



**Registration of a Charge**

Company name: **ENERGISING CLG (23) LIMITED**

Company number: **10811926**



X6Z69E00

Received for Electronic Filing: **05/02/2018**

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**Details of Charge**

Date of creation: **22/01/2018**

Charge code: **1081 1926 0001**

Persons entitled: **ENERGISING EDUCATION (1) LIMITED**

Brief description: **A FIRST FIXED CHARGE OVER ALL REAL PROPERTY OR INTELLECTUAL PROPERTY VESTED IN, OR CHARGED TO, THE COMPANY, BUT NO SPECIFIC LAND, SHIP, AIRCRAFT OR INTELLECTUAL PROPERTY.**

**Contains fixed charge(s).**

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

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

Certification statement: **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: **ROWAN ASPINWALL**



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

Company number: 10811926

Charge code: 1081 1926 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 22nd January 2018 and created by ENERGISING CLG (23) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 5th February 2018 .

Given at Companies House, Cardiff on 7th February 2018

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



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

DATED

22 JANUARY

2018

(1) ENERGISING CLG (23) LIMITED  
as Chargor

- and -

(2) ENERGISING EDUCATION (1) LIMITED  
as Chargee

## DEBENTURE



DLA PIPER

WE HEREBY CERTIFY THIS TO BE A TRUE COPY  
OF THE ORIGINAL

DATE... 30/01/2018

SIGNED... [Signature]

DLA Piper UK LLP  
3 Noble Street  
London  
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Date of Original: 15 September 2014  
Draft No: 1

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THIS DEBENTURE is made on

22 JANUARY

2018

**BETWEEN:**

- (1) **ENERGISING CLG (23) LIMITED**, a company limited by guarantee incorporated and registered under the laws of England and Wales with number 10811926 with its registered office at Vertu House, Fifth Avenue Business Park, Team Valley, Gateshead, NE11 0XA (the "**Chargor**"); and
- (2) **ENERGISING EDUCATION (1) LIMITED**, a company incorporated and registered under the laws of England and Wales with company number: 9148080 whose registered office is at 45 High Street, Yardley Hastings, Northamptonshire NN7 1ER (the "**Chargee**").

**IT IS AGREED:**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Deed at all times the following terms have the following meanings:

"**Act**" means the Law of Property Act 1925;

"**Assigned Assets**" means the Security Assets expressed to be assigned pursuant to clause 4.2 (*Security assignments*);

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

"**Business Day**" means a day, other than a Saturday, Sunday or a bank or public holiday, on which banks are open for business in England;

"**Charged Investments**" means the Charged Securities and all present and future Related Rights accruing to all or any of the Charged Securities;

"**Charged Securities**" means all stocks, shares, debentures, bonds, warrants, coupons, negotiable instruments, certificates of deposit or other securities or "**investments**" (as defined in part II of schedule II to the Financial Services and Markets Act 2000 as in force at the date of this Deed) now or in future owned (legally or beneficially) by the Chargor, held by a nominee, trustee, fiduciary or clearance system on its behalf or in which the Chargor has an interest at any time;

"**Debenture Security**" means the Security Interest created or evidenced by or pursuant to this Deed;

"**Default Rate**" means 6.3% per cent per annum;

"**Delegate**" means any delegate, sub-delegate, agent, attorney or co-trustee appointed by the Chargee or by a Receiver;

"**Energy Products**" means energy saving light bulbs and / or solar panel electricity systems or solar photovoltaics;

**"Events of Default"** means:

- (a) any breach of or failure to comply with any of the Chargor's duties, obligations and liabilities under any Finance Document including the occurrence of any "Event of Default" (howsoever described); and/or
- (b) or such similar term as defined in any Facility Agreement;

**"Facility Agreement"** means all and any loan agreements, facility letters or other documents entered into between the Chargor and the Chargee which give rise to Secured Obligations;

**"Finance Document"** means any Facility Agreement, any Security executed by the Chargor pursuant to any Facility Agreement and any other documents designated as such by the Chargee or pursuant to any Facility Agreement;

**"Insurances"** means all policies of insurance (and all cover notes) which are at any time held by or written in favour of the Chargor or in which the Chargor from time to time has an interest;

**"Intellectual Property"** means all legal and/or equitable interests (including the benefit of all licences in any part of the world) of the Chargor in, or relating to any patents, trade marks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, know-how and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered and the benefit of all applications and rights to use such assets of the Chargor (which may now or in the future subsist);

**"Party"** means a party to this Deed;

**"Permitted Security"** means any Security approved by the Chargee in writing prior to the date of this Deed;

**"Planning Acts"** means (a) the Town and Country Planning Act 1990, (b) the Planning (Listed Buildings and Conservation Areas) Act 1990, (c) the Planning (Hazardous Substances) Act 1990, (d) the Planning (Consequential Provisions) Act 1990, (e) the Planning and Compensation Act 1991, (f) any regulations made pursuant to any of the foregoing and (g) any other legislation of a similar nature;

**"Quasi-Security"** means an arrangement or transaction by the Chargor to: (a) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by the Chargor; (b) sell, transfer or otherwise dispose of any of its Receivables on recourse terms; (c) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or (d) enter into any other preferential arrangement having similar effect in circumstances where the arrangement or transaction is entered into primarily as a method of raising monies or of financing the acquisition of an asset;

**"Reach South"** means Reach South Academy Trust (company number: 10151730) whose registered address is at Narrow Quay House, Narrow Quay, Bristol, BS1 4QA;

**"Real Property"** means all estates and interests in freehold, leasehold and other immovable property (wherever situated) now or in future belonging to the Chargor or in which the Chargor has an interest at any time (including the registered and unregistered land (if any) in England and Wales specified in schedule 1, together with: (a) all buildings and fixtures



(including trade fixtures) and fixed plant and machinery at any time thereon; (b) all easements, rights and agreements in respect thereof; and (c) the benefit of all covenants given in respect thereof;

**"Receivables"** means all present and future book debts and other debts, rentals, royalties, fees, VAT and monetary claims and all other amounts at any time recoverable or receivable by, or due or owing to, the Chargor (whether actual or contingent and whether arising under contract or in any other manner whatsoever) together with: (a) the benefit of all rights, guarantees, security and remedies relating to any of the foregoing (including negotiable instruments, indemnities, reservations of property rights, rights of tracing and unpaid vendor's liens and similar associated rights); and (b) all proceeds of any of the foregoing;

**"Receiver"** means a receiver, or receiver and manager or administrative receiver of the whole or any part of the Security Assets appointed by the Chargee under this Deed;

**"Related Rights"** means, in relation to any Charged Security: (a) all dividends, distributions and other income paid or payable on the relevant Charged Security or on any asset referred to in part (b) of this definition; and (b) all rights, monies or property accruing or offered at any time in relation to such Charged Security whether by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise;

