



**Registration of a Charge**

Company name: **ROWCHESTER LIMITED**

Company number: **10706696**

Received for Electronic Filing: **04/05/2017**



X65REKEO

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**Details of Charge**

Date of creation: **26/04/2017**

Charge code: **1070 6696 0001**

Persons entitled: **VE INTERACTIVE LIMITED  
HENRY ANTHONY SHINNERS  
COLIN HARDMAN  
FINBARR THOMAS O'CONNELL**

**There are more than four persons entitled to the charge.**

Brief description:

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

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT  
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION  
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **ANTHONY EDWARD PAGE**



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

Company number: 10706696

Charge code: 1070 6696 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 26th April 2017 and created by ROWCHESTER LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 4th May 2017 .

Given at Companies House, Cardiff on 5th May 2017

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



**Companies House**



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

DATED 26 APRIL 2017

VE INTERACTIVE LIMITED (IN ADMINISTRATION) (1)

HENRY ANTHONY SHINNERS, COLIN HARDMAN,  
FINBARR THOMAS O'CONNELL and MARK FORD (2)  
(AS JOINT ADMINISTRATORS)

and

ROWCHESTER LIMITED (3)

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DEBENTURE

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EDWIN COE LLP  
2 Stone Buildings  
Lincoln's Inn,  
London, WC2A 3TH

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Reference: KG/SG/VEI.0002.0005

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DATE OF DEBENTURE

26 APRIL

2017

## PARTIES

- (1) **VE INTERACTIVE LIMITED (in administration)** (Company number 06956893) whose registered office is at 15-19 Baker's Row, London, EC1R 3DG ("**Chargee**");
- (2) **HENRY ANTHONY SHINNERS, COLIN HARDMAN, FINBARR THOMAS O'CONNELL and MARK FORD** of Smith & Williamson Limited, 25 Moorgate, London, EC2R 6AY, joint administrators of the Seller ("**Joint Administrators**"); and
- (3) **ROWCHESTER LIMITED** (Company number 10706696) whose registered office is at 7 Old Park Lane, London, England, W1K 1QR (the "**Chargor**").

## THIS DEED WITNESSES THAT:

## 1 INTERPRETATION

## 1.1 Definitions

In this deed, unless the context otherwise requires:

**"Account"** means each account from time to time opened or maintained by the Chargor at such branch of the Account Bank as the Chargee may approve and all rights, benefits and proceeds in respect of such account.

**"Account Bank"** means any bank with which the Chargor maintains one or more Accounts.

**"Administrator"** means any person appointed under Schedule B1 Insolvency Act 1986 to manage the Chargor's affairs, business and property.

**"Authority"** includes any statutory, public, local regulatory or other competent authority, the fire officer and building regulations control officer, and any court of law or government department.

**"Charged Assets"** means all assets of the Chargor described in clauses 3.1 and 3.2.

**"Collateral Instruments"** means notes, bills of exchange, certificates of deposit and other negotiable and non-negotiable instruments, guarantees and any other documents or instruments which contain or evidence an obligation (with or without security) to pay, discharge or be responsible directly or indirectly for, any liabilities of any person and includes any document or instrument creating or evidencing an Encumbrance.

**"Consideration"** means the consideration payable by the Chargor pursuant to the Sale and Purchase Agreement.

**"Debts"** means book and other debts, revenues and claims, whether actual or contingent, whether arising under contracts or in any other manner whatsoever and all things in action which may give rise to any debt, revenue or claim, together with the full benefit of any Encumbrances, Collateral Instruments and any other rights relating thereto (whether as creditor or beneficiary) including, without limitation, reservations of proprietary rights, rights of tracing and unpaid vendor's liens and associated rights, but excluding any assets the subject of clauses 3.1(h) or 3.1(i).

**"Disposal"** includes any sale, lease, sub-lease, assignment or transfer, Encumbrance, the grant of an option or similar right, the grant of any easement, right or privilege, the grant of a licence or permission to assign or sublet, the creation of a trust or other equitable interest or any other proprietary right in favour of a third party, a sharing or parting with possession or occupation whether by way of licence or otherwise and the granting of access to any other person over any Intellectual Property, and any agreement or attempt to do any of the foregoing and **"dispose"** and **"disposition"** shall be construed accordingly.

**"Encumbrance"** means any mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, standard security, assignment by way of security, trust arrangement for the purpose of providing security or other security interest of any kind securing or preferring any obligation of any person or any other arrangement having the effect of conferring rights of retention or set-off or other disposal rights over an asset (including, without limitation, title transfer and/or retention arrangements having a similar effect) and includes any agreement to create any of the foregoing.

**"Enforcement Date"** means the date on which an Event of Default occurs or, if earlier, the date on which:

- (a) the Chargee receives from any person a notice of intention to appoint an Administrator in respect of the Chargor;
- (b) the Chargor requests the Chargee to appoint an Administrator or a Receiver in respect of the Chargor;
- (c) an application is made for the appointment of an Administrator in respect of the Chargor;
- (d) a petition is presented for a winding up order in respect of the Chargor; or
- (e) an Administrator is appointed in relation to the Chargor.

**"Equipment"** means machinery, equipment, furniture, furnishings, fittings and fixtures and other tangible personal property (other than Inventory), including, without limitation, data processing hardware and software, motor vehicles, aircraft, dies, tools, jigs and office equipment, together with all present and future additions thereto, replacements or upgrades thereof, components and auxiliary parts and supplies used or to be used in connection therewith and all substitutes for any of the foregoing, and all manuals, drawings, instructions, warranties and rights with respect thereto wherever any of the foregoing is located.

**"Event of Default"** means any of the events or circumstances set out in clause 7.1 (whether or not caused by any reason outside the control of the Chargor).

**"Fixed Charge Assets"** means the assets of the Chargor described in clause 3.1.

**"Fixtures"** means, in relation to a Property, all fixtures and fittings (including trade fixtures and fittings), fixed plant and machinery and other items attached to that property, whether or not constituting a fixture at law.

**"Incapacity"** means, in relation to a person, the insolvency, liquidation, dissolution, winding-up, administration, receivership, amalgamation, reconstruction or other incapacity of that person whatsoever (and, in the case of a partnership, includes the termination or change in the composition of the partnership).

**"Indebtedness"** means any obligation for the payment or repayment of money, whether as principal or surety and whether present or future, actual or contingent.

**"Insurances"** means all present and future contracts or policies of insurance (including life assurance policies) taken out by the Chargor or in which the Chargor from time to time has an interest.

**"Intellectual Property "** means all patents (including applications for and rights to apply for patents), trademarks and service marks (whether registered or not) and applications for the same, trade names, registered designs, design rights, semiconductor topography rights, database rights, copyrights, computer programs, customer lists, know-how and trade secrets and all other intellectual or intangible property or rights and all licences, agreements and ancillary and connected rights relating to intellectual and intangible property, in each case now or from time to time hereafter owned by the Chargor, including any renewals, revivals or extensions thereof and wherever in the world subsisting.

**"Inventory"** means inventory, goods and merchandise, wherever located, raw materials, work-in-progress, finished goods, returned goods and materials and supplies of any kind, nature or description used in connection with the Chargor's business or used in connection with the manufacture, packing, shipping, advertising, selling or finishing of such goods, merchandise and such other specified property, and all documents of title or other documents representing them.

