (c) the benefit of any covenants in respect of that property whether implied by law or given or entered into by any predecessor in title of the Chargor, and any moneys payable in respect of those covenants.

### **3.3 Floating Charge**

As further security for the payment of the Indebtedness, the Chargor charges in favour of the Chargee by way of first floating charge all its present and future undertaking, property, assets and rights not effectively mortgaged or charged pursuant to clause 3.1.

### **3.4 Qualifying Floating Charge**

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 3.3.

### **3.5 Conversion of Floating Charge**

If:

- (a) a Declared Default has occurred and it has not been remedied according to Section 14 below;
- (b) upon the occurrence of any circumstance entitling the Chargee to appoint a receiver, notwithstanding that it may elect not to do so; or
- (c) the Chargee is reasonably of the view that any legal process or execution is being enforced against any Floating Charge Asset or that any Floating Charge Asset is in danger of being seized or otherwise in jeopardy,

the Chargee may, by notice to the Chargor, convert the floating charge created under this Debenture into a fixed charge as regards those assets which it specifies in the notice. The Chargor shall promptly following request by the Chargee execute a fixed charge or legal assignment over those assets in the form which the Chargee requires, but on terms no more onerous to the Chargor than this Debenture.

### **3.6 Automatic Crystallisation of Floating Charges**

Notwithstanding any provision to the contrary contained in this Debenture, the floating charge shall in addition to the circumstances in which the same will occur under the general law) automatically be converted into a fixed charge:

- (a) upon the Chargee issuing a lawful demand for payment or discharge of the Indebtedness addressed to the Chargor; or
- (b) if the Chargor creates (or purports to create) any Security Interest (except as permitted by the Loan and Security Agreement or with the prior consent of the Chargee) on or over any Floating Charge Asset without the prior consent in writing of the Chargee, or if any third party levies or attempts to levy any distress, attachment, execution or other legal process against any Floating Charge Asset, the floating charge created under this Debenture will automatically (without notice) and immediately be converted into a fixed charge over the relevant Floating Charge Asset.



### 3.7 Leases Restricting Charging

- (a) There shall be excluded from the charge created by clause 3.1 and from the operation of clause 5 any leasehold property held by the Chargor under a lease which either precludes absolutely or conditionally (including requiring the consent of any third party) the Chargor from creating any charge over its leasehold interest in that property (each an **Excluded Property**) until the relevant condition or waiver has been satisfied or obtained.
- (b) For each Excluded Property, the Chargor undertakes to apply for the relevant consent or waiver of prohibition or condition within fourteen Business 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 Chargee informed of the progress of its negotiations.
- (c) Forthwith upon receipt of the relevant waiver or consent, the relevant formerly Excluded Property shall stand charged to the Chargee under clause 3.1. If required by the Chargee at any time following receipt of that waiver or consent, the Chargor will forthwith execute a valid legal mortgage in such form as the Chargee shall reasonably require.

### 3.8 Intellectual Property Rights Restricting Charging

- (a) There shall be excluded from the charge created by clause 3.1 and from the operation of clause 5 any Intellectual Property Right in which the Chargor has an interest under any licence or other agreement which either precludes absolutely or conditionally (including requiring the consent of any third party) the Chargor from creating any charge over its interest in that Intellectual Property (each an **Excluded Intellectual Property Right**) until the relevant condition or waiver has been satisfied or obtained.
- (b) For each Excluded Intellectual Property Right, the Chargor undertakes to apply for the relevant consent or waiver of prohibition or condition within fourteen Business Days of the date of this Debenture and, in respect of any licence or agreement which provides that the relevant third party will not unreasonably withhold its consent to charging (for this purpose a **Relevant Intellectual Property Right**), to use its best endeavours to obtain such consent as soon as possible and to keep the Chargee informed of the progress of its negotiations.
- (c) Forthwith upon receipt of the relevant waiver or consent, the relevant formerly Excluded Intellectual Property Right shall stand charged to the Chargee under clause 3.1). If required by the Chargee, at any time following receipt of that waiver or consent the Chargor will forthwith execute a valid fixed charge or legal assignment in such form as the Chargee shall reasonably require.

**4. CONTINUING SECURITY AND LIABILITY OF CHARGE**

- 4.1 This security shall be a continuing security notwithstanding any intermediate payment or settlement of all or any part of the Indebtedness or any other matter or thing whatsoever until the end of the Security Period.
- 4.2 This security is in addition to and shall neither be merged or otherwise exclude or prejudice or be affected by any other security or other right or remedy which the Chargee may now or after the date of this Debenture hold for any of the Indebtedness, and this security may be enforced against the Chargor without first having recourse to any other rights of the Chargee.
- 4.3 The Borrower's liability under this Debenture in respect of any of the Indebtedness shall not be discharged, prejudiced or affected by:
- (a) any security, guarantee, indemnity, remedy or other right held by, or available to, the Lender that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
  - (b) the Lender renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or
  - (c) any other act or omission that, but for this clause 4.3, might have discharged, or otherwise prejudiced or affected, the liability of the Borrower.
- 4.4 The Chargor waives any right it may have to require the Chargee to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this Debenture against the Chargor.

**5. FURTHER ASSURANCE**

- 5.1 The Chargor shall at any time, at its own expense, if and when required by the Chargee execute such further legal or other mortgages, fixed or floating charges or assignments in favour of the Chargee as the Chargee shall from time to time reasonably require:
- (a) to perfect and/or protect the security created (or intended to be created) by this Debenture;
  - (b) to facilitate the realisation or enforcement of such security;
  - (c) to facilitate the exercise of any of the Chargee's rights, powers or discretions under this Debenture; and/or

- (d) to confer on the Chargee security over any assets of the Chargor (in whatever jurisdiction, situated) equivalent to the security Intended to be conferred by this Debenture,

including the conversion of charges to assignments, equitable security to legal security, the execution of any transfer, conveyance, assignment or assurance whatsoever and the giving of all notices, orders, instructions and directions whatsoever.

- 5.2 The Chargor shall at any time if and when required by the Chargee and at the cost and expense of the Chargor execute such deeds and documents and take any action as the Chargee may reasonably require to perfect the security created (or Intended to be created) by this Debenture or to facilitate the realisation of it or otherwise (after this Debenture has become enforceable) to enforce the same or exercise any rights of the Chargee under this Debenture. In addition the Chargor shall execute such further charges and mortgages in favour of the Chargee as the Chargee shall from time to time reasonably require over all or any of the Charged Property to secure the Indebtedness, including but not limited to a legal mortgage over the Patents (or any of them). Such further charges and mortgages shall be in a form required by the Chargee (but containing terms and conditions, where directly comparable, no more onerous than those in this Debenture).
- 5.3 Any security document required to be executed by the Chargor under this clause 5 will contain clauses corresponding to and no more onerous than the provisions set out in this Debenture.

## **6. GENERAL COVENANTS**

### **6.1 Negative Pledge and Disposal Restrictions**

The Chargor will not:

- (a) contravene any of the covenants set out in Section 3 of the Unconditional Guaranty which shall be as applicable against and effective to the Chargor as if set out here, verbatim;
- (b) redeem, retire, purchase, or otherwise acquire, directly or indirectly, any of Chargor's shares, stock or any equity interest in the Chargor, except that Chargor may repurchase securities held by employees, directors, and officers in the ordinary course of business, from time to time;
- (c) reincorporate or relocate into another jurisdiction unless the Chargor (a) provides thirty (30) days prior written notice to the Chargee and (b) receives the Chargee's prior written consent,

except as permitted by the Loan and Security Agreement or the Unconditional Guaranty or with the prior consent of the Chargee, which consent shall not be unreasonably withheld, and

it being understood that nothing in the foregoing will prevent the Chargor from creating additional subsidiaries.

**6.2 Actions, Claims and Demands**

The Chargor shall keep the Chargee and (as a separate covenant) any Receiver indemnified against any actions, claims or demands made in connection with all or any part of the Charged Property and notify the Chargee immediately in writing of any such action, claim or demand together with the Chargor's proposals for settling, liquidating, compounding or contesting the same and implement them at the Chargor's expense.