**"Relevant Agreement"** each (i) document described in schedule 2; (ii) any maintenance agreement in relation to the Energy Products entered into on or around or after the date of this debenture; (iii) any operating lease agreement entered into between the Chargor and any third party relating to the hiring of the Energy Products by the Chargor to the relevant third party on the terms of the operating lease agreement; and (iv) each other agreement designated as a Relevant Agreement by the Chargor and the Chargee in writing;

**"Relevant Policy"** each contract and policy of insurance effected or maintained from time to time by the Chargor, in respect of which the Chargor is the insured party, together with all monies paid or payable in respect of that policy including without limitation any warranty in respect of the Energy Products;

**"Secured Obligations"** means all present and future monies, obligations and liabilities due, owing or incurred by the Chargor to the Chargee (whether actual or contingent and whether owed jointly or severally or alone or in any other capacity whatsoever and whether as principal or surety) in any manner whatsoever and in any currency, together with:

- (a) all interest, fees and other charges due or owing from the Chargor; and
- (b) all costs and expenses (including legal fees) incurred by the Chargee, its agents and nominees in connection with the Chargor, the Security Assets or the preservation or enforcement of its rights against the Chargor;

**"Security Interest"** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect;

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

**"Security Period"** means the period beginning on the date of this Deed and ending on the date on which all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full and the Chargee has no further commitment, obligation or liability in respect of the Chargor;

**"Subsidiary"** means a subsidiary within the meaning of section 1159 of the Companies Act 2006; and

**"VAT"** means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature.

## **1.2 Interpretation**

- (a) Unless a contrary indication appears, any reference in this Deed to:
  - (i) the **"Chargor"**, the **"Chargee"** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
  - (ii) **"this Deed"**, a **"Facility Agreement"** any other **"Finance Document"** or any other agreement or instrument shall be construed as a reference to this Deed, a Facility Agreement, a Finance Document or such other agreement or instrument as amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally and even if any of the same increases the obligations of the Chargor or provides for further advances);
  - (iii) an Event of Default which is **"continuing"** shall be construed as meaning an Event of Default that has not been waived in writing by the Chargee or remedied to the satisfaction of the Chargee;
  - (iv) **"including"** or **"includes"** means including or includes without limitation;
  - (v) **"Secured Obligations"** includes obligations and liabilities which would be treated as such but for the liquidation, administration or dissolution of or similar event affecting the Chargor;
  - (vi) a provision of law is a reference to that provision as amended or re-enacted; and
  - (vii) the singular includes the plural and vice versa.
- (b) References to clauses are to be construed, unless otherwise stated, as references to clauses of this Deed.
- (c) Clause headings are for convenience only and shall not affect the construction of this Deed.
- (d) Each undertaking of the Chargor (other than a payment obligation) contained in this Deed;
  - (i) must be complied with at all times during the Security Period; and
  - (ii) is given by the Chargor for the benefit of the Chargee.
- (e) The terms of any other document in relation to the Secured Obligations and of any side letters between any of the parties to them in relation to such document are incorporated in this Deed to the extent required to ensure that any disposition of the Real Property contained in this Deed is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

- (f) If the Chargee reasonably considers that an amount paid by the Chargor to it is capable of being avoided or otherwise set aside on the liquidation or administration of the Chargor, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.
- (g) Where the Chargor consists of two or more parties:
  - (i) such expression shall in this Deed mean and include such two or more parties and each of them or (as the case may require) any of them;
  - (ii) all covenants, charges, agreements and undertakings expressed or implied on the part of the Chargor in this Deed shall be deemed to be joint and several covenants charges agreements and undertakings by such parties;
  - (iii) each shall be bound even if any other of them intended or expressed to be bound by this Deed shall not be so bound; and
  - (iv) the Chargee may release or discharge any one or more of them from all or any liability or obligation under this Deed or may make any arrangement or composition with any such person without thereby releasing any other or others of them or otherwise prejudicing any of its rights under this Deed or otherwise;
- (h) The Parties intend that this document shall take effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

### **1.3 Third party rights**

A person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.

## **2. COVENANT TO PAY**

The Chargor, as principal obligor and not merely as surety, covenants in favour of the Chargee that it will pay and discharge the Secured Obligations on demand.

### **2.1 Default interest**

- (a) Any amount which is not paid under this Deed when due shall bear interest (both before and after judgment and payable on demand) at the Default Rate from the due date until the date on which such amount is unconditionally and irrevocably paid and discharged in full on a daily basis.
- (b) Default interest will accrue from day to day on a year of 365 days and will be compounded at such intervals as the Chargee states are appropriate.

## **3. GRANT OF SECURITY**

### **3.1 Nature of security**

All Security Interests and dispositions created or made by or pursuant to this Deed are created or made:

- (a) in favour of the Chargee;

- (b) with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994; and
- (c) as continuing security for payment of the Secured Obligations.

### **3.2 Qualifying floating charge**

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to any floating charge created by or pursuant to this Deed (and each such floating charge is a qualifying floating charge for the purposes of the Insolvency Act 1986).

## **4. FIXED SECURITY**

### **4.1 Fixed charges**

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

- (a) by way of first legal mortgage:
  - (i) the Real Property (if any) specified in schedule 1; and
  - (ii) all other Real Property (if any) at the date of this Deed vested in, or charged to, the Chargor (not charged by clause 4.1(a)(i);
- (b) by way of first fixed charge all other Real Property and all interests in Real Property (not charged by clause 4.1(a)), all licences to enter upon or use land and the benefit of all other agreements relating to land and the proceeds of sale of all Real Property;
- (c) by way of first fixed charge all plant and machinery (not charged by clause 4.1(a) or 4.1(b)), including (without limitation) any Energy Products and the benefit of all contracts, licences, warranties and any feed-in-tariff or export tariff relating to the same;
- (d) by way of first fixed charge:
  - (i) all computers, vehicles, office equipment and other equipment (not charged by clause 4.1(c)); and
  - (ii) and the benefit of all contracts, licences and warranties relating to the same, other than any which are for the time being part of the Chargor's stock-in-trade or work-in-progress);
- (e) by way of first fixed charge the Charged Securities together with (i) all Related Rights from time to time accruing to those Charged Securities and (ii) all rights which the Chargor may have at any time against any clearance or settlement system or any custodian in respect of any Charged Investments;
- (f) by way of first fixed charge all accounts of the Chargor with any bank, financial institution or other person at any time and all monies at any time standing to the credit of such accounts, together with all interest from time to time accrued or accruing on such monies and all rights to repayment of any of the foregoing;

- (g) by way of first fixed charge the Intellectual Property;
- (h) to the extent that any Assigned Asset is not effectively assigned under clause 4.2 (*Security assignments*), by way of first fixed charge such Assigned Asset;
- (i) by way of first fixed charge (to the extent not otherwise charged or assigned in this Deed):
  - (i) the benefit of all licences, consents, agreements and Authorisations held or used in connection with the business of the Chargor or the use of any of its assets; and
  - (ii) any letter of credit issued in favour of the Chargor and all bills of exchange and other negotiable instruments held by it; and
- (j) by way of first fixed charge all of the goodwill of the Chargor.