**"Licences to Occupy"** means the licences to occupy made between the Chargor, the Chargee and the Joint Administrators dated on or around the date hereof, more particularly described in the Sale and Purchase Agreement.

**"Permitted Disposal"** means a disposal of Charged Assets that is a disposal of:

- (f) trading stock in the ordinary course of business;
- (g) the disposal of redundant or obsolete assets for cash; or
- (h) assets exchanged for other assets comparable or superior as to type, value and quality.

**"Property"** means freehold and leasehold property wherever situate (other than any heritable property in Scotland), and includes all liens, charges, options, agreements, rights and interests in or over such property or the proceeds of sale of such property and all buildings and Fixtures thereon and all rights, easements and privileges



appurtenant to, or benefiting, the same and **"Properties"** means all or any of the same, as the context requires.

**"Receiver"** means any receiver and/or manager not being an administrative receiver (within the meaning of section 29(2) Insolvency Act 1986) appointed by the Chargee pursuant to clause 9.1.

**"Receivership Assets"** has the meaning given to it in clause 9.1.

**"Relevant Substance"** means any natural or artificial substance (in solid or liquid form or in the form of a gas or vapour) whether alone or in combination with any substance capable of causing harm to man or any other living organism supported by the Environment or damaging the Environment or public health or welfare including, but not limited to, any controlled, special, hazardous, toxic or dangerous waste.

**"Remediation"** means any and all investigating, sampling, analysing, removing, remedying, cleaning-up, abating, containing or ameliorating the presence in or effect on the Environment of any contamination or pollution including, without limitation, the removal, treatment and disposal of material and the treatment and monitoring of ground waters and gases and emissions to air and the obtaining of expert technical and legal advice (including all project management functions) in relation thereto.

**"Sale and Purchase Agreement"** means the sale and purchase agreement dated on or around the date hereof made between, amongst others, the Chargor (1) and the Chargee (2) pursuant to which the Chargee has agreed to sell and the Chargor has agreed to buy certain assets of the Chargee.

**"Secured Obligations"** means all moneys, obligations and liabilities covenanted to be paid or discharged under or pursuant to clause 2.1.

**"Securities"** means stocks, shares, bonds and securities of any kind whatsoever (including warrants, options and other rights to acquire or subscribe any of the same) whether marketable or otherwise and all interests (including but not limited to loan capital) in any person, including all allotments, rights, benefits and advantages whatsoever at any time accruing, offered or arising in respect of or incidental to the same and all money or property accruing or offered at any time by way of conversion, redemption, bonus, preference, option, dividend, distribution, interest, or otherwise in respect thereof.

**"Specified Person"** means each or all, as the context requires, of the Chargor, its Subsidiaries, the occupier of any properties from time to time and at any time owned, leased, occupied or otherwise used by the Chargor or any of its Subsidiaries or any of their respective officers.

**"Subsidiary"** shall have the meaning given to it in section 1159 Companies Act 2006.

## 1.2 Successors and assigns

The expressions **"Chargee"**, **"Chargor"** and **"Joint Administrators"** include, where the context admits, their respective successors and, in the case of the Chargee, its transferees and assignees, whether immediate or derivative.

### 1.3 Headings

Clause headings and the Contents page are inserted for convenience of reference only and shall be ignored in the interpretation of this deed.

### 1.4 Construction of certain terms

In this deed, unless the context otherwise requires:

- (a) references to clauses and schedules are to be construed as references to the clauses of, and the schedules to, this deed and references to this deed include its schedules;
- (b) references to (or to any specified provision of) this deed or any other document shall be construed as references to this deed, that provision or that document as in force for the time being and as amended, supplemented, replaced or novated in accordance with the terms thereof or, as the case may be, with the agreement of the relevant parties and (where such consent is, by the terms of this deed or the relevant document, required to be obtained as a condition to such amendment being permitted) the prior written consent of the Chargee;
- (c) words importing the plural shall include the singular and vice versa;
- (d) references to a time of day are to London time;
- (e) references to "assets" include all or part of any business, undertaking, real property, personal property, uncalled capital and any rights (whether actual or contingent, present or future) to receive, or require delivery of, or otherwise in respect of, any of the foregoing;
- (f) references to a "guarantee" include references to an indemnity or other assurance against financial loss including, without limitation, an obligation to purchase assets or services as a consequence of a default by any other person to pay any indebtedness and "guaranteed" shall be construed accordingly;
- (g) references to a "person" shall be construed as including references to an individual, firm, company, corporation, unincorporated body of persons or any State or any of its agencies;
- (h) references to a "regulation" include any present or future regulation, rule, directive, requirement, request or guideline (whether or not having the force of law) of any agency, authority, central bank or government department or any self-regulatory or other national or supra-national authority; and
- (i) references to any enactment shall be deemed to include references to such enactment as re-enacted, amended or extended;
- (j) in relation to any Properties in Northern Ireland, references to the Law of Property Act 1925 shall be construed as references to the corresponding provisions of the Conveyancing and Law of Property Act 1881; and

- (k) unless the context otherwise requires or unless otherwise defined in this deed, words and expressions defined in the Sale and Purchase Agreement shall have the same meaning when used in this deed.

### **1.5 Effect as a deed**

This deed is intended to take effect as a deed notwithstanding that the Chargee may have executed it under hand only.

## **2 SECURED OBLIGATIONS**

### **2.1 Covenant to pay**

The Chargor hereby covenants that it will:

- (a) pay the Deferred Consideration (as defined in the Sale and Purchase Agreement) in accordance with the terms of clause 3.1 of the Sale and Purchase Agreement;
- (b) meet its obligations under clause 4.4 of the Sale and Purchase Agreement to provide the Costs Fund up to the specified cap in accordance with the term of that clause; and
- (c) pay the Licence Fees (as defined in the Licences to Occupy) under the terms of the Licences to Occupy.

### **2.2 Statements of account conclusive**

Any statement of account of the Chargor, signed as correct by an officer of the Chargee, showing the amount of the Secured Obligations, shall, in the absence of manifest error, be binding and conclusive on and against the Chargor.

## **3 CHARGES**

### **3.1 Fixed charges**

The Chargor, with full title guarantee, hereby charges to the Chargee as a continuing security for the payment and discharge of the Secured Obligations:

- (a) by way of first legal mortgage, the Properties (if any) specified in Schedule 1;
- (b) by way of first legal mortgage, all Properties (other than any Properties specified in Schedule 1) now owned by the Chargor or in which the Chargor has an interest;
- (c) by way of first fixed charge (to the extent not the subject of a legal mortgage by virtue of clauses 3.1(a) or 3.1(b)) all present and future Properties now or from time to time hereafter owned by the Chargor or in which the Chargor may have an interest;
- (d) by way of first fixed charge, the Equipment (if any) specified in Schedule 2 and the benefit of all contracts and warranties relating to the same;

- (e) by way of first fixed charge, all Equipment (other than any Equipment specified in Schedule 2) now, or from time to time hereafter owned by the Chargor or in which the Chargor has an interest and the benefit of all contracts and warranties relating to the same;
- (f) by way of first fixed charge, all Securities now or from time to time owned by the Chargor or in which the Chargor has an interest;
- (g) by way of first fixed charge, all Debts now or from time to time hereafter owned by the Chargor or in which the Chargor has an interest (whether originally owing to the Chargor or purchased or otherwise acquired by it);
- (h) by way of first fixed charge, the proceeds of collection of all Debts;
- (i) by way of first fixed charge any and all amounts from time to time standing to the credit of all present and future accounts of the Chargor with any bank, financial institution or other person including, without limitation, the Accounts;
- (j) by way of first fixed charge, all moneys from time to time payable to the Chargor under or pursuant to the Insurances including without limitation the right to the refund of any premiums;
- (k) by way of first fixed charge, the proceeds of all other sums of money received by the Chargor, other than those specified in clauses 3.1(g), 3.1(h), 3.1(i) or 3.1(j);
- (l) by way of first fixed charge, the goodwill and uncalled capital of the Chargor;
- (m) by way of first fixed charge, the Intellectual Property (if any) specified in Schedule 3;
- (n) by way of first fixed charge, all Intellectual Property (other than any Intellectual Property specified in Schedule 3) now or from time to time hereafter owned by the Chargor or in which the Chargor may have an interest.