**6.3 Payment of Unpaid Shares**

In so far as any of the Subsidiary Shares are unpaid, the Chargor covenants that those shares shall be fully paid within 5 business days of the execution of this Debenture.

**7. PROPERTY COVENANTS**

**7.1** At the date of this Debenture, except as agreed in writing by the Chargee, the Chargor covenants with the Chargee that:

- (a) there are no proceedings, actions or circumstances relating to any of that property, including breaches of law or regulation, which materially and adversely affect that property's value or its ability to use that property for the purposes for which it is currently used;
- (b) there are no covenants, agreements, stipulations, reservations, conditions, interest, rights or other matters whatsoever which materially and adversely affect any of the Premises;
- (c) *no facility necessary for the enjoyment and use of any of the Premises is enjoyed on terms entitling any person to terminate or curtail its use;*
- (d) the Chargor has not received notice of any adverse claim by any person in respect of the ownership of the property or any Interest in it, nor has any acknowledgement been given to any person in respect of any of the Premises; and
- (e) nothing has arisen, has been created or is subsisting, that would be an overriding interest in any of the Premises.

**7.2** The Chargor further covenants and undertakes that except as agreed in writing by the Chargee, the Chargor, at all times during the Security Period, shall:

- (a) *permit the Chargee and any person nominated by the Chargee to enter into and upon any Premise at all reasonable times during business hours and on not less than 24 hours' notice to view the state and condition of the Premises and will remedy any*

material defect or want of repair forthwith after service by the Chargee of notice of the defect or want of repair;

- (b) procure that no person, other than the Chargor and the Chargee is registered as proprietor of or otherwise entitled to any right or interest in respect of the Premises or any part thereof;
- (c) *observe and perform the covenants, stipulations, conditions and provisions of any lease derived out of the Chargor's interest in the Premises or any part of the Premises and use its best endeavours to procure the payment of the rents reserved by, and the due observance and performance of the covenants, stipulations, conditions and provisions of, any such lease by the tenant and notify the Chargee of any actions, claims or other matters arising in respect of any such lease which is likely to adversely affect the value of the Chargor's interest in the same;*
- (d) give immediate notice to the Chargee if the Chargor receives any notice of the intention to forfeit any lease of the Premises or any proceedings are commenced against it for the forfeiture of any lease comprised in any Premises;
- (e) enforce and not waive or release any covenants, conditions, agreements and obligations benefiting the Premises or any part thereof if failure to enforce or any such waiver or release is likely to adversely affect the value thereof;
- (f) *not grant any lease, tenancy, contractual licence or right to occupy in respect of the whole or any part of the Premises or otherwise part with possession of the whole or any part of the Premises (except as permitted by the Loan and Security Agreement or with the prior written consent of the Chargee); and*
- (g) not enter into any unusually onerous or restrictive obligations affecting the Property or any part thereof without the Chargee's prior written consent.

### 7.3 Notices

The Chargor covenants to give full particulars, as soon as practicable after receipt thereof, to the Chargee of any notice, order or valuation or any direction or designation or resolution given, issued or made by any governmental, local planning or other competent authority, which in any way diminishes or which is likely to with the passage of time, diminish the value of the whole or any substantial part of the Premises and at the cost of the Chargor take all such steps to comply with such notice, order, valuation, proposal, direction, designation or resolution as the Chargee may reasonably require and make or concur with the Chargee in making any objections or representations against or in respect of any such notice, order, valuation, proposal, direction designation or resolution or any appeal against or in respect of any of the same as the Chargee may deem expedient but, subject thereto, take without delay all necessary steps to comply with the same.

#### **7.4 Acquisitions**

The Chargor hereby further covenants to notify the Chargee in writing immediately upon the acquisition or purchase by the Chargor of any freehold or leasehold property, if permitted by the Loan and Security Agreement, and at its own expense, at the request of the Chargee, to execute and deliver a legal mortgage in favour of the Chargee of any such freehold or leasehold property, in such form as the Chargee may require, on terms no more onerous than those contained in this Debenture but otherwise to secure the payment or discharge of the Indebtedness. In the case of any leasehold property in relation to which the consent of the landlord in whom the reversion is vested is required in order for the Chargor to perform its obligations under this clause 7.4, the Chargor shall not be required to perform such obligations unless and until it has obtained the landlord's consent (which it shall use all reasonable endeavours so to do).

#### **8. EQUIPMENT COVENANTS**

##### **8.1 The Chargor shall:**

- (a) maintain the Equipment in good and serviceable condition (except for expected fair wear and tear) in compliance with all relevant manuals, handbooks, manufacturer's instructions and recommendations and maintenance or servicing schedules;
- (b) at its own expense, renew and replace any parts of the Equipment when they become obsolete, worn out or damaged with parts of a similar quality and of equal or greater value; and
- (c) not permit any Equipment to be:
  - (i) used or handled other than by properly qualified and trained persons; or
  - (ii) overloaded or used for any purpose for which it is not designed or reasonably suitable.

*The Chargor shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Equipment and, on demand, produce evidence of such payment to the Chargee.*

##### **8.2 The Chargor:**

- (a) shall, if so requested by the Chargee, affix to and maintain on each item of Equipment in a conspicuous place, a clearly legible identification plate containing the following wording:

**\*NOTICE OF CHARGE**

This and all additions to it and ancillary equipment are subject to a fixed charge dated in favour of ."

- (b) shall not, and shall not permit any person to, conceal, obscure, alter or remove any plate affixed in accordance with clause 8.2(a).

## **9. REPRESENTATIONS AND WARRANTIES**

9.1 The representations and warranties set out in clause 9.2 to clause 9.5 are made by the Chargor on the date of this Debenture.

### **9.2 Subsidiary Shares**

- (a) The Chargor is the legal and beneficial owner of the Subsidiary Shares, listed in Schedule 2; and
- (b) All of those Subsidiary Shares are fully paid except as set forth in Schedule 2.

### **9.3 Environmental Matters**

- (a) The Chargor has, at all times, complied in all material respects with all applicable Environmental Law.
- (b) The Chargor has obtained all requisite Environmental Licences applicable to it and has at all times complied in all material respects with the terms of those Environmental Licences.
- (c) The Chargor is not aware of any Dangerous Substance having been used, disposed of, generated, stored, transported, dumped, deposited, buried or emitted at, on, from or under the Premises (whether or not owned, leased, occupied or controlled by the Chargor) in circumstances where this results in a liability of the Chargor.

### **9.4 Intellectual Property**

- (a) the Chargor is the legal and beneficial owner of each of the Intellectual Property Rights;
- (b) the Chargor has not given any licence or permission to any third party to use or exploit any of the Intellectual Property Rights (other than in the ordinary course of its business);
- (c) the Chargor is unaware of any use or exploitation (other than in the ordinary course of its business) by any third party of any of the Intellectual Property Rights which would be materially prejudicial to the value of the Intellectual Property Rights;
- (d) all registration, renewal and other fees due in respect of the registration of all Intellectual Property;

- (e) the Chargor is unaware of any infringement by any third party of any of the *Intellectual Property Rights which would be materially prejudicial to the value of the Intellectual Property Rights*;
- (f) the Chargor is unaware of any circumstances which may result in the use of any of the *Intellectual Property Rights being liable to mislead the public*;
- (g) no claim has been made or threatened against the Chargor that any of the *Intellectual Property Rights infringes the rights of any third party which has a reasonable prospect of success and if successful would be materially prejudicial to the value of the Intellectual Property Rights*; and
- (h) to the best of the Chargor's knowledge and belief, no part of the *Intellectual Property Rights existing at the date hereof infringes the rights of any third party and the Chargor is not aware of any reason why any part of the Intellectual Property Rights existing at the date hereof may not be valid and enforceable*.