#### **4.2 Security assignments**

The Chargor assigns and agrees to assign absolutely with full title guarantee (subject to a proviso for reassignment on redemption) all of its present and future right, title and interest in and to:

- (a) the Insurances and all claims under the Insurances and all proceeds of the Insurances;
- (b) the benefit of each Relevant Agreement;
- (c) all its rights in each Relevant Policy, including the proceeds of any claims under any Relevant Policy;
- (d) all authorisations (statutory or otherwise) held or required in connection with the use of any Security Asset, and all rights in connection with them,
- (e) all other Receivables; and
- (f) the benefit of all other contracts, guarantees, appointments, warranties and other documents to which the Chargor is a party, which are in its favour or of which it has the benefit (including, in each case, but without limitation, the right to demand and receive all monies whatsoever payable to or for its benefit under or arising from any of them, all remedies provided for in any of them or available at law or in equity in relation to any of them, the right to compel performance of any of them and all other rights, interests and benefits whatsoever accruing to or for its benefit arising from any of them), to the extent not effectively assigned under clauses 4.2(a) to 4.2(e)

To the extent that any Assigned Asset is not assignable, the assignment which that clause purports to effect shall operate as an assignment of all present and future rights and claims of the Chargor to any proceeds of such Insurances.

#### **4.3 Notice of assignment and/or charge - immediate notice**

- (a) Immediately upon request by the Chargee the Chargor shall in respect of each of its Insurances, deliver a duly completed notice of assignment to each other party to that Insurance, and shall use its reasonable endeavours to procure that each such party

executes and delivers to the Chargee an acknowledgement, in each case in such form as the Chargee shall require.

- (b) Upon the occurrence of an Event of Default and upon request by the Chargee the Chargor shall in respect of each Relevant Agreement and / or Relevant Policy deliver a duly completed notice of assignment to each other party to that Relevant Agreement or Relevant Policy and shall use its reasonable endeavours to procure that each such party executes and delivers to the Chargee an acknowledgement, in each case in such form as the Chargee shall require.

## **5. FLOATING CHARGE**

The Chargor charges and agrees to charge by way of first floating charge all of its present and future:

- (a) assets and undertaking (wherever located) not otherwise effectively charged by way of fixed mortgage or charge or assigned pursuant to clause 4.1 (*Fixed charges*), clause 4.2 (*Security assignments*) or any other provision of this Deed; and
- (b) (whether or not effectively so charged or assigned) heritable property and all other property and assets in Scotland.

## **6. CONVERSION OF FLOATING CHARGE**

### **6.1 Conversion by notice**

The Chargee may, by written notice to the Chargor, convert the floating charge created under this Deed into a fixed charge as regards all or any of the assets of the Chargor specified in the notice if:

- (a) an Event of Default has occurred; or
- (b) the Chargee considers any Security Assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy.

### **6.2 Small companies**

The floating charge created under this Deed by the Chargor shall not convert into a fixed charge solely by reason of a moratorium being obtained under the Insolvency Act 2000 (or anything done with a view to obtaining such a moratorium) in respect of the Chargor.

### **6.3 Automatic conversion**

The floating charge created under this Deed shall (in addition to the circumstances in which the same will occur under general law) automatically convert into a fixed charge:

- (a) in relation to any Security Asset which is subject to a floating charge if:
  - (i) the Chargor creates (or attempts or purports to create) any Security Interest (other than a Permitted Security) on or over the relevant Security Asset without the prior written consent of the Chargee; or

- (ii) any third party levies or attempts to levy any distress, execution, attachment or other legal process against any such Security Asset; and
- (b) over all Security Assets of the Chargor which are subject to a floating charge if an administrator is appointed in respect of the Chargor or the Chargee receives notice of intention to appoint such an administrator (as contemplated by the Insolvency Act 1986).

#### **6.4 Partial conversion**

The giving of a notice by the Chargee pursuant to clause 6.1 (*Conversion by notice*) in relation to any class of assets of the Chargor shall not be construed as a waiver or abandonment of the rights of the Chargee to serve similar notices in respect of any other class of assets or of any other right of the Chargee.

### **7. CONTINUING SECURITY**

#### **7.1 Continuing security**

The Debenture Security is continuing and will extend to the ultimate balance of the Secured Obligations regardless of any intermediate payment or discharge in whole or in part. This Deed shall remain in full force and effect as a continuing security for the duration of the Security Period.

#### **7.2 Additional and separate security**

This Deed is in addition to, without prejudice to, and shall not merge with, any other right, remedy, guarantee or security which the Chargee may at any time hold for any Secured Obligation.

#### **7.3 Right to enforce**

This Deed may be enforced against the Chargor without the Chargee first having recourse to any other right, remedy, guarantee or security held by or available to it.

### **8. LIABILITY OF THE CHARGOR RELATING TO SECURITY**

Notwithstanding anything contained in this Deed or implied to the contrary, the Chargor remains liable to observe and perform all conditions and obligations assumed by it in relation to the Security Assets. The Chargee is under no obligation to perform or fulfil any such condition or obligation or to make any payment in respect of any such condition or obligation.

### **9. REPRESENTATIONS**

The Chargor represents and warrants that:

- (a) the Security Assets are legally and beneficially owned by the Chargor free from any Security Interest other than as created by this Deed;
- (b) this Deed creates the Security Interest which it purports to create and is not liable to be avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise; and

- (c) no litigation, arbitration or administrative proceeding has currently been started or threatened in relation to the Property.
- (d) the counterparts and instruments comprising the Relevant Agreements, Relevant Policies or other document, agreement or arrangement comprising a Security Asset as provided to the Chargee before the date of this deed, evidence all terms of the relevant Security Asset, and there are no other documents, agreements or arrangements that may affect the operation or enforceability of any Security Asset.
- (e) no Relevant Agreement, Relevant Policy or other document, agreement or arrangement comprising the Security Assets is void, voidable or otherwise unenforceable.
- (f) no variation of any Relevant Agreement, Relevant Policy or other document, agreement or arrangement comprising the Security Assets is contemplated.
- (g) the Chargor is not in breach of its obligations under any Relevant Agreement, Relevant Policy or other document, agreement or arrangement comprising the Security Assets and nothing has occurred:
  - (i) which is, or would constitute (with the giving of notice or passage of time or both), an event of default (however described) under any Relevant Agreement, Relevant Policy or other document, agreement or arrangement comprising the Security Assets; or
  - (ii) which would entitle a person to terminate or rescind a Relevant Agreement, Relevant Policy or other document, agreement or arrangement comprising the Security Assets.