### **3.2 Floating charge**

The Chargor, with full title guarantee, hereby charges to the Chargee by way of first floating charge as a continuing security for the payment and discharge of the Secured Obligations its undertaking and all its property, assets and rights whatsoever and wheresoever both present and future including, without limitation, its Inventory, other than any property or assets from time to time effectively charged by way of legal mortgage or fixed charge or assignment pursuant to clause 3.1 or otherwise pursuant to this deed but including (without limitation and whether or not so effectively charged) any of its property and assets situated in Scotland.

### **3.3 Qualifying Floating Charge**

The provisions of paragraph 14 of Schedule B1 Insolvency Act 1986 apply to the floating charge in clause 3.2, which shall be enforceable at any time on or after the Enforcement Date.

### **3.4 Restrictions on dealing with Charged Assets**

The Chargor hereby covenants that it will not:

- (a) dispose of all or any of its Properties in whole or in part;
- (b) dispose of all or any of the Fixed Charge Assets without the prior written consent of the Chargee;
- (c) dispose of Inventory or any other Charged Asset the disposal of which is not otherwise restricted by the express terms of this deed other than as a result of a Permitted Disposal;
- (d) without limiting the generality of the foregoing provisions of this clause 3.4 dispose of, or create or attempt to create or permit to subsist or arise any Encumbrance on or over, the Debts or any part thereof or release, set off or compound or deal with the same otherwise than in accordance with clause 5.1(b); or
- (e) create or attempt to create or permit to subsist in favour of any person other than the Chargee any Encumbrance on or affecting the Charged Assets or any part thereof.

### **3.5 Automatic conversion of floating charge**

So far as permitted by law and notwithstanding anything expressed or implied in this deed:

- (a) if the Chargor creates or attempts to create any Encumbrance over all or any of the Charged Assets without the prior written consent of the Chargee or if any person levies or attempts to levy any distress, execution, sequestration or other process or does or attempts to do any diligence in execution against any of the Charged Assets, the floating charge created by clause 3.2 over the property or asset concerned shall thereupon automatically without notice be converted into a fixed charge; and
- (b) the floating charge created by clause 3.2 shall automatically be converted into a fixed charge on the Enforcement Date.

### **3.6 Conversion of floating charge by notice**

Notwithstanding anything expressed or implied in this deed but without prejudice to clause 3.5, the Chargee shall be entitled at any time by giving notice in writing to that effect to the Chargor to convert the floating charge over all or any part of the Charged Assets into a fixed charge as regards the assets specified in such notice.

### **3.7 Land Registry**

- (a) The Chargor hereby consents to the Chargee's application to the Chief Land Registrar in Form RX1 for the registration of the following restriction against each of the registered titles specified in Schedule 1 (and against any title to any unregistered Property specified in Schedule 1 which is or ought to be the

subject of a first registration of title at the Land Registry at the date of this deed):

**"RESTRICTION:**

No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated \_\_\_\_\_ in favour of **[CHARGOR] LIMITED** (In administration) referred to in the charges register or, if appropriate signed on such proprietor's behalf by its secretary or conveyancer".

- (b) In respect of any Property charged pursuant to clauses 3.1(a) to 3.1(c) title to which is registered at the Land Registry, the Chargor hereby represents and warrants that the security created by this deed does not contravene any of the provisions of the memorandum and articles of association or any other constitutional documents of the Chargor.
- (c) The Chargor consents and will procure the consent of the proprietor of any charge registered against any titles specified in Schedule 1, to the Chargee's application to the Chief Land Registrar in form RX1 for the registration of the following restriction against such registered charges and against any title to any unregistered Property specified in Schedule 1 which is or ought to be the subject of a first registration at the Land Registry at the date of this deed.

**"RESTRICTION:**

No disposition by the proprietor of the registered charge dated (referred to above) is to be registered without a written consent signed on behalf of the Chargee by its secretary or conveyancer."

### **3.8 The Securities**

- (a) The Chargor will if so requested by the Chargee transfer all or any of the Securities to such nominees or agents as the Chargee may select.
- (b) Until the Enforcement Date the Chargee will:
  - (i) hold all dividends, distributions, interest and other moneys paid on and received by it in respect of the Securities for the account of the Chargor and will, subject to any right of set-off and to clause 7.3, pay such dividends, distributions, interest and other moneys to the Chargor upon request; and
  - (ii) exercise all voting and other rights and powers attached to the Securities as the Chargor may from time to time in writing reasonably direct provided that the Chargee shall be under no obligation to comply with any such direction where compliance would, in the Chargee's opinion, be prejudicial to the security created by this deed.

## **4 SET-OFF**

### **4.1 Set-off**

The Chargor hereby agrees that the Chargee may at any time without notice, notwithstanding any settlement of account or other matter whatsoever, combine or consolidate all or any of its then existing accounts wheresoever situate (including accounts in the name of the Chargee or of the Chargor jointly with others), whether such accounts are current, deposit, loan or of any other nature whatsoever, whether they are subject to notice or not and whether they are denominated in sterling or in any other currency, and set-off or transfer any sum standing to the credit of any one or more such accounts in or towards satisfaction of the Secured Obligations which, to the extent not then payable, shall automatically become payable to the extent necessary to effect such set-off.

### **4.2 Purchase of currencies**

For the purpose of clause 4.1, the Chargor authorises the Chargee to purchase with the moneys standing to the credit of such accounts such other currencies as may be necessary to effect such applications.

## **5 UNDERTAKINGS**

### **5.1 The Chargor hereby undertakes with the Chargee that, during the continuance of this security, the Chargor will:**

#### **(a) Consents and licences**

Obtain or cause to be obtained, maintain in full force and effect and comply in all material respects with the conditions and restrictions (if any) imposed in, or in connection with, every consent, authorisation, licence or approval of governmental or public bodies or authorities or courts and do, or cause to be done, all other acts and things which may from time to time be necessary or desirable under applicable law for the continued due performance of all its obligations under this deed.

