



**Registration of a Charge**

Company Name: **BA TECHNOLOGIES HOLDINGS LIMITED**

Company Number: **08820071**



Received for filing in Electronic Format on the: **05/07/2022**

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**Details of Charge**

Date of creation: **01/07/2022**

Charge code: **0882 0071 0007**

Persons entitled: **RBC TRUSTEES (JERSEY) LIMITED**

Brief description: **LEASEHOLD LAND DEMISED BY THE LEASE DATED 30 APRIL 2015  
ORIGINALLY MADE BETWEEN PORTSMOUTH CITY COUNCIL (1) AND  
ATHENA RACING LIMITED (2) (AS SUBSEQUENTLY VARIED AND  
AS ASSIGNED BY ATHENA RACING LIMITED TO THE BORROWER)  
BEING THE CAMBER, SITES 1 AND 2, EAST STREET, PORTSMOUTH  
REGISTERED AT THE LAND REGISTRY WITH TITLE NUMBERS PM29499  
AND PM30095**

**Contains negative pledge.**

**Authentication of Form**

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

**Authentication of Instrument**

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

Certified by: **CLYDE & CO LLP**



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

Company number: 8820071

Charge code: 0882 0071 0007

The Registrar of Companies for England and Wales hereby certifies that a charge dated 1st July 2022 and created by BA TECHNOLOGIES HOLDINGS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 5th July 2022 .

Given at Companies House, Cardiff on 7th July 2022

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



**Companies House**



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

**BA TECHNOLOGIES HOLDINGS LIMITED**  
the Borrower

and

**RBC TRUSTEES (JERSEY) LIMITED AS TRUSTEES OF THE A189 TRUST**  
the Lender

**Legal Charge**

## Legal Charge

C & C LLP Dated: 1 July ~~June~~ 2022

### Between:

- (1) **BA TECHNOLOGIES HOLDINGS LIMITED** (company number 08820071) registered in England and Wales with registered office Towngate House, 2-8 Parkstone Road, Poole BH15 2PW (**Borrower**); and
- (2) **RBC TRUSTEES (JERSEY) LIMITED** (company number 11033) registered in Jersey with registered office Gaspe House, 66-72 Esplanade, St Helier, Jersey, JE2 3QT as trustees of the A189 Trust (**Lender**).

### It is agreed as follows:

#### 1 Definitions and interpretation

##### 1.1 Definitions

The following definitions apply in this Deed:

**Business Day** means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

**Charged Property** means all the assets, property and undertaking for the time being of the Borrower, which are, or are intended to be, subject to any Security created by this Deed (and references to the Charged Property shall include references to any part of it).

**Delegate** means any person appointed by the Lender or any Receiver under Clause 11 and any person appointed as attorney of the Lender, Receiver or Delegate.

**Event of Default** has the meaning given to that expression in the Loan Agreement.

**Finance Documents** has the meaning given to that expression in the Loan Agreement.

**Intercreditor Agreement** means the intercreditor agreement between, amongst others, the Borrower and the Lender dated on or around the date of this Deed;

**Loan Agreement** means the loan agreement dated on or around the date of this Deed between the Borrower and the Lender for the provision of the loan facilities secured by this Deed.

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

**Property** means that leasehold land demised by the lease dated 30 April 2015 originally made between Portsmouth City Council (1) and Athena Racing Limited (2) (as subsequently varied and as assigned by Athena Racing Limited to the Borrower) being The Camber, Sites 1 and 2, East Street, Portsmouth registered at the Land Registry with title numbers PM29499 and PM30095.

**Receiver** means a receiver or a receiver and manager of any or all of the Charged Property.

**Secured Liabilities** means all present and future obligations and liabilities of the Borrower to the Lender, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with the Finance Documents, together with all interest (including, without limitation, default interest) accruing in respect of those monies, obligations or liabilities.

**Security** means any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.

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

**VAT** means value added tax or any equivalent tax chargeable in the UK or elsewhere.

##### 1.2 Interpretation

- (a) A reference to continuing in relation to an Event of Default means an Event of Default that has not been remedied or waived.
- (b) The terms of this Deed are subject to the terms of the Intercreditor Agreement.

### 1.3 Nature of security over real property

A reference in this Deed to a **charge or mortgage of or over the Property** includes:

- (a) all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) and fixed plant and machinery that are situated on or form part of the Property at any time;
- (b) the proceeds of the sale of any part of the Property and any other monies paid or payable in respect of or in connection with the Property;
- (c) the benefit of any covenants for title given, or entered into, by any predecessor in title of the Borrower in respect of the Property and any monies paid or payable in respect of those covenants; and
- (d) all rights under any licence, agreement for sale or agreement for lease in respect of the Property.