#### **9.5 Priority of Security Interests**

Subject to the due registration of this Debenture, the security conferred by this Debenture constitutes a first priority Security Interest over the Charged Property and the Charged Property is not subject to any prior or *pari passu* Security Interest.

#### **9.6 Capacity, Authority and Legality**

- (a) Except as disclosed in Section 9.2(a), the Chargor is the sole and absolute legal and beneficial owner of all of the Charged Property. All of the Charged Property is free from any Security Interest (other than those created by this Debenture) and any options or rights of pre-emption.
- (b) *The Chargor has full power and authority to:*
  - (i) be the legal and beneficial owner of the Charged Property;
  - (ii) execute and deliver this Debenture; and
  - (iii) comply with the provisions of, and perform all its obligations under, this Debenture.
- (c) This Debenture constitutes the Chargor's legal, valid and binding obligations enforceable against the Chargor in accordance with its terms except as such enforcement may be limited by any relevant bankruptcy, insolvency, administration or *similar laws affecting creditors' rights generally*.
- (d) The entry into and performance by the Chargor of this Debenture does not violate:



- (i) any law or regulation of any governmental or official authority to the best of its knowledge and belief, or
- (ii) any agreement, contract or other undertaking to which the Chargor is a party or which is binding upon the Chargor or any of its assets.
- (e) All consents, licences, approvals and authorisations required in connection with the entry into, performance, validity and enforceability of this Debenture have been obtained and are in full force and effect.
- (f) The Chargor has taken all corporate and other action required to approve its execution, delivery and performance of this Debenture.

## **10. DURATION OF UNDERTAKINGS**

### **10.1 Duration of Undertakings**

The Chargor undertakes to the Chargee in the terms of this clause 10 from the date of this Debenture and for so long as any security constituted by this Debenture remains in force.

### **10.2 General Undertakings**

#### **(a) Charged Property**

It will observe and perform in all material respects all covenants and stipulations from time to time affecting the Charged Property, make all payments, carry out all registrations or renewals and generally take all steps which are necessary to preserve, maintain and renew when necessary or desirable all the Charged Property, provided that nothing in this provision shall be construed as requiring Chargor to register any Intellectual Property Rights which is to be determined in the Chargor's reasonable discretion and pursuant to its prior business practices.

#### **(b) Maintenance**

It will keep all Premises, plant, machinery, fixtures, fittings, vehicles, computers and other equipment comprised in the Charged Property in good and substantial repair (fair wear and tear excepted) and in good working order (as applicable).

#### **(c) Environmental Matters**

It will:

- (i) comply in all material respects with:
  - (A) the terms and conditions of all Environmental Licences applicable to it; and
  - (B) all other applicable Environmental Law; and

(ii) promptly upon receipt of the same, notify the Chargee of any claim, notice or other communication served on it in respect of:

(A) any liability on it to clean up any contamination; or

(B) any alleged breach of any Environmental Law,

which might, if (in the case of (ii) above) substantiated, have a material adverse effect on the Chargor, its assets or its ability to pay or discharge the Indebtedness.

#### 10.3 Collection of Book Debts and Other Debts

(a) The Chargor will, upon the *Conversion of the Floating Charge*, as set out in clause 3.4:

(i) as agent for the Chargee, collect all Book Debts and Other Debts charged to the Chargee under this Debenture, pay the proceeds into the Collection Account forthwith) or, in the case of Other Debts, such account (a **Nominated Account**) as the Chargee may nominate) forthwith on receipt and, pending that payment, hold those proceeds on trust for the Chargee;

(ii) not sell, charge, factor, discount, assign or otherwise any of the Book Debts or Other Debts in favour of any other person, or purport to do so unless permitted by the Loan and Security Agreement or with the prior consent of the Chargee nor (other than in the ordinary course of trading) release, exchange, compound, set off or grant time or indulgence in respect of the same, in favour of any other person or purport to do so;

(iii) if called upon to do so by the Chargee, execute in favour of the Chargee or as the Chargee may direct, legal assignments of the whole or any part of the Book Debts and Other Debts in such form as the Chargee may require and take such other steps as the Chargee may require to perfect any such assignment including, without limitation, giving notice of this Debenture and/or any such assignment to the person(s) from whom such Book Debts and Other Debts are due, owing or incurred;

(iv) where a Collection Account or Nominated Account is not maintained with the Chargee, use reasonable endeavours to procure that the bank with whom the Collection Account or Nominated Account is maintained promptly signs and delivers to the Chargee a letter substantially in the form set out in Schedule 5; and

(v) if called upon to do so by the Chargee, pay the proceeds of the Book Debts and Other Debts (or such part or category thereof as the Chargee may require) into an account as designated by the Chargee and, pending such payment, hold all such proceeds on trust for the Chargee.

- (b) The Chargor will not, upon the *Conversion of the Floating Charge*, as set out in clause 3.4, withdraw all or any monies from time to time standing to the credit of any Collection Account or Nominated Account except with the prior consent of the Chargee.

#### 10.4 Title Documents

The Chargor will promptly deposit with the Chargee to hold and retain the following (such deposit being made to the extent that the same or the assets to which they relate shall stand charged upon the terms of the Debenture) (or as it shall direct):

- (a) all deeds and documents of title relating to all Premises from time to time;
- (b) all certificates or other evidence of registration of the Intellectual Property Rights and physical, electronic or other materials or media in its possession or control or to which it has access (including, without limitation, manuscripts, drawings, paintings, designs, source codes, computer disks and computer programmes) constituting, comprising, evidencing, the subject of or containing inventions, works, marks or things which are the subject of any present or future Intellectual Property in or to which the Chargor has any interest of any kind whatsoever;
- (c) all such other documents relating to the Intellectual Property Rights as the Chargee may from time to time reasonably require;
- (d) all stock and share certificates and other documents of title relating to the Subsidiary Shares/ Investments, where the shares are held in certificated form or where a stock or share certificate is capable of being provided, together with stock transfer forms duly executed in blank and left undated on the basis that the Chargee shall be able to hold such documents of title and stock transfer forms until the Indebtedness has been irrevocably and indefeasibly paid in cash and shall be entitled, at any time, following the *Conversion of the Floating Charge*, as set out in clause 3.4, under its power of attorney given by clause 17 below, the stock transfer forms on behalf of the Chargor in favour of itself or such other person as it shall select;
- (e) all policies of insurance from time to time effected by or on behalf of the Chargor in respect of the Charged Property; and
- (f) following a Declared Default, all other debentures and documents relating to the Charged Property which the Chargee from time to time reasonably requires;

and the Chargor shall hold on trust for the Chargee all such debentures and documents not for the time being so deposited.

#### 10.5 Voting and Distribution Rights

- (a) Until a Declared Default occurs:

- (i) the Chargor shall be entitled to receive and retain all dividends, distributions and other monies paid on or derived from the Subsidiary Shares; and
- (ii) the Chargor shall be entitled to exercise all voting and other rights and powers attaching to the Subsidiary Shares provided that it shall not exercise any such voting rights or powers in a manner prejudicial to the interests of the Secured Parties under this Debenture.