#### **(b) Debts**

Collect in the ordinary course of its business in a proper and efficient manner all moneys in respect of the Debts forthwith on receipt, the Chargor acknowledging that it may not, without the prior written consent of the Chargee, compromise, compound, vary, discharge, postpone or release any of the Debts or waive its right of action in connection therewith or do or omit to do anything which may delay or prejudice the full recovery thereof, other than granting extensions to normal trade credit in accordance with the Chargor's reasonable and prudent management of its debtors on a normal commercial basis. Following notice from the Chargee to this effect the Chargor will collect the Debts as agent for the Chargee and pay all moneys received in respect of the Debts into the Account(s) or such other account as the Chargee may from time to time specify and the Chargor acknowledges that it may not, without the prior written consent of the Chargee, withdraw any such moneys from such account.

## (c) Deposit of deeds

Deposit with the Chargee (to be held at the risk of the Chargor):

- (i) all deeds and documents of title relating to its Properties and the Insurances relating thereto;
- (ii) all certificates and documents of title relating to the Securities and such undated deeds of transfer in blank and other documents as the Chargee may from time to time require for perfecting the title of the Chargee to the Securities (duly executed by or signed on behalf of the registered holder) or for vesting or enabling it to vest the same in itself or its nominees or in any purchaser; and
- (iii) all such other documents relating to its Charged Assets as the Chargee may from time to time require.

## (d) Conduct of business

- (i) Conduct and carry on its business in a proper and efficient manner and keep or cause or procure to be kept proper books of account and not make any material alteration in the nature or mode of conduct of its business; and
- (ii) ensure its centre of main interest for the purposes of Council Regulation (EC) No 1346/2000 of 29 May 2000 on Insolvency Proceedings including, but not limited to, its headquarter functions is located at all times within England and Wales and not move its centre of main interest to any other jurisdiction without the prior written consent of the Chargee which the Chargee may withhold at the Chargee's sole discretion or otherwise diminish in or divert from England and Wales the substantive management and control of its business or of any of its Properties.

## (e) Compliance with covenants

Observe and perform all covenants, requirements and obligations from time to time imposed on, applicable to or otherwise affecting the Charged Assets and/or the use, ownership, occupation, possession, operation, repair, maintenance or other enjoyment or exploitation of the Charged Assets whether imposed by statute, law or regulation, contract, lease, licence, grant or otherwise, carry out all registrations or renewals and generally do all other acts and things (including the taking of legal proceedings) necessary or desirable to maintain, defend or preserve its right, title and interest to and in the Charged Assets without infringement by any third party and not without the prior written consent of the Chargee enter into any onerous or restrictive obligations affecting any of the same or agree any rent review relating to any interest in any of its Properties.

## (f) Alteration or development of Properties

Not make any structural or material alteration to or to the user of any of its Properties or do or permit to be done anything which is a "**development**"



within the meaning of the Town and Country Planning Acts for the time being in force or any orders or regulations under such acts or do or permit or omit to be done any act, matter or thing as a consequence of which any provision of any statute, bye-law, order or regulation or any condition of any consent, licence, permission or approval (whether of a public or private nature) for the time being in force imposed on, applicable to or otherwise affecting any of its Properties is or may be infringed.

(g) Maintenance of buildings and Equipment

- (i) Keep all its buildings and Equipment in good and substantial repair and in good working order and condition and permit the Chargee and its agents or representatives to enter and view their state and condition; and
- (ii) unless otherwise requested by the Chargee, affix to the Equipment listed in Schedule 2 a prominent and fireproof notice stating that the Equipment in question is charged to the Chargee by way of fixed charge.

(h) Insurance

- (i) Insure and keep insured its Properties, Equipment and all other tangible assets of an insurable nature at its own expense to the full replacement or reinstatement value thereof from time to time (including, where applicable, the cost of demolition and site clearance, architects', surveyors' and other professional fees and incidental expenses in connection with replacement or reinstatement) against loss or damage (including loss of rent and profits) by fire, storm, lightning, explosion, riot, civil commotion, malicious damage, impact, flood, burst pipes, aircraft and other aerial devices or articles dropped therefrom and such other risks and contingencies as the Chargee shall from time to time request;
- (ii) maintain third party and public liability insurance and such other insurances as are normally maintained by prudent companies carrying on businesses similar to those of the Chargor;
- (iii) duly and promptly pay all premiums and other moneys necessary for effecting and keeping up such insurances and on demand produce to the Chargee the relevant policies and evidence of such payments and comply in all other respects with the terms and conditions of the relevant policies including without limitation any stipulations or restrictions as to the use and/or operation of any asset;
- (iv) all Insurances shall be effected with insurers approved by the Chargee in writing and with the interest of the Chargee noted on the policy (or, if the Chargee so requires, in the joint names of the Chargor and the Chargee) and with the policy containing such provisions for the protection of the Chargee as the Chargee may require;
- (v) in the case of any Property held under a lease the terms of which prohibit the Chargor from complying with the obligations referred to in

clause 5.1(h)(i) procure (where it is empowered to do so) or otherwise use all reasonable efforts to procure the maintenance by the landlord (or other third party) of such insurance obligations in accordance with the provisions of the relevant lease.

(i) Property outgoings

Punctually pay, or cause to be paid, and indemnify the Chargee and any Receiver or Administrator (on a several basis) against, all present and future rent, rates, taxes, duties, charges, assessments, impositions and outgoings whatsoever (whether imposed by agreement, statute or otherwise) now or at any time during the continuance of this security payable in respect of its Properties or any part thereof or by the owner or occupier thereof.

(j) Possession of Properties

Without prejudice to the generality of clause 3.4 not without the prior written consent of the Chargee dispose or part with possession of the whole or any part of any of its Properties or permit any person:

- (i) to be registered (jointly with the Chargor or otherwise) as proprietor under the Land Registration Acts of any of its Properties nor create or permit to arise any unregistered interests which override first registration or registered dispositions affecting the same within the definition in those acts or within any corresponding legislation in any other part of the United Kingdom; or
- (ii) to become entitled to any right, easement, covenant, interest or other title encumbrance which might adversely affect the use, value or marketability of any of its Properties.

(k) Variation of leasehold interests

Not without the prior written consent of the Chargee vary, surrender, cancel or dispose of, or permit to be forfeit, any leasehold interest in any of its Properties.

(l) Acquisition of property

Immediately inform the Chargee before contracting to acquire any estate or interest in freehold, leasehold or heritable property and supply the Chargee with such details of the acquisition as the Chargee may from time to time request.

(m) Intellectual Property

Without prejudice to the generality of clause 5.1(e):

- (i) take all necessary action to safeguard, prosecute and maintain its rights, present and future, in or relating to all Intellectual Property including, without limitation, observing all covenants and stipulations relating thereto and paying all applicable renewal fees, licence fees and other outgoings;

- (ii) use all reasonable efforts to effect registration of applications for registration of any registered design, patent, trade mark and service mark and keep the Chargee informed of events relevant to any such application and not without the prior consent in writing of the Chargee permit any Intellectual Property to be abandoned or cancelled, to lapse or to be liable to any claim of abandonment for non-use or otherwise;
- (iii) notify the Chargee forthwith of any infringement or suspected infringement or any challenge to the validity of any of the Intellectual Property which may come to its notice, supply the Chargee with all information in its possession relating thereto and take all steps necessary to prevent or bring to an end any such infringement and to defend any challenge to the validity of any such rights.