### 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 Agreement and of any side letters between any parties in relation to the Loan Agreement are incorporated into this Deed.

### 1.5 Perpetuity period

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

## 2 Covenant to pay

The Borrower shall pay to the Lender and discharge the Secured Liabilities when they become due.

## 3 Grant of security

### 3.1 Legal mortgage and fixed charges

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lender by way of a legal mortgage, the Property.

## 4 Perfection of security

### 4.1 Registration of legal mortgage at the Land Registry

The Borrower consents to an application being made by the Lender to the Land Registrar for the following restriction in Form P to be registered against its title to the Property:

*"No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated 1 July 2022 in favour of RBC Trustees (Jersey) Limited referred to in the charges register."*

### 4.2 Further advances

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

## 5 Liability of the Borrower

### 5.1 Liability not discharged

The Borrower's liability under this Deed in respect of any of the Secured Liabilities 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 5.1, might have discharged, or otherwise prejudiced or affected, the liability of the Borrower.

## **5.2 Immediate recourse**

The Borrower waives any right it may have to require the Lender to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this Deed against the Borrower.

## **6 Powers of the Lender**

### **6.1 Power to remedy**

- (a) The Lender shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Borrower of any of its obligations contained in this Deed.
- (b) The Borrower irrevocably authorises the Lender and its agents to do all things that are necessary or desirable for that purpose.
- (c) Any monies expended by the Lender in remedying a breach by the Borrower of its obligations contained in this Deed shall be reimbursed by the Borrower to the Lender on a full indemnity basis.
- (d) In remedying any breach in accordance with this Clause 6.1, the Lender, its agents and their respective officers, agents and employees shall be entitled to enter onto the Property and to take any action as the Lender may reasonably consider necessary or desirable including, without limitation, carrying out any repairs, other works or development.

### **6.2 Exercise of rights**

The rights of the Lender under Clause 6.1 are without prejudice to any other rights of the Lender under this Deed. The exercise of any rights of the Lender under this Deed shall not make the Lender liable to account as a mortgagee in possession.

### **6.3 Lender has Receiver's powers**

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

### **6.4 New accounts**

- (a) If the Lender receives, or is deemed to have received, notice of any subsequent Security or other interest, affecting all or part of the Charged Property, the Lender may open a new account for the Borrower in the Lender's books. Without prejudice to the Lender's right to combine accounts, no money paid to the credit of the Borrower in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.
- (b) If the Lender does not open a new account immediately on receipt of the notice, or deemed notice, referred to in Clause 6.4(a), then, unless the Lender gives express written notice to the contrary to the Borrower, all payments made by the Borrower to the Lender shall be treated as having been credited to a new account of the Borrower and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt or deemed receipt of the relevant notice by the Lender.

### **6.5 Indulgence**

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

## **7 When security becomes enforceable**

### **7.1 Security becomes enforceable on Event of Default**

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

### **7.2 Discretion**

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

## **8 Enforcement of security**

### **8.1 Enforcement powers**

- (a) The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this Deed) shall, as between the Lender and a purchaser from the Lender, arise on and be exercisable at any time after the execution of this Deed, but the Lender shall not exercise such power of sale or other powers until the security constituted by this Deed has become enforceable under Clause 7.1.
- (b) Section 103 of the LPA 1925 does not apply to the security constituted by this Deed.

### **8.2 Extension of statutory 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 Lender and any Receiver, at any time after the security constituted by this Deed has become enforceable, whether in its own name or in that of the Borrower, to:

- (a) grant a lease or agreement for lease;
- (b) accept surrenders of leases; or
- (c) grant any option in respect of the whole or any part of the 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 Borrower and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as the Lender or Receiver thinks fit, without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925.

### **8.3 Redemption of prior Security**

- (a) At any time after the security constituted by this Deed has become enforceable, or after any powers conferred by any Security having priority to this Deed shall have become exercisable, the Lender may:
  - (i) redeem any prior Security over any Charged Property;
  - (ii) procure the transfer of that Security to itself; and
  - (iii) settle and pass the account of the holder of any prior Security (and any accounts so settled and passed shall, in the absence of any manifest error, be conclusive and binding on the Borrower).
- (b) The Borrower shall pay to the Lender immediately on demand all principal, interest, costs, charges and expenses of, and incidental to, any such redemption or transfer, and such amounts shall be secured by this Deed as part of the Secured Liabilities.