## **10. UNDERTAKINGS BY THE CHARGOR**

### **10.1 Negative pledge and disposals**

The Chargor shall not do or agree to do any of the following without the prior written consent of the Chargee:

- (a) create or permit to subsist any Security Interest or Quasi-Security on any Security Asset other than as created by this Deed and except for a Permitted Security; or
- (b) sell, transfer, lend or otherwise dispose of all or any part of its present or future undertaking, assets, rights or revenues (whether by one or a series of transactions and whether related or not) other than the sale at full market value of stock-in-trade in the usual course of trading as conducted by the Chargor at the date of this Deed.

### **10.2 Security Assets generally**

The Chargor shall:

- (a) notify the Chargee within 14 days of receipt of every material notice, order, application, requirement or proposal given or made in relation to, the Security Assets by any competent authority, and (if required by the Chargee) immediately provide it with a copy of the same and either (A) comply with such notice, order, application, requirement or proposal or (B) make such objections to the same as the Chargee may require or approve;



- (b) keep the Security Assets in good and substantial repair and in good working order and condition, ordinary wear and tear excepted;
- (c) preserve and maintain the Intellectual Property;
- (d) promptly notify the Chargee of the acquisition by the Chargor of any estate or interest in any freehold, heritable or leasehold property;
- (e) ensure that all Security Assets that are insurable are insured with reputable insurance companies or underwriters to such extent and against such risks as is normal for prudent companies in businesses similar to those of the Chargor (or as otherwise requested in writing by the Chargee from time to time) and (without limitation to the generality of the foregoing):
  - (i) pay all premiums and other money due and payable under all such insurances and provide premium receipts or any other evidence of payment promptly upon request to do so by the Chargee;
  - (ii) ensure that the interest of the Chargee is noted on the policies in respect of such insurances or, at the request of the Chargee, that such policies contain such other provisions for the protection of the Chargee as the Chargee may from time to time require;
- (f) comply with all obligations in relation to the Security Assets under any present or future law, regulation or requirement of any competent authority or any Authorisation and all covenants and obligations affecting any Security Asset (or its manner of use);
- (g) not, except with the prior written consent of the Chargee (such consent not to be unreasonably withheld or delayed), enter into any onerous or restrictive obligation affecting any material part of any of the Security Assets;
- (h) provide the Chargee with all information which it may reasonably request in relation to the Security Assets; and
- (i) not do, cause or permit to be done anything which may to a material extent depreciate, jeopardise or otherwise prejudice the value or marketability of any Security Asset (or make any omission which has such an effect).

### **10.3 Deposit of documents and notices**

The Chargor shall:

- (a) immediately upon execution of this Deed deposit with the Chargee (or as the Chargee may direct), all certificates and other documents of title or evidence of ownership to the Charged Securities and their Related Rights and execute and deliver to the Chargee instruments of transfer in respect of the Charged Securities (executed in blank and left undated), and/or such other documents as the Chargee shall require to enable it (or its nominees) to be registered as the owner of or otherwise to acquire a legal title to the Charged Securities and their Related Rights (or to pass legal title to any purchaser).
- (b) immediately on request by the Chargee, deposit all deeds and documents of title relating to the Security Assets with the Chargee and/or affix to any plant, machinery, fixtures, fittings, computers, vehicles, office equipment, or other equipment and other

assets for the time being owned by it (in a prominent position) a durable notice of this Deed (in any form required by the Chargee (acting reasonably)).

#### **10.4 Real Property undertakings**

The Chargor shall:

- (a) promptly pay or cause to be paid and indemnify the Chargee and any Receiver against all present and future rent, rates, taxes, duties, charges, assessments, impositions and outgoings whatsoever now or at any time in the future payable in respect of any of the Real Properties (or any part of them) or by the owner or occupier of them.
- (b) not, except with the prior written consent of the Chargee (such consent not to be unreasonably withheld) confer on any person any lease or tenancy of any of the Real Property or accept a surrender of any lease or tenancy (whether independently or under any statutory power), confer on any person any right or licence to occupy any land or buildings forming part of the Real Property or grant any licence to assign or sub-let any part of the Real Property.
- (c) not carry out any development within the meaning of the Planning Acts in or upon any part of the Real Property without first obtaining such permissions as may be required under or by virtue of the Planning Acts and, in the case of development involving a substantial change in the structure of, or a change of use of, any part of the Real Property, without first obtaining the written consent of the Chargee.
- (d) not do, or permit to be done, anything as a result of which any lease may be liable to forfeiture or otherwise be determined.
- (e) shall permit the Chargee and any person nominated by it at all reasonable times with reasonable notice to enter any part of the Real Property and view the state of it.

#### **10.5 Relevant Agreements**

The Chargor shall, unless the Chargee agrees otherwise in writing:

- (a) comply with the terms of;
- (b) not amend or vary or agree to any change in, or waive any requirement of;
- (c) not settle, compromise, terminate, rescind or discharge (except by performance); and
- (d) not abandon, waive, dismiss, release or discharge any action, claim or proceedings against any Counterparty or other person in connection with,

any Relevant Agreement and any other document, agreement or arrangement comprising the Security Assets (other than the Relevant Policies).

#### **10.6 Rights**

The Chargor shall:

- (a) not waive any of the Chargee's rights or release any person from its obligations in connection with the Security Assets; and

- (b) take all necessary or appropriate action against any person (including as reasonably required by the Chargee) to protect and enforce its rights, and recover money or receive other property in connection with, the Security Assets.

#### **10.7 Payment of money**

The Chargor shall, if the Chargee directs, ensure that all money payable to, or other property receivable by, the Chargor under or in relation to any Security Assets is paid or delivered to the Chargee (or that the Chargor pays over or delivers such amounts to the Chargee) to be applied in accordance with the Finance Documents.

#### **10.8 Chargor's waiver of set-off**

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

#### **10.9 Compliance with laws and regulations**

- (a) The Chargor shall not, without the Chargee's prior written consent, use or permit the Security Assets to be used in any way contrary to law.
- (b) The Chargor shall:
  - (i) comply with the requirements of any law and regulation relating to or affecting the Security Assets or the use of them or any part of them; and
  - (ii) obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Security Assets or their use or that are necessary to preserve, maintain or renew any Security Asset.

#### **10.10 Enforcement of rights**

The Chargor shall use its best endeavours to:

- (a) procure the prompt observance and performance of the covenants and other obligations imposed on the Chargor's counterparties (including each counterparty in respect of a Relevant Agreement and each insurer in respect of a Relevant Policy); and
- (b) enforce any rights and institute, continue or defend any proceedings relating to any of the Security Assets that the Chargee may require from time to time.

#### **10.11 Notice of misrepresentations and breaches**

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

- (a) any representation or warranty set out in clause 9 which is incorrect or misleading in any material respect when made or deemed to be repeated; and
- (b) any breach of any covenant set out in this deed.