#### 11. INTELLECTUAL PROPERTY

11.1 The Chargor covenants with the Chargee that at all times during the Security Period it shall:

- (a) immediately after becoming aware thereof, inform the Chargee of:
  - (i) any infringement of any part of the Intellectual Property Rights by any person whatsoever;
  - (ii) any breach by any party other than the Chargor of any of the terms and conditions of any present or future agreement, document or instrument; or
  - (iii) any full or part cancellation or proceedings (including, without limitation, any proceedings relating to the invalidity of all or any part of the Intellectual Property Rights or any proceedings relating to the infringement of any part of the Intellectual Property Rights or the rights of any person whatsoever) the result of which might be to restrict the interests of whatsoever kind in or to or the protection afforded by or the use or value of any part of the Intellectual Property Rights,
  - (iv) any claim received by the Chargor that the use of the Intellectual Property Rights by the Chargor or its duly authorised licensees infringes the rights of any third party or challenging any entitlement of the Chargor to any Related Rights.

and shall, at the expense of the Chargor, take such steps that are commercially justifiable in terms of cost/benefit analysis and as may be reasonably necessary from time to time to pursue any such infringement or, as the case may be, enforce the Chargor's rights in respect of any such breach or, as the case may be, defend any such cancellation or other proceedings;
- (b) duly register in the name of the Chargor:
  - (i) all Intellectual Property in the Developed Software;
  - (ii) all copyrights, licences, patents, trademarks, designs, business names, domain names, computer programmes and all other rights required in connection with its business,

provided that it is commercially justifiable in regards to a cost/benefit analysis or if requested in writing by the Chargee (acting reasonably) (and pay all fees and costs in connection therewith) in such register(s) and with such authorities as may be available for the purpose (in any part of the United Kingdom or elsewhere);

- (c) at the expense of the Chargor, promptly give all reasonable assistance to the Chargee in registering this deed (and any further security of the Chargee) in such register(s) and with such authorities as may be available for the purpose (in any part of the United Kingdom or elsewhere) in relation to the registrations of those Intellectual Property Rights which are registered now or in the future;
- (d) use its reasonable endeavours to maintain the subsistence, value and validity of the Intellectual Property Rights;
- (e) maintain the confidentiality of any trade secret, confidential information or know-how in or to which the Chargor has any present or future interest of whatsoever kind and shall not disclose any such trade secret, confidential information or know-how to any person whatsoever without the prior written consent of the Chargee or in the normal course of business;
- (f) keep the Chargee fully informed about the development of any new inventions, discoveries, processes or products and the creation or acquisition by the Chargor of any Intellectual Property; and
- (g) ensure that any present or future Intellectual Property resulting from any work conducted by or on behalf of the Chargor (including, without limitation, by any director, employee, officer, agent, consultant or contractor) is owned by the Chargor.

11.2 The Chargor undertakes with the Chargee that it shall not without the prior written consent of the Chargee without prejudice to the obligations in Clause 11.1(a) above, use or allow to be used, or fail to use or permit any licensee to use, or allow to be used or fail to use, any of the Intellectual Property Rights in any way as might put any of the Intellectual Property Rights at risk of becoming generic, disreputable, incapable of protection, invalid or liable to cancellation, lapse or challenge or in any other way less valuable in any material respect.

11.3 The Chargor undertakes with the Chargee that it shall not breach any of the material terms and conditions of any present or future agreement, document or instrument relating to the Intellectual Property Rights and that, without prejudice to the rights of the Chargee under this Debenture, in the event of any such breach, it shall take such steps as may be reasonably necessary and commercially justifiable in terms of cost/benefit analysis to remedy such breach and shall keep the Chargee fully informed as to the steps which have been taken and the result or effect thereof.

11.4 The Chargor authorises the Chargee or any other person as may be nominated in writing by any manager or other official of the Chargee to apply to the Comptroller General of Patents, Designs and Trade Marks for a memorandum of this Debenture and the restrictions contained herein to be entered (in such form or forms as the Chargee shall require) on the appropriate registers relating to the registrations of the Intellectual Property Rights which are registered now or in the future.

11.5 If the Chargor should fail to pay any fees and costs referred to in Clause 11.1(b), the Chargee may pay such fees and costs (but shall be under no obligation to pay such fees and costs). The monies expended by the Chargee in paying any such fees and costs shall be reimbursed by the Chargor to the Chargee within 5 business days.

## 12. **INSURANCE**

12.1 The Chargor covenants with the Chargee that, to the extent that it acquires any assets that are usually insured by prudent companies carrying on businesses similar to that conducted by the Chargor, at all times during the Security Period, it shall at its own expense:

- (a) insure and keep insured the Premises and all buildings and other erections, fixtures and other plant and machinery forming part of the Charged Property, with insurers previously approved in writing by the Chargee, against loss or damage by fire, flood, storm, tempest, lightning, explosion, impact, aircraft and articles dropped therefrom, bursting and/or overflowing tanks or pipes, oil leakage, subsidence, land slip and heave, riot, civil commotion, malicious damage and such other risks, perils and contingencies as the Chargee may from time to time request, in an amount of not less than their full re-instatement value for the time being and, in the case of the Charged Property, including proper provision for rent reviews and cost inflation over the period of insurance and any planning and reinstatement period, plus demolition and debris removal charges and an appropriate sum to cover architects' and other professional fees;
- (b) where the Premises or any part thereof is subject to leases or other derivative interests whereby income accrues to the benefit of the Chargor, ensure that the sum insured includes provision for not less than one years' loss of rent;
- (c) insure and keep insured all stock against loss damage and theft at all times when the risk of the same is with the Chargor, notwithstanding that title to such stock may not have yet passed to the Chargor;
- (d) maintain such other insurances on and in relation to its business and assets, with insurers previously approved in writing by the Chargee, against such risks and to such extent as is usual for prudent companies carrying on businesses similar to that conducted by the Chargor, whose practice is not to self-insure;

- (e) effect all such insurances with the Interest of the Chargee noted on the policy document(s);
- (f) duly and punctually pay all premiums and other sums payable in respect of each such policy of insurance and promptly deliver to the Chargee on demand originals or certified copies of all receipts evidencing such payments; and
- (g) not make, do, consent or agree to any act or omission which might render any such policy of insurance invalid, void, voidable or unenforceable nor (without the prior written consent of the Chargee) alter or agree to any alteration of any provision of any such policy of insurance.

#### **12.2 Insurance Proceeds**

- (a) The Chargor covenants with the Chargee that it shall at all times prior to the occurrence of an Event of Default or a potential Event of Default apply all moneys which may at any time be received under any insurance covering any part of the Charged Property in making good the loss or damage in respect of which such moneys have been received (any deficiency being made good by the Chargor) and at all other times;
- (b) in or towards payment and discharge of the Indebtedness and to hold all such monies on trust pending such payment; and
- (c) If a Declared Default has occurred, all moneys received by virtue of any insurance maintained or effected in respect of the Charged Property shall be paid to the Chargee (or, if not paid by the insurers directly to the Chargee, shall be held on trust for the Chargee) and shall, at the option of the Chargee, be applied in replacing or reinstating the assets destroyed, damaged or lost (any deficiency being made good by the Chargor) or (except in the case of leasehold premises) in reduction of the Indebtedness.

#### **12.3 Insurance Premiums**

The Chargor shall:

- (a) promptly pay all premiums in respect of each insurance policy maintained by it in accordance with clause 12.1 and do all things necessary to keep that policy in full force and effect; and
- (b) (if the Chargee so requires) produce to, or deposit with, the Chargee the receipts for all premiums and other payments necessary for effecting and keeping up each insurance policy maintained by it in accordance with clause 12.1.

**12.4 No Invalidation of Insurance**

The Chargor shall not do or omit to do, or permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any insurance policy maintained by it in accordance with clause 12.1.

**13. RETENTION OF DOCUMENTS**

The Chargee may retain any document delivered to it under clause 10.5 or otherwise until the security created by this Debenture is released and, if for any reason it ceases to hold any such document before that time, it may by notice to the Chargor require that the relevant document be redelivered to it and the Chargor shall promptly comply (or procure compliance) with that notice.

**14. POWER TO REMEDY**

If the Chargor fails to comply with any covenant set out in clauses 10.1 to 12 (inclusive) and that failure is not remedied to the satisfaction of the Chargee within 10 Business Days of the Chargee providing written notice to Chargor, it will allow (and irrevocably authorises) the Chargee or any person which the Chargee nominates to take any action on behalf of the Chargor which is necessary to ensure that those covenants are complied with, except that neither Chargee nor any person which the Chargee nominates may take any action against Chargor's Intellectual Property Rights unless any failure to comply with any covenant is not remedied within (i) 90 days after the date of the occurrence of any non-monetary Event of Default or (ii) 10 Business Days after the date of any occurrence of a monetary Event of Default.