(n) **Copies of notices**

Notify the Chargee forthwith if it receives any notice, order, permission or proposal issued or sent by any person or Authority in connection with the Property including, without limitation, any notice under section 146 Law of Property Act 1925 and at the Chargor's own cost take all reasonable steps to comply with or make, or join with the Chargee in making, such objections or representations against or in respect of any such notice, order or proposal as the Chargee shall direct and defend or settle any proceedings as the Chargee shall direct.

(o) **Jeopardy**

Not do or cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value or marketability of any of the Charged Assets.

## **5.2 Power to remedy**

If the Chargor defaults at any time in complying with any of its obligations contained in this deed, the Chargee shall, without prejudice to any other rights arising as a consequence of such default, be entitled (but not bound) to make good such default and the Chargor hereby irrevocably authorises the Chargee and its employees and any agents by way of security to do all such things (including, without limitation, entering any of its Properties) necessary or desirable in connection therewith. Any moneys so expended by the Chargee shall be repayable by the Chargor to the Chargee on demand together with interest at the rate of 4% over the base rate of The Bank of England from time to time prevailing from the date of payment by the Chargee until such repayment, both before and after judgment. No exercise by the Chargee of its powers under this clause 5.2 shall make the Chargee liable to account as a mortgagee in possession.

## **6 FURTHER ASSURANCE**

### **6.1 Further assurance**

The Chargor shall if and when at any time required by the Chargee execute such further Encumbrances and assurances in favour or for the benefit of the Chargee and

do all such acts and things as the Chargee shall from time to time require over or in relation to all or any of the Charged Assets to secure the Secured Obligations or to perfect or protect the Chargee's security over the Charged Assets or any part thereof or to facilitate the realisation of the same.

## **6.2 Certain documentary requirements**

Such further Encumbrances and assurances shall be prepared by or on behalf of the Chargee at the expense of the Chargor and shall contain:

- (a) an immediate power of sale without notice;
- (b) a clause excluding section 93 Law of Property Act 1925 and the restrictions contained in section 103 Law of Property Act 1925; and
- (c) such other clauses for the benefit of the Chargee as the Chargee may require.

## **6.3 Implied Covenants**

The provisions of clauses 6.1 and 6.2 shall be in addition to and not in substitution for the covenants for further assurance deemed to be included in this deed by virtue of the Law of Property (Miscellaneous Provisions) Act 1994.

# **7 ENFORCEMENT**

## **7.1 Enforcement**

At any time on or after the Enforcement Date the Chargee shall be entitled to make demand for payment of the Secured Obligations and if such demand is not met in full, to enforce the security (in whole or in part) created by this deed. Each of the following is an Event of Default:

- (a) Non-payment

The Chargor fails to pay any sum due from it to the Chargee under the Sale and Purchase Agreement or the Licences to Occupy in the currency, at the time and in the manner stipulated therein.

- (b) Breach of obligations

The Chargor commits any breach of or omits to observe any of the obligations or undertakings or indemnities expressed to be assumed by it under this deed, the Sale and Purchase Agreement or the Licences to Occupy.

- (c) Misrepresentation

Any representation or warranty made by or in respect of the Chargor in or pursuant to, or in any notice, certificate or statement referred to in or delivered under, the Sale and Purchase Agreement or other agreement or arrangement between the Chargor and the Chargee is or proves to have been incorrect or misleading in any material respect or would be or become incorrect or

misleading at any time if repeated at such time by reference to the facts and circumstances then subsisting.

(d) Cross-default

Any Indebtedness of the Chargor is not paid when due or becomes (whether by declaration or automatically in accordance with the relevant agreement or instrument constituting the same) due and payable prior to the date when it would otherwise have become due or any creditor of the Chargor becomes entitled to declare any Indebtedness of the Chargor so due and payable or to require cash collateralisation or security for any such Indebtedness or any facility or commitment available to the Chargor relating to Indebtedness is withdrawn, suspended or cancelled by reason of any default (however described) of the Chargor.

(e) Legal process

Any judgment or order made against the Chargor is not stayed or complied with within seven days or a creditor attaches or takes possession of, or a distress, execution, sequestration or other process is levied or enforced upon or sued out against, any part of the undertakings, assets, rights or revenues of the Chargor and is not discharged within seven days.

(f) Insolvency

The Chargor is unable or admits inability to pay its debts as they fall due or otherwise becomes insolvent or stops or suspends making payments (whether of principal or interest), applies for a moratorium or enters into a standstill with respect to all or any class of its debts or announces an intention to do so.

(g) Reduction or loss of capital

A meeting is convened by the Chargor for the purpose of passing any resolution to purchase, reduce or redeem any of its share capital or to comply with section 656 Companies Act 2006.

(h) Winding up

Any petition is presented or other step is taken for the purpose of winding up the Chargor or an order is made or resolution passed for the winding up of the Chargor or a notice is issued convening a meeting for the purpose of passing any such resolution.

(i) Administration

The Chargee receives from any person a notice of intention to appoint an Administrator, an Administrator is appointed, an administration application is made or any other step is taken for the purpose of the appointment of an Administrator or the Chargee believes that any such application or other step is imminent or an administration order is made in relation to the Chargor.

## (j) Appointment of receivers and managers

Any administrative or other receiver is appointed over the Chargor or any part of its assets and/or undertaking or any other steps are taken to enforce any Encumbrance over all or any part of the assets of the Chargor.

## (k) Compositions

Any steps are taken, or negotiations commenced, by the Chargor or by any of its creditors with a view to proposing any kind of composition, compromise or arrangement involving the Chargor and any of its creditors including, without limitation, a voluntary arrangement under the Insolvency Act 1986.

## (l) Analogous proceedings

There occurs, in relation to the Chargor, in any country or territory in which it carries on business or to the jurisdiction of whose courts any part of its assets is subject, any event which, in the reasonable opinion of the Chargee, appears in that country or territory to correspond with, or have an effect equivalent or similar to, any of those mentioned in clauses 7.1(a) to 7.1(k) (inclusive) or the Chargor otherwise becomes subject, in any such country or territory, to the operation of any law relating to insolvency, bankruptcy or liquidation.

## (m) Cessation of business

The Chargor suspends or ceases or threatens to suspend or cease to carry on its business.

## (n) Seizure

All or a material part of the undertaking, assets, rights or revenues of, or shares or other ownership interests in, the Chargor are seized, nationalised, expropriated or compulsorily acquired by or under the authority of any government.

## (o) Security

This deed is not or ceases to be effective or is alleged by the Chargor to be ineffective for any reason or does not or ceases to constitute security of the kind and with the priority contemplated by this deed.

## (p) Unlawfulness

It becomes unlawful at any time for the Chargor to perform all or any of its obligations under this deed or the Sale and Purchase Agreement or other agreement or arrangement between the Chargor and the Chargee.

## (q) Repudiation

The Chargor repudiates this deed or the Sale and Purchase Agreement or other agreement or arrangement between the Chargor and the Chargee or does or causes or permits to be done any act or thing evidencing an intention

to repudiate this deed or the Sale and Purchase Agreement or other agreement or arrangement between the Chargor and the Chargee.

(r) **Material adverse change**

There occurs, in the opinion of the Chargee, a material adverse change in the financial condition of the Chargor.

(s) **Material events**

Any event occurs or circumstance arises which, in the opinion of the Chargee, is likely materially and adversely to affect the ability of the Chargor to perform all or any of its obligations under or otherwise to comply with the terms of this deed or the Sale and Purchase Agreement or other agreement or arrangement between the Chargor and the Chargee.