#### **10.12 Information**

The Chargor shall:

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

#### **10.13 Insurance**

The Chargor shall:

- (a) not amend, waive or release any rights or interests in a Relevant Policy;
- (b) if requested by the Chargee, deliver to the Chargee the policy, certificate or cover note relating to any Relevant Policy; and
- (c) if requested by the Chargee, procure that the Chargee is named as co-insured with the Chargor on each Relevant Policy maintained by it or any person on its behalf, and procure that the terms of each Relevant Policy require the relevant insurer not to invalidate that Relevant Policy as against the Chargee by reason of the act or default of any other joint or named insured and not to cancel it without giving at least 30 days' prior written notice to the Chargee.

#### **10.14 Insurance premiums**

The Chargor shall:

- (a) promptly pay all premiums in respect of each Relevant Policy and do all other things necessary to keep that Relevant Policy in full force and effect; and
- (b) (if the Chargee so requires) give to the Chargee copies of the receipts for all premiums and other payments necessary for effecting and keeping up each Relevant Policy.

#### **10.15 No invalidation of insurance**

The Chargor shall not do, or permit to be done, or omit or permit to be omitted, any thing that if done or not done as the case may be, may invalidate or otherwise prejudice any Relevant Policy.

#### **10.16 Proceeds from Relevant Policies**

All monies received or receivable under any Relevant Policy at any time (whether or not the security constituted by this deed has become enforceable) shall:

- (a) immediately be paid to the Chargee;

- (b) (if they are not paid directly to the Chargee by the insurers) be held by the Chargor as trustee of the same for the benefit of the Chargee (and the Chargor shall account for them to the Chargee); and
- (c) at the option of the Chargee, be applied in making good or recouping expenditure in respect of the loss or damage for which such monies are received, or in or towards discharge or reduction of the Secured Obligations.

#### **10.17 Payment of outgoings**

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

#### **10.18 Dealings with and realisation of Receivables**

The Chargor shall deal with the Receivables (both collected and uncollected) in accordance with any directions given in writing from time to time by the Chargee.

### **11. POWER TO REMEDY**

#### **11.1 Power to remedy**

If at any time the Chargor does not comply with: (a) any of its obligations under this Deed; or (b) any contractual, statutory, common law or other legal obligation affecting the Security Assets, the Chargee (without prejudice to any other rights arising as a consequence of such non-compliance) shall be entitled (but not bound) to rectify that default. The Chargor irrevocably authorises the Chargee and its employees and agents by way of security to do all such things (including entering the property of the Chargor) which are necessary or desirable to rectify that default.

#### **11.2 Mortgagee in possession**

The exercise of the powers of the Chargee under this clause 11 shall not render it liable as a mortgagee in possession.

#### **11.3 Monies expended**

The Chargor shall pay to the Chargee on demand any monies which are expended by the Chargee in exercising its powers under this clause 11, together with interest at the Default Rate from the date on which those monies were expended by the Chargee (both before and after judgment) and otherwise in accordance with clause 2.1 (*Default interest*).

### **12. WHEN SECURITY BECOMES ENFORCEABLE**

#### **12.1 When enforceable**

This Debenture Security shall become immediately enforceable upon the occurrence of an Event of Default and at any time thereafter.

#### **12.6 Statutory powers**

The power of sale and other powers conferred by section 101 of the Act (as amended or extended by this Deed) shall be immediately exercisable upon and at any time after the occurrence of any Event of Default.

#### **12.7 Enforcement**

After this Debenture Security has become enforceable, the Chargee may in its absolute discretion enforce all or any part of the Debenture Security in such manner as it sees fit.

### **13. ENFORCEMENT OF SECURITY**

#### **13.1 General**

For the purposes of all rights and powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed. Sections 93 and 103 of the Act shall not apply to the Debenture Security.

#### **13.2 Powers of leasing**

The statutory powers of leasing conferred on the Chargee are extended so as to authorise the Chargee to lease, make agreements for leases, accept surrenders of leases and grant options as the Chargee may think fit and without the need to comply with section 99 or 100 of the Act.

#### **13.3 Powers of the Chargee**

- (a) At any time after this Debenture Security becomes enforceable (or if so requested by the Chargor by written notice at any time), the Chargee may without further notice (unless required by law):
  - (i) appoint any person (or persons) to be a receiver, receiver and manager or administrative receiver of all or any part of the Security Assets and/or of the income of the Security Assets; and/or
  - (ii) appoint or apply for the appointment of any person who is appropriately qualified as administrator of the Chargor; and/or
  - (iii) exercise all or any of the powers conferred on mortgagees by the Act (as amended or extended by this Deed) and/or all or any of the powers which are conferred by this Deed on a Receiver, in each case without first appointing a Receiver or notwithstanding the appointment of any Receiver; and/or
  - (iv) exercise (in the name of the Chargor and without any further consent or authority of the Chargor) any voting rights and any powers or rights which may be exercised by any person(s) in whose name any Charged Investment is registered or who is the holder of any of them; and/or
  - (v) may complete any instrument(s) of transfer for all or any Charged Securities on behalf of the Chargor in favour of itself or such other person as it may select.
- (b) The Chargee is not entitled to appoint a Receiver in respect of any Security Assets which are subject to a charge which (as created) was a floating charge solely by reason of a moratorium being obtained under the Insolvency Act 2000 (or anything done with a view to obtaining such a moratorium) in respect of the Chargor.

### 13.4 Redemption of prior mortgages

At any time after the Debenture Security has become enforceable, the Chargee may:

- (a) redeem any prior security against any Security Asset; and/or
- (b) procure the transfer of that Security Interest to itself; and/or
- (c) settle and pass the accounts of the holder of any prior Security Interest and any accounts so settled and passed shall be conclusive and binding on the Chargor.

All principal, interest, costs, charges and expenses of and incidental to any such redemption and/or transfer shall be paid by the Chargor to the Chargee on demand.

### 13.5 Privileges

- (a) Each Receiver and the Chargee is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers when such receivers have been duly appointed under the Act, except that section 103 of the Act does not apply.
- (b) To the extent that the Security Assets constitute "*financial collateral*" and this Deed and the obligations of the Chargor under this Deed constitute a "*security financial collateral arrangement*" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226)) each Receiver and the Chargee shall have the right after this Security Interest has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Obligations.
- (c) For the purpose of clause 13.5(b) above, the value of the financial collateral appropriated shall be such amount as the Receiver or the Chargee reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.

### 13.6 No liability

- (a) Neither the Chargee nor any Receiver shall be liable (i) in respect of all or any part of the Security Assets or (ii) for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, its or his respective powers (unless such loss or damage is caused by its or his gross negligence or wilful misconduct).
- (b) Without prejudice to the generality of clause 13.6(a), neither the Chargee nor any Receiver shall be liable, by reason of entering into possession of a Security Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

### 13.7 Protection of third parties

No person (including a purchaser) dealing with the Chargee or any Receiver or Delegate will be concerned to enquire:

- (a) whether the Secured Obligations have become payable; or

- (b) whether any power which the Chargee or the Receiver is purporting to exercise has become exercisable; or
- (c) whether any money remains due under any Finance Document; or
- (d) how any money paid to the Chargee or to the Receiver is to be applied.