**15. INDEMNITY**

The Chargor will indemnify the Chargee against all losses incurred by the Chargee as a result of a breach by the Chargor of its obligations under clauses 10.1 to 12 (inclusive) and in connection with the exercise by the Chargee of its rights contained in clause 15 above, save for any losses arising as a result of the Chargee's gross negligence, wilful misconduct or breach of obligation. All sums the subject of this indemnity will be payable by the relevant Chargor to the Chargee on demand and if not so paid will bear interest at the Default Rate. Any unpaid interest will be compounded with monthly rests.

**16. NOTICE OF MISREPRESENTATION AND BREACHES**

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

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



**17. POWER OF ATTORNEY**

In an Event of Default that has not been remedied as provided for in Section 14 of this Debenture, the Chargor:

- (a) by way of security, irrevocably and severally appoints the Chargee, each Receiver and any person nominated for the purpose by the Chargee or any Receiver (in writing and signed by an officer of the Chargee or Receiver) as its attorney (with full power of substitution and delegation) in its name and on its behalf and as its act and deed to execute, seal and deliver (using the Chargor's seal where appropriate) and otherwise perfect and do any deed, assurance, agreement, instrument, act or thing which it ought to execute and do under the terms of this Debenture, or which may be required or deemed proper in the exercise of any rights or powers conferred on the Chargee or any Receiver under this Debenture or otherwise for any of the purposes of this Debenture; and
- (b) covenants with the Chargee and each Receiver to ratify and confirm all such acts or things made, done or executed by that attorney.

**18. ENFORCEMENT OF SECURITY**

**18.1 Enforcement Powers**

The power of sale and all other enforcement powers conferred by section 101 of the LPA 1925 (applied in respect of personal as well as real property), as varied or amended by this Debenture shall not be exercisable until (i) Chargee provides Chargor with written notice of an Event of Default; and (ii) Chargee fails to remedy any default according to Section 14 of this Debenture, thereafter they shall be immediately exercisable at any time.

18.2 After the security constituted by this Debenture has become enforceable, the Chargee may in its absolute discretion enforce all or any part of the security in any manner it sees fit.

18.3 Section 103 of the LPA 1925 does not apply to the security constituted by this Debenture.

18.4 The Chargee and each Receiver is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers when receivers have been duly appointed under the LPA 1925.

18.5 Upon any sale of the Charged Property or any part thereof by the Chargee the purchaser shall not be bound to see or enquire whether the Chargee's power of sale has become exercisable in the manner provided in this Debenture and the sale shall be deemed to be within the power of the Chargee, and the receipt of the Chargee for the purchase money shall effectively discharge the purchaser who shall not be concerned with the manner of application of the proceeds of sale or be in any way answerable therefor.

#### **18.6 Fixtures**

The Chargee may sever any fixtures from the property to which they are attached and sell them separately from that property without the consent of the Chargor.

#### **18.7 Appointment of Receiver**

At any time after a Declared Default has occurred and is continuing or if so requested by the Chargor, the Chargee may by writing under hand signed by any officer or manager of the Chargee, appoint any person (or persons) to be a Receiver of all or any part of the Charged Property.

#### **18.8 Appointment of an Administrator**

- (a) The Chargee may, without notice to the Chargor, appoint any one or more persons to be an Administrator of the Chargor pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the security constituted by this Debenture becomes enforceable.
- (b) Any appointment under this clause 18.8 shall:
  - (i) be in writing signed by a duly authorised signatory of the Chargee; and
  - (ii) take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986.
- (c) The Chargee may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 18.8 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified.

#### **18.9 Further advances**

The Charge covenants with the Chargor that it shall perform its obligations to make advances under the Loan and Security Agreement (including any obligation to make available further advances).

#### **18.10 Powers of Leasing**

The statutory powers of leasing and accepting surrenders conferred on mortgagees under the LPA 1925 and by any other statute are extended so as to authorise the Chargee and any Receiver, at any time after the security constituted by this Debenture has become enforceable, whether in its own name or in that of the Chargor, to:

15.2.1 grant a lease or agreement to lease;

15.2.2 accept surrenders of leases; or

15.2.3 grant any option of the whole or any part of the Charged Property with whatever rights relating to other parts of it,

whether or not at a premium and containing such covenants on the part of the Chargor, and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as the Chargee or Receiver thinks fit without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925.

## **19. STATUS, POWERS, REMOVAL AND REMUNERATION OF RECEIVER**

### **19.1 Receiver as Agent**

Each Receiver shall be the agent of the Chargor which shall be solely responsible for his acts or defaults, and for his remuneration and expenses, and be liable on any agreements or engagements made or entered into by him. The Chargee will not be responsible for any misconduct, negligence or default of a Receiver.

### **19.2 Powers of Receiver**

Each Receiver appointed under this Debenture shall have all those rights, powers and discretions conferred by the Act and have power to:

- (a) Continue to operate the business of the Chargor and to develop, reconstruct, amalgamate or diversify any part of the business of the Chargor;
- (b) enter into or cancel any contracts on any terms or conditions;
- (c) incur any liability on any terms, whether secured or unsecured, and whether to rank for payment in priority to this security or not;
- (d) let or lease or concur in letting or leasing, and vary the terms of, determine, surrender leases or tenancies of, or grant options and licences over, or otherwise deal with, all or any of the Charged Property, without being responsible for loss or damage;
- (e) establish subsidiaries to acquire interests in any of the Charged Property and/or arrange for those subsidiaries to trade or cease to trade and acquire any of the Charged Property on any terms and conditions;
- (f) make and effect all repairs, renewals and improvements to any of the Charged Property and maintain, renew, take out or increase insurances;
- (g) maintain any planning permission, development consent, building regulation approval or any other permission, consent or licence to carry out any of the same;
- (h) exercise all voting and other rights attaching to the Investments and stocks, shares and other securities owned by the Chargor and comprised in the Charged Property;

- (i) redeem any prior Security Interests on or relating to the Charged Property and settle and pass the accounts of the person entitled to those prior Security Interests, so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver;
- (j) sell and assign all or any of the Charged Property in respect of which he is appointed in any manner, and generally on any terms and conditions, that he thinks fit;
- (k) give valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Charged Property;
- (l) appoint and discharge officers and others for any of the purposes of this Debenture and/or to guard or protect the Charged Property upon terms as to remuneration or otherwise as he may think fit;
- (m) 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;
- (n) settle any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargor or relating to any of the Charged Property;
- (o) charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by him) that the Chargor may prescribe or agree with him;
- (p) implement or continue the development of (and obtain all consents required in connection therewith) and/or complete any buildings or structures on any real property comprised in the Charged Property;
- (q) purchase or acquire any land or any interest in or right over land;
- (r) exercise on behalf of the Chargor all the powers conferred on a landlord or a tenant by any legislation from time to time in force in any relevant jurisdiction relating to rents or agriculture in respect of any part of the Premises; and
- (s) do all other acts and things (including signing and executing all documents and debentures) as the Receiver considers desirable or necessary for realising the Charged Property or incidental or conducive to any of the rights, powers or discretions conferred on a receiver under or by virtue of this Debenture and exercise in relation to any Charged Property all the powers, authorisations and rights which he would be capable of exercising if he were the absolute beneficial owner of the same and may use the

name of the Chargor for any and all of the above purposes, improvement or realisation of the Charged Property.

**19.3 Power of appointment additional to statutory powers**

The power to appoint a Receiver conferred by this Debenture shall be in addition to all statutory and other powers of the Chargee 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.

**19.4 Removal of Receiver**

The Chargee may by notice remove from time to time any Receiver appointed by it and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated, for whatever reason.

**19.5 Remuneration of Receiver**

The Chargee 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 Debenture, to the extent not otherwise discharged.

**19.6 Several Receivers**

If at any time there is more than one Receiver, each Receiver may separately exercise all of the powers conferred by this Debenture (unless the document appointing such Receiver states otherwise).