### **8.4 Protection of third parties**

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

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

### **8.5 Privileges**

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

**8.6 No liability as mortgagee in possession**

Neither the Lender nor any Receiver or Delegate shall be liable, by reason of entering into possession of the Charged Property or for any other reason, to account as mortgagee in possession in respect of all or any of the Charged Property, nor shall any of them be liable for any loss on realisation of, or for any act, default or admission for which a mortgagee in possession might be liable.

**8.7 Relinquishing possession**

If the Lender, any Receiver or Delegate enters into or takes possession of the Charged Property, it may at any time relinquish possession.

**8.8 Conclusive discharge to purchasers**

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

**9 Receivers**

**9.1 Appointment**

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

**9.2 Removal**

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

**9.3 Remuneration**

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

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

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

**9.5 Power of appointment exercisable despite prior appointments**

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

**9.6 Agent of the Borrower**

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

**10 Powers of Receiver**

**10.1 Powers additional to statutory powers**

- (a) Any Receiver appointed by the Lender under this Deed shall, in addition to the powers conferred on him/her by statute, have the rights, powers and discretions set out in Clause 10.1 (d).
- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him/her states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.



- (c) Any exercise by a Receiver of any of the powers given by Clause 10 may be on behalf of the Borrower, the directors of the Borrower or himself/herself.
- (d) A Receiver may:
- (i) undertake or complete any works of repair, alteration, building or development on the Property and may apply for and maintain any planning permission, development consent, building regulation approval or any other permission, consent or licence to carry out any of the same.
  - (ii) grant, or accept, surrenders of any leases or tenancies affecting the Property on any terms and subject to any conditions that he/she thinks fit.
  - (iii) provide services and employ, or engage, any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms and subject to any conditions that he/she thinks fit. A Receiver may discharge any such person or any such person appointed by the Borrower.
  - (iv) make, exercise or revoke any VAT option to tax as he/she thinks fit.
  - (v) may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by him/her) that the Lender may prescribe or agree with him/her.
  - (vi) take immediate possession of, get in and realise any of the Charged Property.
  - (vii) may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Borrower carried out at the Property.
  - (viii) may grant options and licences over all or any part of the Charged Property, grant any other interest or right over, sell, assign or lease (or concur in granting options and licences over all or any part of the Charged Property, granting any other interest or right over, selling, assigning or leasing) all or any of the Charged Property in respect of which he/she is appointed for such consideration and in such manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions that he/she thinks fit. A Receiver may promote, or concur in promoting, a company to purchase the Charged Property to be disposed of by him/her.
  - (ix) may sever and sell separately any fixtures or fittings from the Property without the consent of the Borrower.
  - (x) give a valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Charged Property.
  - (xi) settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who claims to be a creditor of the Borrower or relating in any way to any of the Charged Property.
  - (xii) bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Charged Property that he thinks fit.
  - (xiii) if he thinks fit, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Borrower under this Deed.
  - (xiv) may exercise all powers provided for in the LPA 1925 in the same way as if he had been duly appointed under the LPA 1925 and exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency Act 1986.
  - (xv) for any of the purposes authorised by this Clause 10, raise money by borrowing from the Lender (or from any other person) either unsecured or on the security of all or any of the Charged Property in respect of which he is appointed on any terms that he thinks fit (including, if the Lender consents, terms under which that Security ranks in priority to this Deed).
  - (xvi) redeem any prior Security and settle and pass the accounts to which the Security relates. Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Borrower, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.
  - (xvii) delegate his/her powers in accordance with this Deed.

(xviii) in relation to any of the Charged Property, exercise all powers, authorisations and rights he/she would be capable of exercising as, and do all those acts and things, an absolute beneficial owner could exercise or do in the ownership and management of all or any part of the Charged Property.

(xix) do any other acts and things that he:

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

## **11 Delegation**

### **11.1 Delegation**

The Lender or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this Deed.