## **14. RECEIVER**

### **14.1 Removal and replacement**

The Chargee may from time to time remove any Receiver appointed by it (subject, in the case of an administrative receivership, to section 45 of the Insolvency Act 1986) and, whenever it may deem appropriate, may appoint a new Receiver in the place of any Receiver whose appointment has terminated.

### **14.2 Multiple Receivers**

If at any time there is more than one Receiver of all or any part of the Security Assets and/or the income of the Security Assets, each Receiver shall have power to act individually (unless otherwise stated in the appointment document).

### **14.3 Remuneration**

Any Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Chargee (or, failing such agreement, to be fixed by the Chargee).

### **14.4 Payment by Receiver**

Only monies actually paid by a Receiver to the Chargee in relation to the Secured Obligations shall be capable of being applied by the Chargee in discharge of the Secured Obligations.

### **14.5 Agent of Chargor**

Any Receiver shall be the agent of the Chargor. The Chargor shall (subject to the Companies Act 2006 and the Insolvency Act 1986) be solely responsible for his acts and defaults and for the payment of his remuneration. The Chargee shall incur no liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

## **15. POWERS OF RECEIVER**

### **15.1 General powers**

Any Receiver shall have:

- (a) all the powers which are conferred on the Chargee by clause 13.3 (*Powers of the Chargee*);
- (b) all the powers which are conferred by the Act on mortgagees in possession and receivers appointed under the Act;
- (c) (whether or not he is an administrative receiver) all the powers which are listed in schedule 1 of the Insolvency Act 1986; and



- (d) all powers which are conferred by any other law conferring power on receivers.

## 15.2 Additional powers

In addition to the powers referred to in clause 15.1 (*General powers*), a Receiver shall have the following powers:

- (a) to take possession of, collect and get in all or any part of the Security Assets and/or income in respect of which he was appointed;
- (b) to manage the Security Assets and the business of the Chargor as he thinks fit;
- (c) to redeem any Security Interest and to borrow or raise any money and secure the payment of any money in priority to the Secured Obligations for the purpose of the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;
- (d) to sell or concur in selling, leasing or otherwise disposing of all or any part of the Security Assets in respect of which he was appointed without the need to observe the restrictions imposed by section 103 of the Act and without limitation:
  - (i) fixtures may be severed and sold separately from the Real Property containing them, without the consent of the Chargor;
  - (ii) the consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration (and the amount of such consideration may be dependent upon profit or turnover or be determined by a third party); and
  - (iii) any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit;
- (e) to alter, improve, develop, complete, construct, modify, refurbish or repair any building or land and to complete or undertake or concur in the completion or undertaking (with or without modification) of any project in which the Chargor was concerned or interested before his appointment (being a project for the alteration, improvement, development, completion, construction, modification, refurbishment or repair of any building or land);
- (f) to carry out any sale, lease or other disposal of all or any part of the Security Assets by conveying, transferring, assigning or leasing the same in the name of the Chargor and, for that purpose, to enter into covenants and other contractual obligations in the name of, and so as to bind, the Chargor;
- (g) to take any such proceedings (in the name of the Chargor or otherwise) as he shall think fit in respect of the Security Assets and/or income in respect of which he was appointed (including proceedings for recovery of rent or other monies in arrears at the date of his appointment);
- (h) to enter into or make any such agreement, arrangement or compromise as he shall think fit;
- (i) to insure, and to renew any insurances in respect of, the Security Assets as he shall think fit (or as the Chargee shall direct);

- (j) to appoint and employ such managers, officers and workmen and engage such professional advisers as he shall think fit (including, without prejudice to the generality of the foregoing power, to employ his partners and firm);
- (k) to form one or more Subsidiaries of the Chargor, and to transfer to any such Subsidiary all or any part of the Security Assets;
- (l) to operate any rent review clause in respect of any Real Property in respect of which he was appointed (or any part thereof) and to apply for any new or extended lease; and
- (m) to:
  - (i) give valid receipts for all monies and to do all such other things as may seem to him to be incidental or conducive to any other power vested in him or necessary or desirable for the realisation of any Security Asset;
  - (ii) exercise in relation to each Security Asset all such powers and rights as he would be capable of exercising if he were the absolute beneficial owner of the Security Assets; and
  - (iii) use the name of the Chargor for any of the above purposes.

## **16. APPLICATION OF PROCEEDS**

### **16.1 Application**

All monies received by the Chargee or any Receiver after the Debenture Security has become enforceable shall (subject to the rights and claims of any person having a security ranking in priority to the Debenture Security) be applied in the following order:

- (a) *first*, in satisfaction of, or provision for, all costs, charges and expenses incurred, and payments made by the Chargee or any Receiver or Delegate under or in connection with this Deed or the Security Assets and of all remuneration due to the Receiver in connection with this Deed or the Security Assets;
- (b) *secondly*, in or towards satisfaction of the remaining Secured Obligations in accordance with clause 16.3 (*Appropriation and suspense account*); and
- (c) *thirdly*, in payment of any surplus to the Chargor or other person entitled to it.

### **16.2 Contingencies**

If the Debenture Security is enforced at a time when no amounts are due to it (but at a time when amounts may become so due), the Chargee or a Receiver may pay the proceeds of any recoveries effected by it into a blocked suspense account.

### **16.3 Appropriation and suspense account**

- (a) Subject to clause 16.1 (*Application*), the Chargee shall apply all payments received in respect of the Secured Obligations in reduction of any part of the Secured Obligations in any order or manner which it may determine.
- (b) Any such appropriation shall override any appropriation by the Chargor.

- (c) All monies received, recovered or realised by the Chargee under or in connection with this Deed may at the discretion of the Chargee be credited to a separate interest-bearing suspense account for so long as the Chargee determines (with interest accruing thereon at such rate (if any) as the Chargee may determine without the Chargee having any obligation to apply such monies and interest or any part of it in or towards the discharge of any of the Secured Obligations unless such monies would clear all Secured Obligations in full).

## **17. SET-OFF**

- (a) The Chargee may (but shall not be obliged to) set off any obligation which is due and payable by the Chargor and unpaid (whether under the Finance Documents or which has been assigned to the Chargee by the Chargor) against any obligation (whether or not matured) owed by the Chargee to the Chargor, regardless of the place of payment or currency of either obligation.
- (b) At any time after the Debenture Security has become enforceable (and in addition to its rights under clause 17(a)), the Chargee may (but shall not be obliged to) set-off any contingent liability owed by the Chargor under any Finance Document against any obligation (whether or not matured) owed by the Chargee to the Chargor, regardless of the place of payment or currency of either obligation.
- (c) If the obligations are in different currencies, the Chargee may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.
- (d) If either obligation is unliquidated or unascertained, the Chargee may set off in an amount estimated by it in good faith to be the amount of that obligation.