**20. APPLICATION OF MONEYS**

**Order of Application**

All monies received by the Chargee or any Receiver pursuant to this Debenture, after the security constituted by this Debenture has become enforceable, shall (subject to the claims of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority:

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

**21. PROTECTION OF CHARGEES AND RECEIVERS**

**21.1 No Liability**

- (a) Neither the Chargee nor any Receiver shall be in any circumstances (whether by reason of any entry into or taking of possession of the whole or any part of the Charged Property or for any reason whatsoever) liable in respect of any of the Charged Property or for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers, unless caused by its or his gross negligence, wilful default or breach of any obligations under the Finance Documents of the Chargee or of the Receiver (as the case may be); and
- (b) The Chargee shall have no liability to the Chargor whatsoever in relation to the acts or omissions of the Receiver or any of its delegates or sub-delegates, provided that Chargee did not act with gross negligence in its choice of and appointment of any Receiver.

**21.2 No liability as mortgagee in possession**

Neither the Chargee nor any Receiver will be liable, by reason of entering into possession of any of the Charged Property, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

**21.3 Liability of the Chargor**

The Chargor shall be deemed to be a principal debtor and the sole, original and independent obligor for the Indebtedness and the Charged Property shall be deemed to be a principal security for the Indebtedness. The liability of the Chargor under this Debenture and the charges contained in this Debenture shall not be impaired by any forbearance, neglect, indulgence, extension of time, release, surrender or loss of securities, dealing, variation or arrangement by the Chargee or any other person, or by any other act, event or matter whatsoever whereby the liability of the Chargor (as a surety only) or the charges contained in this Debenture (as secondary or collateral charges only) would, but for this provision, have been discharged.

**22. COSTS AND EXPENSES**

**22.1 Initial Expenses**

The Chargor will on demand pay to the Chargee and any Receiver the amount of all costs and expenses (including legal fees and other out-of-pocket expenses and any tax thereon) reasonably incurred by any of them in connection with:

- (a) provided for in the Finance Documents other than this Debenture; and

- (b) in connection with any amendment, consent or suspension of rights (or proposal for any of the same) relating to this Debenture (and documents, matters or things referred to in this Debenture).

#### **22.2 Enforcement Expenses**

The Chargor will on demand pay to each of the Chargee and any Receiver the amount of all costs and expenses (including legal fees and other out of pocket expenses and any value added tax or other similar tax thereon) reasonably incurred by any of them in connection with the preservation, enforcement or attempted preservation or enforcement of any of their rights under this Debenture (and any documents referred to in this Debenture) or any of the Charged Property.

#### **22.3 Payment of Outgoings and Stamp Duties**

The Chargor will punctually pay and indemnify the Chargee and separately any Receiver appointed under this Debenture, from and against any liability for all rates, stamp, documentary, filing and other duties and taxes, assessments, impositions, and other outgoings (if any) (whether imposed by agreement, statute or otherwise and whether in the nature of capital or revenue and even if wholly novel) now or at any time during the continuance of the security constituted by this Debenture, which are or may become payable in connection with this Debenture.

#### **22.4 Default Interest**

If not paid when due, the amounts payable under this clause 22 shall carry interest compounded with monthly rests at the Default Rate (after as well as before judgment), from the date of demand and shall form part of the Indebtedness.

### **23. CUMULATIVE POWERS AND AVOIDANCE OF PAYMENTS**

#### **23.1 Cumulative Powers**

The powers which this Debenture confers on the Chargee and any Receiver appointed under this Debenture are cumulative, without prejudice to their respective powers under the general law, and may be exercised as often as the relevant person thinks appropriate. The Chargee or the Receiver may, in connection with the exercise of their powers, join or concur with any person in any transaction, scheme or arrangement whatsoever. The respective powers of the Chargee and the Receiver will in no circumstances be suspended, waived or otherwise prejudiced by anything other than an express consent or amendment.

#### **23.2 Amounts Avoided**

If any amount paid by the Chargor in respect of the Indebtedness is capable of being avoided or set aside or reduced or ordered to be refunded by virtue of any provisions of any enactments relating to bankruptcy, liquidation or insolvency or otherwise, then for the purposes of this Debenture that amount shall not be considered to have been paid and the

Chargee shall be entitled to recover the value or amount of such security or payment from the Chargor subsequently as if such settlement, discharge or release had not occurred. No interest shall accrue on any such amount, unless and until such amount is so avoided or set aside.

**23.3 Discharge Conditional**

Any settlement or discharge between the Chargor and the Chargee shall be conditional upon no security or payment to the Chargee by the Chargor or any other person being avoided, set aside, ordered to be refunded or reduced by virtue of any provision or enactment relating to insolvency and accordingly (but without limiting the other rights of the Chargee under this Debenture) the Chargee shall be entitled to recover from the Chargor the value which the Chargee has placed on that security or the amount of any such payment as if that settlement or discharge had not occurred.

**23.4 Waiver**

- (a) No failure on the part of the Chargee to exercise and no delay on its part in exercising, any right or remedy under this Debenture will operate as a waiver thereof, nor will any single or partial excuse of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The rights and remedies provided in this Debenture are cumulative and not exclusive of any rights or remedies provided by law.
- (b) Any waiver or variation of any right or remedy by the Chargee (whether arising under this Debenture or under the general law), or any consent given under this Debenture, is only be effective if it is in writing and signed by the Chargee, and applies only in the circumstances for which it was given, and shall not prevent the Chargee from subsequently relying on the relevant provision.

**24. RULING OFF ACCOUNTS**

If the Chargee receives notice of any subsequent Security Interest or other interest affecting any of the Charged Property (except as permitted by the Loan and Security Agreement) it may open a new account for the Chargor in its books. If it does not do so then (unless it gives express notice to the contrary to the Chargor), as from the time it receives that notice, all payments made by the Chargor to it (in the absence of any express appropriation to the contrary) shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Indebtedness.

**25. DELEGATION**

The Chargee and any Receiver may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by it under this Debenture to any person or persons upon such terms and conditions (including the power to sub-delegate) as it may think fit.



**26. REDEMPTION OF PRIOR CHARGES**

The Chargee may, at any time after a Declared Default has occurred, redeem any prior Security Interest on or relating to any of the Charged Property or procure the transfer of that Security Interest to itself, and may settle and pass the accounts of any person entitled to that prior Security Interest. Any account so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor. The Chargor will on demand pay to the Chargee all principal monies and interest and all losses incidental to any such redemption or transfer.

**27. SET-OFF**

**27.1 Set-Off Rights**

The Chargee may at any time after a Declared Default has occurred (without notice to the Chargor) combine, consolidate or merge all or any of the Chargor's accounts with the Chargee and:

- (a) set-off, transfer or otherwise apply sums standing
  - (i) to the credit of the Chargor's accounts with the Chargee (irrespective of the terms applicable to those accounts and whether or not those sums are then due for repayment to the Chargee); and/or
  - (ii) apply any moneys received or otherwise held by the Chargee in or towards the satisfaction of the whole or any part of the Indebtedness then due, and may do so notwithstanding that such balances or moneys and the Indebtedness may not be expressed in the same currency, and the Chargee is hereby authorised to effect the necessary currency conversion at its spot rate of exchange as at am/pm (United Kingdom time) on the date such conversion is effected. The Chargee shall be under no obligation to exercise any of its rights under this clause 27, which are in addition to and without prejudice to any right of set off, combination of accounts, lien or other rights to which it may at any time be entitled; and
- (b) set-off any other obligations (whether or not then due for performance) owed by the Chargee to the Chargor,

against any liability of the Chargor to the Chargee under the Loan and Security Agreement.

**27.2 Different Currencies**

The Chargee may exercise its rights under clause 27.1 notwithstanding that the amounts concerned may be expressed in different currencies and the Chargee is authorised to effect any necessary conversions at a market rate of exchange selected by it.

**27.3 Unliquidated Claims**

If the relevant obligation or liability is unliquidated or unascertained, the Chargee may set-off the amount which it estimates (in good faith) will be the final amount of that obligation or liability once it becomes liquidated or ascertained.