## **7.2 Powers of the Chargee on enforcement**

At any time on or after the Enforcement Date the Chargee (and for the avoidance of doubt this shall include each and any company listed within the definition of Chargee) may, without further notice, without the restrictions contained in section 103 Law of Property Act 1925 and whether or not an Administrator or a Receiver shall have been appointed, exercise all the powers conferred upon mortgagees by the Law of Property Act 1925 as varied or extended by this deed and all the powers and discretions conferred by this deed on a Receiver expressly, by law or by reference.

## **7.3 Enforcement in relation to Securities**

Without limiting the generality of clause 7.2 the Chargee and its nominees at the discretion of the Chargee may at any time on or after the Enforcement Date exercise without further notice to or any authority from the Chargor in respect of the Securities any voting rights and all powers given to trustees by the Trustee Act 2000 in respect of securities or property subject to a trust and any powers or rights which may be exercisable by the person in whose name any of the Securities is from time to time registered or by the bearer thereof for the time being.

## **7.4 Subsequent Encumbrances**

If the Chargee receives notice of any subsequent Encumbrance affecting all or any of the Charged Assets, the Chargee may open a new account for the Chargor. If it does not do so then, unless the Chargee gives express written notice to the contrary to the Chargor, it shall nevertheless be treated as if it had opened a new account at the time when it received such notice and as from that time all payments made by or on behalf of the Chargor to the Chargee shall be credited or be treated as having been credited to the new account and shall not operate to reduce the amount due from the Chargor to the Chargee at the time when it received such notice.

## **7.5 Statutory power of leasing**

The Chargee shall have the power to lease and make agreements for leases at a premium or otherwise, to accept surrenders of leases and to grant options on such terms as the Chargee shall consider expedient and without the need to observe any of the provisions of sections 99 and 100 Law of Property Act 1925.

## 7.6 Fixtures

At any time on or after the Enforcement Date or if requested by the Chargor the Chargee may sever, and sell separately, any Fixtures from any of the Chargor's Properties to which they are attached.

## 8 APPOINTMENT OF ADMINISTRATOR

At any time on or after the Enforcement Date the Chargee may appoint an Administrator of the Chargor for the purposes and upon the terms contained in Schedule B1 Insolvency Act 1986.

## 9 APPOINTMENT AND POWERS OF RECEIVER

### 9.1 Appointment

At any time on or after the Enforcement Date the Chargee may, by instrument in writing executed as a deed or under the hand of any director or other duly authorised officer, appoint any person to be a Receiver of such part of the Charged Assets, not being the whole or substantially the whole of the Chargor's property within the meaning of section 29 Insolvency Act 1986 as the Chargee may specify (the "**Receivership Assets**"). Any such appointment may be made subject to such qualifications, limitations and/or exceptions (either generally or in relation to specific assets or classes of asset) as may be specified in the instrument effecting the appointment. Where more than one Receiver is appointed, each joint Receiver shall have power to act severally, independently of any other joint Receivers, except to the extent that the Chargee may specify to the contrary in the appointment. The Chargee may remove any Receiver so appointed and appoint another in his place.

### 9.2 Receiver as agent

A Receiver shall be the agent of the Chargor and the Chargor shall be solely responsible for his acts or defaults and for his remuneration.

### 9.3 Powers of Receiver

A Receiver shall have the power to do or omit to do on behalf of the Chargor anything which the Chargor itself could do or omit to do if the Receiver had not been appointed, notwithstanding the liquidation of the Chargor. In particular (but without limitation) a Receiver shall have power to:

- (a) take possession of, collect and get in the Receivership Assets and, for that purpose, to take such proceedings as may seem to him expedient;
- (b) sell or otherwise dispose of the Receivership Assets by public auction or private auction or private contract or, in Scotland, to sell, feu, hire out or otherwise dispose of the Receivership Assets by public group or private bargain;
- (c) raise or borrow money and grant security therefor over the Receivership Assets;



- (d) appoint a solicitor or accountant or other professionally qualified person to assist him in the performance of his functions;
- (e) bring or defend any action or other legal proceedings in the name and on behalf of the Chargor;
- (f) refer to arbitration any question affecting the Chargor;
- (g) effect and maintain insurances in respect of the business and Properties of the Chargor;
- (h) use the Chargor's seal;
- (i) do all acts and execute in the name and on behalf of the Chargor any deed, receipt or other document;
- (j) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the Chargor;
- (k) appoint any agent to do any business which he is unable to do himself or which can more conveniently be done by an agent and employ and dismiss employees;
- (l) do all such things (including the carrying out of works) as may be necessary for the realisation of the Receivership Assets;
- (m) make any payment which is necessary or incidental to the performance of his functions;
- (n) carry on the business of the Chargor;
- (o) establish Subsidiaries of the Chargor;
- (p) transfer to Subsidiaries of the Chargor the whole or any part of the business or Receivership Assets;
- (q) grant or accept a surrender of a lease or tenancy of any of the Receivership Assets and to take a lease or tenancy of any Properties required or convenient for the business of the Chargor;
- (r) make any arrangement or compromise on behalf of the Chargor in respect of the Receivership Assets;
- (s) call up any uncalled capital of the Chargor;
- (t) rank and claim in the bankruptcy, insolvency, sequestration or liquidation of any person indebted to the Chargor and receive dividends and accede to trust deeds for the creditors of any such person.

The Receiver shall also have all powers from time to time conferred on receivers by statute without, in the case of powers conferred by the Law of Property Act 1925, the restrictions contained in Section 103 of that Act.

#### **9.4 Remuneration**

The Chargee may from time to time determine the remuneration of any Receiver and section 109(6) Law of Property Act 1925 shall be varied accordingly. A Receiver shall be entitled to remuneration appropriate to the work and responsibilities involved upon the basis of charging from time to time adopted by the Receiver in accordance with the current practice of his firm.

#### **9.5 Insurance moneys**

Any insurance moneys received by a Receiver shall be applied in accordance with clause 10.2 and accordingly section 109(8) Law of Property Act 1925 shall not apply.

### **10 APPLICATION OF PROCEEDS: PURCHASERS**

#### **10.1 Application of proceeds**

All moneys received by the Chargee or by any Receiver shall, subject to clause 13.3, be applied, after the discharge of the remuneration and expenses of the Receiver and all liabilities having priority to the Secured Obligations, in or towards satisfaction of the Secured Obligations in such manner and order as the Chargee may determine.

#### **10.2 Insurance proceeds**

All insurance moneys (including any received by a Receiver) deriving from any of the Insurances (whether before or after the Enforcement Date) 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 be applied:

- (a) unless an Event of Default shall have occurred and be continuing, in replacing, restoring or reinstating the property or assets destroyed, damaged or lost (any deficiency being made good by the Chargor); or
- (b) if an Event of Default has occurred and is continuing, in reduction of the Secured Obligations in such manner and order as the Chargee may determine except where the Chargor is required (as landlord or tenant) to apply such insurance moneys in accordance with any lease of any of the Charged Assets in which event they shall be so applied.