## **18. DELEGATION**

Each of the Chargee and any Receiver may delegate, by power of attorney (or in any other manner) to any person, any right, power or discretion exercisable by them under this Deed upon any terms (including power to sub-delegate) which it may think fit. Neither the Chargee nor any Receiver shall be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

## **19. FURTHER ASSURANCES**

### **19.1 Further action**

The Chargor shall, at its own expense, immediately do all acts and execute all documents as the Chargee or a Receiver may reasonably specify (and in such form as the Chargee or a Receiver may reasonably require) for:

- (a) creating, perfecting or protecting the Security Interest intended to be created by this Deed; and
- (b) facilitating the realisation of any Security Asset or the exercise of any rights, powers and remedies exercisable by the Chargee, or any Receiver or any Delegate in respect of any Security Asset or by law;
- (c) creating and perfecting any Security Interest in favour of the Chargee over any property and assets of the Chargor located in any jurisdiction outside England and

Wales equivalent or similar to the Security Interest intended to be created by or pursuant to this Deed or any other Security Interest.

(d) This includes:

- (i) the re-execution of this Deed or such other Security Interest;
- (ii) the execution of any legal mortgage, charge, transfer, conveyance, assignment, assignation or assurance of any property, whether to the Chargee or to its nominee; and
- (iii) whether to the Chargee or to its nominees, the giving of any notice, order or direction and the making of any filing or registration,

which, in any such case, the Chargee may think expedient.

## **19.2 Specific security**

Without prejudice to the generality of clause 19.1 (*Further action*), the Chargor will immediately upon request by the Chargee execute any document contemplated by that clause over any Security Asset which is subject to or intended to be subject to any fixed security under this Deed (including any fixed security arising or intended to arise pursuant to clause 6 (*Conversion of floating charge*)).

## **20. POWER OF ATTORNEY**

The Chargor, by way of security, irrevocably and severally appoints the Chargee, each Receiver and any Delegate to be its attorney to take any action which the Chargor is obliged to take under this Deed, including under clause 19 (*Further assurances*). The Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause.

## **21. PAYMENTS**

Subject to clause 22 (*Gross-Up*), all payments to be made by the Chargor in respect of this Deed shall be made:

- (a) in immediately available funds to the credit of such account as the Chargee may designate; and
- (b) without (and free and clear of, and without any deduction for, or on account of) any set-off or counterclaim, or except to the extent compelled by law, any deduction or withholding for or on account of tax.

## **22. GROSS-UP**

If the Chargor is compelled by law to make any deduction or withholding from any sum payable under this Deed to the Chargee, the sum so payable by the Chargor shall be increased so as to result in the receipt by the Chargee of a net amount equal to the full amount expressed to be payable under this Deed.

## **23. STAMP DUTY LAND TAX AND OTHER TAXES**

The Chargor shall pay all present and future stamp, registration and similar taxes or charges which may be payable, or determined to be payable, in connection with the execution, delivery, performance or enforcement of this Deed or any judgment given in connection therewith and indemnify the Chargee and any Receiver on demand against any and all costs, losses or liabilities (including penalties) with respect to, or resulting from, its delay or omission to pay any such stamp, registration and similar taxes or charges.

## **24. COSTS AND EXPENSES**

### **24.1 Transaction and amendment expenses**

The Chargor shall promptly on demand pay to the Chargee the amount of all reasonable costs, charges and expenses (including legal fees, valuation, accountancy and consultancy fees (and any VAT or similar tax thereon)) incurred by the Chargee in connection with (a) the negotiation, preparation, printing, execution, registration, perfection and completion of this Deed, the Security Interests or any document referred to in this Deed; or (b) any actual or proposed amendment or extension of, or any waiver or consent under, this Deed.

### **24.2 Enforcement and preservation costs**

The Chargor shall promptly on demand pay to the Chargee and any Receiver the amount of all costs, charges and expenses (including, legal fees (and any VAT or similar tax thereon)) incurred by any of them in connection with the enforcement, exercise or preservation (or the attempted enforcement, exercise or preservation) of any of their respective rights under this Deed, the Security Interests or any document referred to in this Deed (including all remuneration of the Receiver).

### **24.3 Default interest**

Any amount demanded under clause 24.1 (*Transaction and amendment expenses*) or 24.2 (*Enforcement and preservation costs*) shall bear interest at the Default Rate (both before and after judgment) from the day on which those costs, charges or expenses were paid, incurred or charged by the relevant person and otherwise in accordance with clause 2.1 (*Default interest*).

## **25. INDEMNITY**

The Chargor shall indemnify the Chargee, any 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**") on demand against any cost, loss, liability or expense (however arising) incurred by any Indemnified Party as a result of or in connection with:

- (a) anything done or omitted in the exercise or purported exercise of the powers contained in this Deed;
- (b) the Security Assets or the use or occupation of them by any person; or
- (c) any breach by the Chargor of any of its obligations under this Deed.

## **26. CHANGES TO THE PARTIES**

### **26.1 Chargor**

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

## **26.2 The Chargee**

The Chargee may assign or transfer all or any part of its rights under this Deed. The Chargor shall, immediately upon being requested to do so by the Chargee, enter into such documents as may be necessary or desirable to effect such assignment or transfer.

## **27. MISCELLANEOUS**

### **27.1 New accounts**

- (a) If the Chargee receives, or is deemed to be affected by, notice, whether actual or constructive, of any subsequent Security Interest (other than a Permitted Security) affecting any Security Asset and/or the proceeds of sale of any Security Asset or any guarantee in favour of the Chargee ceases to continue in force and/or the proceeds of sale of any Security Asset, it may open a new account or accounts for the Chargor. If it does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received such notice.
- (b) As from that time all payments made to the Chargee will be credited or be treated as having been credited to the new account and will not operate to reduce any amount of the Secured Obligations.

### **27.2 Tacking**

This Deed secures advances already made and further advances to be made.

### **27.3 Articles of Association**

The Chargor certifies that the Debenture Security does not contravene any of the provisions of the articles of association of the Chargor.

- (a) The Chargor shall not make any application under rule 138 of the Land Registration Rules 2003 for the removal of the designation of any such document as an exempt information document.
- (b) The Chargor shall promptly make all applications to and filings with Land Registry which are necessary or desirable under the Land Registration Rules 2003 to protect the Debenture Security.