**28. NOTICES**

**28.1 Mode of Service**

- (a) Any notice, request, demand, consent, agreement or other communication (a **Notice**) to be served under or in connection with this Debenture will be in writing and will be made or delivered personally, or by post or facsimile, to the address or fax number of the addressee given in clause 28.1(b).
- (b) The address and facsimile number of each party to this Debenture for the purposes of clause 28.1(a) are:
  - (i) as shown immediately after its name on the execution pages of this Debenture (in the case of any person who is a party as at the date of this Debenture); or
  - (ii) as notified by that party for this purpose to the other party by not less than five Business Days' notice.
- (c) Any Notice to be served by the Chargor on the Chargee will be effective only if it is expressly marked for the attention of the department or officer (if any) specified in conjunction with the relevant address and facsimile number referred to in clause 28.1(b). The parties hereto shall make commercially reasonable efforts to provide courtesy copies of all notices given under this Agreement to (a) [ ] via electronic mail to [ ], (b) to [ ] at [ ]; and (c) any other parties designated to receive notices under the Loan and Security Agreement, as may be notified to the other party from time to time.

**28.2 Deemed Service**

- (a) Any notice or other communication from the Chargor to the Chargee shall not be effective until its actual receipt by the Chargee. Any other notice or communication shall be deemed to be received as follows:
  - (i) in the case of personal delivery, at the time of such delivery;
  - (ii) in the case of a pre-paid letter, properly addressed and posted within the United Kingdom, on the second Business Day after posting; and
  - (iii) in the case of a facsimile, on the Business Day on which it was transmitted (if done during normal business hours), provided there is no evidence that such transmission was interrupted.

- (b) A Notice given in accordance with clause 28.2(a) but received on a non-working day or after business hours in the place of receipt will be deemed to be given on the next working day in that place.

**29. CHANGES TO PARTIES**

**29.1 Assignment by Chargee**

The Chargee may at any time assign or otherwise transfer all or any part of its rights under this Debenture in accordance with the Loan and Security Agreement.

**29.2 Changes to Parties**

The Chargor authorises and agrees to changes to parties to the extent permitted in the Loan and Security Agreement and authorises the Chargee to execute on its behalf any document required to effect the necessary transfer of rights or obligations contemplated by those provisions.

**30. CURRENCY CLAUSES**

**30.1 Conversion**

All monies received or held by the Chargee or any Receiver under this Debenture may be converted into any other currency which the Chargee reasonably considers necessary to cover the obligations and liabilities comprised in the Indebtedness in that other currency at the Chargee's spot rate of exchange then prevailing for purchasing that other currency with the existing currency.

**30.2 No Discharge**

No payment to the Chargee (whether under any judgment or court order or otherwise) shall discharge the obligation or liability of the Chargor in respect of which it was made unless and until the Chargee has received payment in full in the currency in which the obligation or liability was incurred. To the extent that the amount of any such payment shall on actual conversion into that currency fall short of that obligation or liability expressed in that currency, the Chargee shall have a further separate cause of action against the Chargor and shall be entitled to enforce the security constituted by this Debenture to recover the amount of the shortfall.

**31. MISCELLANEOUS**

**31.1 Evidence of Indebtedness**

A statement as to any amount due and payable to the Chargee under this Debenture which is certified as being correct by an officer of the Chargee shall in the absence of evidence of error be conclusive for the purposes of this Debenture and prima facie evidence in any legal action or proceedings arising in connection with this Debenture that such amount is in fact due and payable.

**31.2 Invalidity of any Provision**

If any provision of this Debenture is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired in any way.

**31.3 Third party rights**

(a) Except as expressly provided elsewhere in this Debenture, a person who is not a party to this Debenture shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this Debenture. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

(b) The rights of the parties to rescind or agree any amendment or waiver under this Debenture are not subject to the consent of any other person.

**31.4 Counterparts**

This Debenture may be executed in any number of counterparts, all of which taken together shall be deemed to constitute one and the same instrument.

**31.5 Covenant To Release**

Upon the termination of the Security Period, the Chargee shall, at the request and reasonable cost of the Chargor, take any action which may be necessary to release the Charged Property from the security constituted by this Debenture.

**31.6 Independent security**

This Debenture shall be in addition to, and independent of, any other security or guarantee that the Chargee may hold for any of the Charged Property at any time. No prior security held by the Chargee over the whole or any part of the Secured Assets shall merge in the security created by this Debenture.

**32. GOVERNING LAW**

**32.1 Governing Law**

*This Debenture shall be governed and construed solely according to the laws of England and Wales and the parties hereby submit to the non-exclusive jurisdiction of the Courts of England and Wales.*

**32.2 Jurisdiction**

*Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have non-exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Debenture or its*

subject matter or formation. Nothing in this clause shall limit the right of the Chargee to take proceedings against the Chargor in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

### **32.3 Inconvenient Forum**

The Chargor irrevocably waives any objection which it may at any time have to the nomination of the courts of England and Wales as the forum to hear and determine any suit, action or proceedings arising out of or in connection with this Debenture and agrees that it shall not claim that any such court is in an inconvenient or inappropriate forum.

The signatures of the parties to this Agreement are situated after the Schedules to this Agreement.

**IN WITNESS WHEREOF** the parties hereto have caused this Debenture to be executed and delivered as a Deed the day and the year first above written.

# SCHEDULE 1

## Details of Intellectual Property

### Patents

Name of Patent Holder	Name of Patent	Patent Number	Date of Filing	Jurisdiction of Filing
Afiniti Europe Tech Limited [GB]	Techniques for benchmarking pairing strategies in a contact centre system	US2018063330(A1)	3 January 2018	USA
Afiniti Europe Tech Limited [GB]	Techniques for behavioural pairing model evaluation in a contact center system	US9888121(B1)	6 February 2018	USA
Afiniti Europe Tech Limited [GB]	Techniques for benchmarking pairing strategies in a contact center system	US9888120 (B1)	6 February 2018	USA
Afiniti Europe Tech Limited [GB]	Techniques for behavioral pairing in a contact center system	US9871924 (B1)	16 January 2018	USA
Afiniti Europe Tech Limited [GB]	Techniques for benchmarking pairing strategies in a contact center system	US2017366671 (A1)	21 December 2017	USA
Afiniti Europe Tech Limited [GB]	Techniques for hybrid behavioral pairing in a contact center system	US2017353607 (A1)	7 December 2017	USA
Afiniti Europe Tech Limited [GB]	Techniques for hybrid behavioral pairing in a contact center system	US2017353606 (A1)	7 December 2017	USA
Afiniti Int Ltd [GB] Afiniti Europe Tech Ltd [GB]	Techniques for benchmarking pairing strategies in a	US9692898 (B1)	27 June 2017	USA

	contact center system			
Afiniti Europe Tech Limited [GB]	Techniques for benchmarking performance in a contact center system	WO2017212328 (A1)	14 December 2017	USA
Afiniti Europe Tech Ltd [GB]	Techniques for case allocation	US2017155769 (A1)	1 June 2017	USA
Afiniti Europe Tech Ltd [GB]	Techniques for benchmarking pairing strategies in a contact center system	WO2017182879 (A1)	26 October 2017	USA
AFINITI EUROPE TECH LTD [GB]	Techniques for hybrid behavioral pairing in a contact center system	WO2017093799 (A1)	8 June 2017	USA
AFINITI EUROPE TECH LTD [GB]	Techniques for hybrid behavioral pairing in a contact center system	WO2017093798 (A1)	8 June 2017	USA

**SCHEDULE 2**  
**Subsidiary Shares**

<b>Subsidiary</b>	<b>Number and class of shares</b>	<b>Details of nominees (if any) holding legal title to shares</b>	<b>Fully Paid</b>
AETL S.A.R.L	20,000 ordinary shares of \$1USD each	None	yes
Afiniti Spain S.L.	3,300 shares of 1 euro each	None	Yes
Afiniti Italia S.R.L	10,000 shares of 1 euro each	None	yes
Afiniti Technologies FZ-LLC	50 shares of AED 1000 each	None	yes
Afiniti Australia Pty Ltd	100 shares of 1 AUD each	None	yes
Afiniti HK Pacific	1 share of 1 HK each	None	yes
Afiniti Germany GmbH	25,000 shares of 1 euro each	None	yes
Afiniti Singapore PTE Ltd	100 shares of \$1USD each	None	yes



### **SCHEDULE 3**

#### **Form of Notice to Insurers**

To:

Dated:

Dear Sirs

#### **(Policies)**

We notify you that Afiniti Europe Technologies Limited (**Chargor**) has assigned to Structural Capital Investments II, LP and Structural Capital SPV II LLC (collectively, **Chargee**) all its right, title and interest in the Policies as security for certain obligations owed by the Chargor to the Chargee.