#### **10.3 Protection of purchasers**

No purchaser or other person shall be bound or concerned to see or enquire whether the right of the Chargee or any Administrator or Receiver to exercise any of the powers conferred by this deed has arisen or be concerned with notice to the contrary or with the propriety of the exercise or purported exercise of such powers.

### **11 INDEMNITIES: EXCLUSION OF LIABILITY: COSTS AND EXPENSES**

#### **11.1 Enforcement costs**

The Chargor hereby undertakes with the Chargee to pay on demand all costs, charges and expenses incurred by or on behalf of the Chargee or by any Administrator or Receiver in or about the enforcement or preservation or attempted

enforcement or preservation of any of the security created by or pursuant to this deed or any of the Charged Assets on a full indemnity basis, together with interest at the rate of 4% over the base rate of The Bank of England from time to time prevailing from the date on which such costs, charges or expenses are so incurred until the date of payment by the Chargor (as well after as before judgment).

#### **11.2 No liability as mortgagee in possession**

Neither the Chargee nor any Administrator or Receiver shall be liable to account as mortgagee in possession in respect of all or any of the Charged Assets or be liable for any loss upon realisation or for any neglect or default of any nature whatsoever for which a mortgagee may be liable as such.

#### **11.3 Recovery of Debts**

Neither the Chargee nor any Administrator or Receiver shall have any liability or responsibility of any kind to the Chargor arising out of the exercise or non-exercise of the right to enforce recovery of the Debts or shall be obliged to make any enquiry as to the sufficiency of any sums received in respect of any Debts or to make any claims or take any other action to collect or enforce the same.

#### **11.4 Indemnity**

The Chargor hereby undertakes to indemnify and keep indemnified the Chargee, any Administrator or Receiver and any attorney, agent or other person appointed by the Chargee under this deed and the Chargee's officers and employees (each an "**Indemnified Party**") in respect of all costs, losses, actions, claims, expenses, demands or liabilities whether in contract, tort or otherwise and whether arising at common law, in equity or by statute which may be incurred by, or made against, any of the Indemnified Parties (or by or against any manager, agent, officer or employee for whose liability, act or omission any of them may be answerable) at any time relating to or arising directly or indirectly out of or as a consequence of:

- (a) anything done or omitted in the exercise or purported exercise of the powers contained in this deed; or
- (b) any breach by the Chargor of any of its obligations under this deed; or
- (c) an Environmental Claim made or asserted against an Indemnified Party which would not have arisen if this deed had not been executed and which was not caused by the gross negligence or wilful default of the relevant Indemnified Party.

#### **11.5 Third Party Contract Rights**

- (a) Each Indemnified Party referred to in clause 11.4 shall have the benefit and may enforce the terms of this deed in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.
- (b) Subject to clause 11.5(a), a person who is not a party to this deed has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this deed.

- (c) Notwithstanding clause 11.5(a) or any other provision of this deed, the Chargee and the Chargor shall be entitled to agree variations to this deed without notifying the other Indemnified Parties or seeking the consent of such Indemnified Parties or any of them to the variation.

## **11.6 Value Added Tax**

All fees, costs and expenses payable under or pursuant to this deed shall be paid together with an amount equal to any value added tax payable by the Chargee in respect of the same. Any value added tax chargeable in respect of any services supplied by the Chargee under this deed shall, on delivery of a value added tax invoice, be paid in addition to any sum agreed to be paid under this deed.

## **12 POWER OF ATTORNEY**

### **12.1 Appointment**

The Chargor by way of security hereby irrevocably appoints the Chargee and any Receiver severally to be its attorney in its name and on its behalf:

- (a) to do all things which the Chargor may be required to do under this deed;
- (b) to execute and complete any documents or instruments which the Chargee or such Receiver may require for perfecting the title of the Chargee to the Charged Assets or for vesting the same in the Chargee, its nominees or any purchaser;
- (c) to sign, execute, seal and deliver and otherwise perfect any further security document referred to in clause 6; and
- (d) otherwise generally to sign, seal, execute and deliver all deeds, assurances, agreements and documents and to do all acts and things which may be required for the full exercise of all or any of the powers conferred on the Chargee or a Receiver under this deed or which may be deemed expedient by the Chargee or a Receiver in connection with any disposition, realisation or getting in by the Chargee or such Receiver of the Receivership Assets or in connection with any other exercise of any power under this deed and including, but not limited to a power in favour of any Receiver to dispose for value of any of the assets of the Chargor over which such Receiver may not have been appointed and which are located at a Property over which he has been appointed, without being liable for any losses suffered by the Chargor, or any part thereof.

### **12.2 Ratification**

The Chargor ratifies and confirms (and agrees to do so) whatever any such attorney shall do, or attempt to do, in the exercise of all or any of the powers, authorities and discretions pursuant to clause 12.1.

## **13 CONTINUING SECURITY AND OTHER MATTERS**

### **13.1 Continuing security**

This deed and the obligations of the Chargor under this deed shall extend to the ultimate balance from time to time owing in respect of the Secured Obligations and shall be a continuing security notwithstanding any intermediate payment, partial settlement or other matter whatsoever.

### **13.2 Collateral Instruments**

The Chargee shall not be obliged to make any claim or demand on the Chargor or any other person liable or to resort to any Collateral Instrument or other means of payment before enforcing this deed and no action taken or omitted in connection with any such Collateral Instrument or other means of payment shall discharge, reduce, prejudice or affect the liability of the Chargor. The Chargee shall not be obliged to account for any money or other property received or recovered in consequence of any enforcement or realisation of any such Collateral Instrument or other means of payment.

### **13.3 Suspense accounts**

Any money received pursuant to the realisation of any security created pursuant to this deed (whether before or after any Incapacity of the Chargor or any other person liable) may be placed to the credit of an interest-bearing suspense account with a view to preserving the rights of the Chargee to prove for the whole of its claims against the Chargor or any other person liable.

### **13.4 Settlements conditional**

Any release, discharge or settlement between the Chargor and the Chargee shall be conditional upon no security, disposition or payment to the Chargee by the Chargor or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to liquidation, administration or insolvency or for any other reason whatsoever and if such condition is not fulfilled the Chargee shall be entitled to enforce this deed as if such release, discharge or settlement had not occurred and any such payment had not been made.

## **14 CURRENCIES**

All moneys received or held by the Chargee or by a Receiver under this deed at any time on or after the Enforcement Date in a currency other than a currency in which the Secured Obligations are then denominated may from time to time be sold for such one or more of the currencies in which the Secured Obligations are then denominated as the Chargee or Receiver considers necessary or desirable and the Chargor shall indemnify the Chargee against the full cost (including all commissions, charges and expenses) incurred in relation to such sale. Neither the Chargee nor any Receiver shall have any liability to the Chargor in respect of any loss resulting from any fluctuation in exchange rates after any such sale.

## **15 MISCELLANEOUS**

### **15.1 Liabilities of Joint Administrators**

The Chargor acknowledges and agrees that in the negotiation and completion of this deed the Joint Administrators are acting only as agents of the Chargee and that notwithstanding that this deed shall have been signed by the Joint Administrators on behalf of the Chargee it is expressly agreed and declared that:

- (a) no personal liability under or in connection with this deed shall fall on the Joint Administrators or their firm, partners or employees and the Chargor shall indemnify the Joint Administrators on a full indemnity basis against all and any Liabilities arising under or in connection with this deed;
- (b) the Joint Administrators are party to this deed in their personal capacities only for the purpose of receiving the benefit of this sub-clause and the exclusions, limitations, undertakings, covenants and indemnities in their favour in this deed;
- (c) the Chargor hereby waives any claim in tort as well as under contract against the Joint Administrators.