### **11.2 Terms**

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

### **11.3 Liability**

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

## **12 Application of proceeds**

### **12.1 Order of application of proceeds**

All monies received or recovered by the Lender, a Receiver or a Delegate under this Deed or in connection with the realisation or enforcement of all or part of the security constituted by this Deed, 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 (but without prejudice to the Lender's right to recover any shortfall from the Borrower):

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

### **12.2 Appropriation**

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

### **12.3 Suspense account**

All monies received by the Lender, a Receiver or a Delegate under this Deed (other than sums received under any insurance policy that are not going to be applied in or towards discharge of the Secured Liabilities):

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

## **13 Release**

At the end of the Security Period, the Lender shall, at the request and cost of the Borrower, take whatever action is necessary to:

- (a) release the Charged Property from the security constituted by this Deed; and
- (b) reassign the Charged Property to the Borrower.

#### **14 Assignment and transfer**

- (a) The Borrower may not assign or transfer any or all of its rights and obligations under this Deed.
- (b) The Lender may at any time assign any of its rights or transfer any of its rights and obligations under this Deed in conjunction with any assignment or transfer carried out in accordance with Clause 13 of the Loan Agreement.

#### **15 Set-off**

##### **15.1 Lender's right of set-off**

The Lender may at any time set off any liability of the Borrower to the Lender against any liability of the Lender to the Borrower, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Deed. If the liabilities to be set off are expressed in different currencies, the Lender may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Lender of its rights under this Clause 15.1 shall not limit or affect any other rights or remedies available to it under this Deed or otherwise.

##### **15.2 Exclusion of Borrower's right of set-off**

All payments made by the Borrower to the Lender under this Deed shall be made in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

#### **16 Amendments, waivers and consents**

##### **16.1 Amendments**

No amendment of this Deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

##### **16.2 Waivers and consents**

- (a) A waiver of any right or remedy under this Deed or by law, or any consent given under this Deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.
- (b) A failure or delay by a party to exercise any right or remedy provided under this Deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this Deed. No single or partial exercise of any right or remedy provided under this Deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this Deed by the Lender shall be effective unless it is in writing.

##### **16.3 Rights and remedies**

The rights and remedies provided under this Deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

#### **17 Severance**

If any provision (or part of a provision) of this Deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this Deed.

#### **18 Counterparts**

This Deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.

19 **Third party rights**

- (a) Except as expressly provided elsewhere in this Deed, a person who is not a party to this Deed 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 Deed. 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 Deed are not subject to the consent of any other person.

20 **Further provisions**

20.1 **Independent security**

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

20.2 **Continuing security**

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

20.3 **Certificates**

A certificate or determination by the Lender as to any amount for the time being due to it from the Borrower under this Deed and the Loan Agreement shall be, in the absence of any manifest error, conclusive evidence of the amount due.

20.4 **Consolidation**

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

21 **Notices**

Any notice or other communication given to a party under or in connection with this Deed shall be in writing and sent to the registered office of each party as specified on page 1 of this Deed.

22 **Governing law and jurisdiction**

22.1 **Governing Law**

This Deed and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

22.2 **Jurisdiction**

Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Deed or its subject matter or formation. Nothing in this clause shall limit the right of the Lender to take proceedings against the Borrower in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

**In witness of which this document has been executed by the Parties as a Deed and delivered on the date set out at the beginning of this Deed.**

**Signature page**

Executed as a Deed by )  
RBC TRUSTEES (JERSEY) LIMITED )  
as trustees of the A189 Trust )  
acting by two authorised signatories )  
in the presence of: )

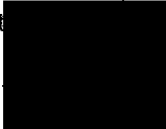


Authorised signatory



Authorised signatory

Signature



Name of witness  
(in BLOCK CAPITALS)

ANDREW BARROT

Address of witness



Executed as a Deed by )  
BA TECHNOLOGIES HOLDINGS LIMITED )  
acting by a director )  
in the presence of: )

.....  
Director

Signature of witness

.....

Name of witness  
(in BLOCK CAPITALS)

.....

Address of witness

.....  
.....  
.....  
.....

## Signature page

Executed as a Deed by )  
RBC TRUSTEES (JERSEY) LIMITED )  
as trustees of the A189 Trust )  
acting by two authorised signatories )  
in the presence of: )

.....  
Authorised signatory

.....  
Authorised signatory

Signature of witness

.....

Name of witness  
(in BLOCK CAPITALS)

.....

Address of witness

.....  
.....  
.....  
.....

Executed as a Deed by )  
BA TECHNOLOGIES HOLDINGS LIMITED )  
acting by a director )  
in the presence of: )

  
Director

Signature of witness

  
Name of witness  
(in BLOCK CAPITALS)

SEBASTIAN GLASSPOOL

Address of witness