We further notify you that:

1. the Chargor may not agree to amend or terminate the Policies without the prior written consent of the Chargee;
2. you may continue to deal with the Chargor in relation to the Policies until you receive written notice to the contrary from the Chargee. Thereafter the Chargor will cease to have any right to deal with you in relation to the Policies and therefore from that time you should deal only with the Chargee;
3. you are authorised to disclose information in relation to the Policies to the Chargee on request; and
4. the provisions of this notice may only be revoked with the written consent of the Chargee.

Please sign and return the enclosed copy of this notice to the Chargee (with a copy to the Chargor) by way of confirmation that:

- (a) you agree to act in accordance with the provisions of this notice;
- (b) you will note the Chargee's interest as first chargee on the Policies;
- (c) after receipt of written notice in accordance with paragraph 2 above, you will pay all monies to which the Chargor is entitled under the Policies direct to the Chargee (and not to the Chargor) unless the Chargee otherwise agrees in writing;
- (d) you will not cancel or otherwise allow the Policies to lapse without giving the Chargee not less than 14 business days written notice;

- (e) you have not received notice that the Chargor has assigned its rights under the Policies to a third party or created any other interest (whether by way of security or otherwise) in the Policies in favour of a third party; and
- (f) you have not claimed or exercised nor do you have any outstanding right to claim or exercise against the Chargor, any right of set-off, counter-claim or other right relating to the Policies.

The provisions of this notice are governed by the laws of England and Wales.

Yours faithfully

---

for and on behalf of

Afiniti Europe Technologies Limited

To:           **Structural Capital Investments II, LP**  
                  **Structural Capital SPV II LLC**  
                  3555 Alameda De Las Pulgas, Suite 208  
                  Menlo Park, CA 94025  
                  USA

Copy to:   **Afiniti Europe Technologies Limited**  
                  3<sup>rd</sup> Floor, 1 Ashley Road  
                  Altrincham  
                  Cheshire WA14 2DT

We acknowledge receipt of the above notice and confirm the matters set out in paragraphs (a) to (f) above.

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for and on behalf of

**SCHEDULE 4**  
**Details of Collection Accounts**

Account Bank	Branch Address	Account Number
JP Morgan Chase Bank, n.a. - London Branch	25 Bank Street London, E14 5JP	[REDACTED]

## **SCHEDULE 5**

### **Form of notice to banks operating Collection Accounts and/or Nominated Accounts**

To: [ ] (Account Bank)

Dated:

Dear Sirs

#### **(D) Afiniti Europe Technologies Limited**

We notify you that Afiniti Europe Technologies Limited (**Chargor**) has charged to Structural Capital Investments II, LP and Structural Capital SPV II LLC (collectively, **Chargee**) all its right, title and interest in and to the monies from time to time standing to the credit of the accounts identified in the schedule to this notice and to any other accounts from time to time maintained with you by the Chargor (**Charged Accounts**) and to all interest (if any) accruing on the Charged Accounts.

5. We irrevocably authorise and instruct you:

to hold all monies from time to time standing to the credit of the Charged Accounts to the order of the Chargee and to pay all or any part of those monies to the Chargee (or as it may direct) promptly following receipt of written instructions from the Chargee to that effect; and

to disclose to the Chargee any information relating to the Chargor and the Charged Accounts which the Chargee may from time to time request you to provide.

We also advise you that:

the Chargor may not withdraw any monies from the Charged Accounts designated as "Blocked" in the schedule below without first having obtained the prior written consent of the Chargee;

by counter-signing this notice the Chargee confirms that the Chargor may make withdrawals from the Charged Accounts designated as "Not blocked" in the schedule below until such time as the Chargee shall notify you (with a copy to the Chargor) in writing that their permission is withdrawn. That permission may be withdrawn or modified by the Chargee in its absolute discretion at any time; and

the provisions of this Notice may only be revoked or varied with the prior written consent of the Chargee.

Please sign and return the enclosed copy of this notice to the Chargee (with a copy to the Chargor) by way of your confirmation that:

(a) you agree to act in accordance with the provisions of this notice;

you have not received notice that any Chargor has assigned its rights to the monies standing to the credit of the Charged Accounts or otherwise granted any security or other interest over those monies in favour of any third party;

you will not exercise any right to combine accounts or any rights of set-off or lien or any similar rights in relation to the monies standing to the credit of the Charged Accounts, except for the netting of credit and debit balances pursuant to current account netting arrangements previously approved in writing by the Chargee; and

you have not claimed or exercised, nor do you have outstanding any right to claim or exercise against the Chargor, any right of set-off, counter-claim or other right relating to the Charged Accounts.

The provisions of this notice are governed by the laws of England and Wales.

**Schedule**

Account Number	Branch Address

Yours faithfully,

\_\_\_\_\_  
for and on behalf of  
Afiniti Europe Technologies Limited

Counter-signed by

\_\_\_\_\_  
for and on behalf of  
Structural Capital Investments II, LP  
Structural Capital SPV II LLC

To:           **Structural Capital Investments II, LP**  
                  **Structural Capital SPV II LLC**  
                  3555 Alameda De Las Pulgas, Suite 208  
                  Menlo Park, CA 94025  
                  USA

Copy to:   **Afiniti Europe Technologies Limited**  
                  3<sup>rd</sup> Floor, 1 Ashley Road  
                  Altrincham  
                  Cheshire WA14 2DT

We acknowledge receipt of the above notice and confirm the matters set out in paragraphs (a) to (d) above.


\_\_\_\_\_  
for and on behalf of

[                    ]

Dated:

**SIGNATORIES**

**EXECUTED AS A DEED** by Afiniti Europe  
Technologies Limited in the presence of:



**Director**



Witness signature

**Notice Details**

Name: *Zac Huoson*

Address:

Occupation:

**EXECUTED AS A DEED** by Structural  
Capital Investments II, LP in the  
presence of:

By: Structural Capital GP II, LLC  
Its: General Partner

**Director/Secretary**

Witness signature

**Notice Details**

Name:

Address:

Occupation:

**EXECUTED AS A DEED** by Structural  
Capital SPV II LLC in the presence of:

By: Structural Capital GP II, LLC  
Its: Manager

**Director/Secretary**

Witness signature

**Notice Details**

Name:

Address:

Occupation:



**SIGNATORIES**

**EXECUTED AS A DEED by Afiniti Europe Technologies Limited** in the presence of: )  
)  
)  
)

\_\_\_\_\_  
**Director**

\_\_\_\_\_  
Witness signature

**Notice Details**

Name:

Address:

Occupation:

**EXECUTED AS A DEED by Structural Capital Investments II, LP** in the presence of: )  
)  
)  
)

By: Structural Capital GP II, LLC  
Its: General Partner

\_\_\_\_\_  
**Director/Secretary**

\_\_\_\_\_  
Witness signature

**Notice Details**

Name: *Po Yee Sze*

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

**EXECUTED AS A DEED by Structural Capital SPV II LLC** in the presence of: )  
)  
)  
)

By: Structural Capital GP II, LLC  
Its: Manager

\_\_\_\_\_  
**Director/Secretary**

\_\_\_\_\_  
Witness signature

**Notice Details**

Name: *Po Yee Sze*

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_