### **15.2 Liabilities survive deficiencies and releases**

The Chargor agrees to be bound by this deed notwithstanding that any charges contained in this deed may be terminated or released or may be or become invalid or unenforceable against the Chargor whether or not the deficiency is known to the Chargee.

### **15.3 Remedies cumulative**

No failure or delay on the part of the Chargee to exercise any power, right or remedy shall operate as a waiver thereof nor shall any single or any partial exercise or waiver of any power, right or remedy preclude its further exercise or the exercise of any other power, right or remedy.

### **15.4 Statutory power of leasing**

During the continuance of this security the statutory and any other powers of leasing, letting, entering into agreements for leases or lettings and accepting or agreeing to accept surrenders of leases or tenancies shall not be exercisable by the Chargor in relation to the Charged Assets or any part thereof.

### **15.5 Successors and assigns**

Any appointment or removal of a Receiver under clause 9 and any consents under this deed may be made or given in writing signed or sealed by any successors or assigns of the Chargee and accordingly the Chargor hereby irrevocably appoints each successor and assign of the Chargee to be its attorney in the terms and for the purposes set out in clause 12.

**15.6 Consolidation**

Section 93 Law of Property Act 1925 shall not apply to the security created by this deed or to any security given to the Chargee pursuant to this deed.

**15.7 Reorganisation**

This deed shall remain binding on the Chargor notwithstanding any change in the constitution of the Chargee or its absorption in, or amalgamation with, or the acquisition of all or part of its undertaking by, any other person, or any reconstruction or reorganisation of any kind. The security granted by this deed shall remain valid and effective in all respects in favour of the Chargee and any assignee, transferee or other successor in title of the Chargee in the same manner as if such assignee, transferee or other successor in title had been named in this deed as a party instead of, or in addition to, the Chargee.

**15.8 Unfettered discretion**

Any right or power which may be exercised or any determination which may be made under this deed by the Chargee may be exercised or made in its absolute and unfettered discretion and it shall not be obliged to give reasons therefore.

**15.9 Law of Property (Miscellaneous Provisions) Act 1989**

For the purposes of the Law of Property (Miscellaneous Provisions) Act 1989 any provisions of the Sale and Purchase Agreement relating to any disposition of an interest in land shall be deemed to be incorporated in this deed.

**16 NOTICES**

Every notice, request, demand or other communication under this deed shall:

- (a) be in writing delivered personally or by first-class pre-paid letter or facsimile transmission only;
- (b) be deemed to have been received, subject as otherwise provided in this deed, in the case of a letter, when delivered and, in the case of a facsimile transmission, when a complete and legible copy is received by the addressee (unless the time of despatch is after close of business in which case it shall be deemed to have been received at the opening of business on the next business day); and
- (c) be sent:
  - (i) to the Chargor at: Rowchester Limited is 7 Old Park Lane, London, England, W1K 1QR  
 Fax Number: [            ]  
 Attention:     [            ]
  - (ii) to the Chargee at: 15-19 Baker's Row, London, EC1R 3DG

Fax Number: [       ]  
Attention: [       ]

- (iii) to the Joint Administrators at: Smith & Williamson Limited, 25 Moorgate, London, EC2R 6AY

Fax Number: [       ]  
Attention: Henry Anthony Shinnars, Colin Hardman, Finbarr Thomas O'Connell, Mark Ford

or to such other address or fax number as is notified by the relevant party to the other parties to this deed.

## **17 COUNTERPARTS**

- (a) This deed may be executed in counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this deed.
- (b) Delivery of an executed counterpart of a signature page by electronic mail shall be as effective as delivery of a manually executed counterpart. In making proof hereof, it shall not be necessary to produce or account for any counterpart other than one signed by the party against which enforcement is sought.

## **18 LAW**

- (a) This deed shall be governed by English law.
- (b) The parties agree that:
  - (i) the courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this deed including a dispute regarding the existence, validity or termination of this deed (a "Dispute"); and
  - (ii) the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.

**IN WITNESS** of which this deed has been executed and, on the date set out above, delivered as a deed.

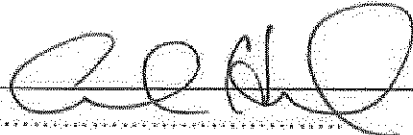


**SCHEDULE 1**  
**PROPERTIES**

**SCHEDULE 2**  
**EQUIPMENT**


**SCHEDULE 3**  
**INTELLECTUAL PROPERTY**

**SIGNED** by **VE INTERACTIVE LIMITED**  
**(In administration)** by **COLIN**  
**HARDMAN** its administrator, pursuant to  
 powers conferred under the Insolvency  
 Act 1986 as agent and without personal  
 liability in the presence of:

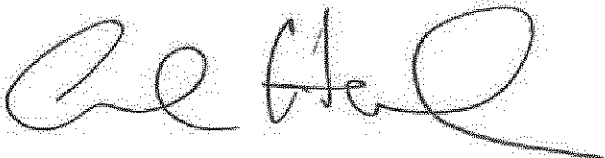
by   
 its Administrator

**Witness**

Signature  
 Name  
 Occupation  
 Address


:   
 : NICKOLA BURNS  
 : ACCOUNTANT  
 : 90 SMITH & WILLIAMSON  
 : 25 MOORGATE LONDON EC2R 6AY

**SIGNED** by **COLIN HARDMAN** for and  
 on behalf of the Joint Administrators and  
 without personal liability in the presence  
 of:



**Witness**

Signature  
 Name  
 Occupation  
 Address

:   
 : NICKOLA BURNS  
 : ACCOUNTANT  
 : 90 SMITH & WILLIAMSON  
 : 25 MOORGATE, LONDON EC2R 6AY

**EXECUTED** as a **DEED** by  
**ROWCHESTER LIMITED** acting by a  
 Director:

**Director**

Signature  
 Name

:  
 :

**Director/Secretary/Witness**

Signature  
 Name  
 Occupation  
 Address

:  
 :  
 :  
 :

**SIGNED by VE INTERACTIVE LIMITED**  
**(In administration) by COLIN**  
**HARDMAN** its administrator, pursuant to  
 powers conferred under the Insolvency  
 Act 1986 as agent and without personal  
 liability in the presence of:

by.....  
 its Administrator

**Witness**

Signature :  
 Name :  
 Occupation :  
 Address :

**SIGNED by COLIN HARDMAN** for and  
 on behalf of the Joint Administrators and  
 without personal liability in the presence  
 of:

**Witness**

Signature :  
 Name :  
 Occupation :  
 Address :

**EXECUTED as a DEED by**  
**ROWCHESTER LIMITED** acting by a  
 Director:

**Director**  
 Signature :  
 Name :

*D. Marnin-Hayes*  
*D. Marnin-Hayes*

**Director/Secretary/Witness**

Signature :  
 Name :  
 Occupation :  
 Address :

*Julie Webster*  
*Julie Webster*  
*Company Director*  
*Amesbury & Marchmont Road*  
*Bedford*  
*TK10 6HH*