## **28. LAND REGISTRY**

- (a) The Chargor certifies that the Debenture Security does not contravene any of the provisions of the articles of association of the Chargor;
- (b) The Chargor shall apply to the Chief Land Registrar (and consents to such an application being made by or on behalf of the Chargee) for a restriction in the following terms to be entered on the Register of Title relating to any property registered at the Land Registry (or any unregistered land subject to first registration) and against which this Deed may be noted:

*"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 [ ♦ ] 20[ ♦ ] in favour of [ ] referred to in the charges register or their conveyancer."*

- (c) The Chargor:
  - (a) authorises the Chargee to make any application which the Chargee deems appropriate for the designation of this Deed, or any other document, as an exempt information document under rule 136 of the Land Registration Rules 2003;
  - (b) shall use its best endeavours to assist with any such application made by or on behalf of the Chargee; and
  - (c) shall notify the Chargee in writing as soon as it receives notice of any person's application under rule 137 of the Land Registration Rules 2003 for the disclosure of this Deed or any other document, following its designation as an exempt information document;
- (d) The Chargor shall not make any applications under rule 138 of the Land Registration Rules 2003 for the removal of the designation of any such document as an exempt information document.
- (e) The Chargor shall promptly make all applications to and filings with the Land Registry which are necessary or desirable under the Land Registration Rules 2003 to protect the Debenture Security.

## **29. PROTECTIVE CLAUSES**

The obligations of the Chargor under, and the security intended to be created by, this Deed shall not be impaired by any forbearance, neglect, indulgence, extension or time, release, surrender or loss of securities, dealing, amendment or arrangement by the Chargee which would otherwise have reduced, released or prejudiced this Debenture Security or any surety liability of the Chargor (whether or not known to it).

## **30. NOTICES**

- (a) Any notice or other communication given to a party under or in connection with this Deed shall be:

- (i) in writing;
- (ii) delivered by hand, by pre-paid first-class post or other next working day delivery service or sent by fax; and
- (iii) sent to:

the Chargor at:

Energising CLG (23) Limited  
Vertu House,  
Fifth Avenue Business Park,  
Team Valley,  
Gateshead, NE11 0XA

Attention: Tom Kennedy

the Chargee at:

Energising Education (1) Limited  
45 High Street  
Yardley Hastings  
Northamptonshire  
NN7 1ER

Attention: Jonathan Mark Penfold

or to any other address or fax number as is notified in writing by one party to the other from time to time.

- (b) Any notice or other communication that the Chargee gives to the Chargor under or in connection with this Deed shall be deemed to have been received:
  - (i) if delivered by hand, at the time it is left at the relevant address;
  - (ii) if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting; and
  - (iii) if sent by fax, when received in legible form.
- (c) A notice or other communication given as described in this clause 30 on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.
- (d) Any notice or other communication given to the Chargee shall be deemed to have been received only on actual receipt.

### **31. CALCULATIONS AND CERTIFICATES**

Any certificate of or determination by the Chargee specifying the amount of any Secured Obligation due from the Chargor (including details of any relevant calculation thereof) is in the absence of manifest error, conclusive evidence against the Chargor of the matters to which it relates.

### **32. PARTIAL INVALIDITY**

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

### **33. REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of the Chargee, any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise, or the exercise of any other right or remedy. The rights and remedies provided are cumulative and not exclusive of any rights or remedies provided by law.

### **34. AMENDMENTS AND WAIVERS**



Any provision of this Deed may be amended only if the Chargee and the Chargor so agree in writing and any breach of this Deed may be waived before or after it occurs only if the Chargee so agrees in writing. A waiver given or consent granted by the Chargee under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

### **35. CONTINUING LIABILITY**

Where any discharge (whether in respect of the obligations of the Chargor or any security for those obligations or otherwise) is made in whole or in part or any arrangement is made on the faith of any payment, security or other disposition which is avoided or must be restored on insolvency, liquidation or otherwise (without limitation), the liability of the Chargor under this Deed shall continue as if the discharge or arrangement had not occurred. The Chargee may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration.

### **36. COUNTERPARTS**

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

### **37. RELEASE**

#### **37.1 Release**

Upon the expiry of the Security Period (but not otherwise) the Chargee shall, at the request and cost of the Chargor, take whatever action is necessary to release or re-assign (without recourse or warranty) the Security Assets from the Security Interests.

#### **37.2 Reinstatement**

Where any discharge (whether in respect of the obligations of the Chargor or any security for those obligations or otherwise) is made in whole or in part or any arrangement is made on the faith of any payment, security or other disposition which is avoided or must be restored on insolvency, liquidation or otherwise (without limitation), the liability of the Chargor under this Deed shall continue as if the discharge or arrangement had not occurred. The Chargee may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration.

### **38. GOVERNING LAW AND JURISDICTION**

- (a) This Agreement is governed by English law.
- (b) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement) ("**Dispute**").
- (c) Each of the parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.
- (d) Clauses 38(b) and 38(c) are for the benefit of the Chargee only. As a result, the Chargee shall not be prevented from taking proceedings relating to a Dispute in any

other courts with jurisdiction. To the extent allowed by law, the Chargee may take concurrent proceedings in any number of jurisdictions.

**IN WITNESS** of which this Deed has been duly executed by the Chargor as a deed and duly executed by the Chargee and has been delivered on the first date specified on page 1 of this Deed by the Chargor.

## **SCHEDULE 1: DETAILS OF REAL PROPERTY**

[None]

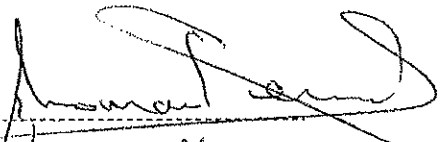
## **SCHEDULE 2: RELEVANT AGREEMENT**

1. An operating lease agreement dated on or around the date of this debenture in respect of Energy Products made between (1) Reach South; and (2) the Chargor, in relation to Drake Primary Academy, 1 Johnston Terrace Ope, Keyham, Plymouth PL2 2EN.
2. An operating lease agreement dated on or around the date of this debenture in respect of Energy Products made between (1) Reach South; and (2) the Chargor, in relation to Drake Primary Academy, 1 Johnston Terrace Ope, Keyham, Plymouth PL2 2EN.

EXECUTION PAGE

THE CHARGOR

Executed as a deed, but not delivered until the )  
first date specified on page 1, by )  
**ENERGISING CLG (23) LIMITED** acting )  
by:

Signature   
Name (block capitals) THOMAS KENNEDY  
Director

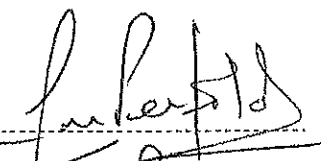
Witness signature CA Williamson

Witness name APRIL WILLIAMSON  
(block capitals)

Witness address 21 HOFLAND ROAD  
LONDON  
W14 0LN

THE CHARGE

Executed as a deed, but not delivered until the )  
first date specified on page 1, by )  
**ENERGISING EDUCATION (1) LIMITED** )  
acting by:

Signature   
Name (block capitals) JON PENFOLD  
Director

Witness signature Krista Siroka

Witness name KRISTA SIROKA  
(block capitals)

Witness address 3 NOBLE PT  
EC2V 7EC  
LONDON