



**Registration of a Charge**

Company name: **APIS ASSAY TECHNOLOGIES LTD.**

Company number: **11563620**



X7JZQ45M

Received for Electronic Filing: **03/12/2018**

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**Details of Charge**

Date of creation: **30/11/2018**

Charge code: **1156 3620 0002**

Persons entitled: **THE COUNCIL OF THE CITY OF MANCHESTER**

Brief description:

**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 SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION**

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL  
INSTRUMENT.**

Certified by:

**DWF LLP**



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

Company number: 11563620

Charge code: 1156 3620 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 30th November 2018 and created by APIS ASSAY TECHNOLOGIES LTD. was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 3rd December 2018 .

Given at Companies House, Cardiff on 4th December 2018

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

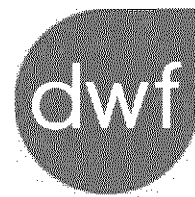


**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

Execution Version



30 November 2018

(1) **APIS ASSAY TECHNOLOGIES LTD.**  
(the Company)

and

(2) **THE COUNCIL OF THE CITY OF MANCHESTER**  
(the Grant Funder)

**DEBENTURE**

**DWF LLP**  
**1 Scott Place**  
**2 Hardman Street**  
**Manchester**  
**M3 3AA**

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THIS DEBENTURE is made by deed on

30 November

2018 between:

- (1) **APIS ASSAY TECHNOLOGIES LTD.**, a company incorporated under the laws of England and Wales with registered number 11563620 having its registered office at First Floor, Templeback, 10 Temple Back, Bristol, United Kingdom, BS1 6FL (**Company**); and
- (2) **THE COUNCIL OF THE CITY OF MANCHESTER** of Town Hall, Albert Square, Manchester M60 2LA (**Grant Funder**).

**BACKGROUND:**

- (A) The Grant Funder has agreed to make a grant available to the Company on the terms of the Grant Agreement.
- (B) The Company has agreed to provide Security to the Grant Funder to secure the payment and discharge of the Secured Liabilities.

**TERMS AGREED**

**1. Definitions and Interpretations**

**1.1 Definitions**

In this Debenture:

<b>Act</b>	means the Law of Property Act 1925.
<b>Account</b>	means any bank account maintained by the Company from time to time.
<b>Assigned Agreement</b>	means each Qiagen Contract as defined in the documents creating the Senior Security.
<b>Authorisation</b>	means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.
<b>Default</b>	has the meaning given to that expression in the Grant Agreement.
<b>Default Rate</b>	means the rate of 3% per annum above the base rate of Barclays Bank plc from time to time.
<b>Delegate</b>	means any delegate, agent, attorney or trustee appointed by the Grant Funder;
<b>Distribution Rights</b>	means all allotments, accretions, offers, options, rights, bonuses, benefits and advantages, whether by way of conversion, redemption, preference, option or otherwise which at any time accrue to or are offered or arise in respect of any Investments or Shares, and includes all dividends, interest and other distributions paid or payable on or in respect of them.

<b>Equipment</b>	means all of the Company's fixed and moveable plant, machinery, tools, vehicles, computers and office and other equipment and the benefit of all related Authorisations, agreements and warranties.
<b>Event of Default</b>	has the meaning given to that expression in the Grant Agreement.
<b>Grant Agreement</b>	means the Grant Agreement dated on or about the date of this Debenture between the Grant Funder and the Company.
<b>Funding Document</b>	means this Debenture, the Grant Agreement, the Intercreditor Agreement or any other document designated as such by the Grant Funder and the Company.
<b>Insurance</b>	means each contract or policy of insurance to which the Company is a party or in which it has an interest.
<b>Intellectual Property</b>	<p>means all legal and/or equitable interests (including, without limitation, the benefit of all licences in any part of the world) of the Company in, or relating to:</p> <ul style="list-style-type: none"> <li>(a) any patents, trademarks, 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</li> <li>(b) the benefit of all applications and rights to use such assets of the Company (which may now or in the future subsist).</li> </ul>
<b>Intercreditor Agreement</b>	means the intercreditor agreement entered into on or about the date of this Debenture by The Council of the City of Manchester as agent and security trustee and as a senior creditor, Greater Manchester Combined Authority as a senior creditor, The Council of the City of Manchester as subordinated creditor and the Company.
<b>Investments</b>	means all or any stocks, shares (other than any Shares), bonds and securities of any kind (marketable or otherwise), negotiable instruments and warrants and any other financial instruments (as defined in the Regulations).
<b>Land</b>	has the same meaning as it has in section 205(1) of the Act.
<b>Legal Reservations</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) the principle that equitable remedies may be granted or</li> </ul>

refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;

- (b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim; and
- (c) similar principles, rights and remedies under the laws of any relevant jurisdiction.

**Permitted Disposal**

means any disposal in the ordinary course of the day-to-day trading activities of the Company which is on arm's length terms:

- (a) of assets (other than Land, Shares, Investments, Equipment or Intellectual Property) in exchange for other assets comparable or superior as to type, value and quality (other than an exchange of a non-cash asset for cash);
- (b) of obsolete Equipment for cash;
- (c) arising as a result of any Permitted Security;
- (d) as permitted under the terms of the Senior Security; or
- (e) as permitted by the Grant Funder in writing.

**Permitted Security**

means:

- (a) the Senior Security; and
- (b) any other Security to which the Grant Funder has given its prior written consent.

**Receivables**

means all of the Company's book and other debts arising in the ordinary course of trading and all other debts, monies and other receivables due and becoming due to the Company from time to time;

**Receiver**

means a receiver appointed pursuant to this Debenture or to any applicable law, whether alone or jointly, and includes a receiver and/or manager and, if the Grant Funder is permitted by law to appoint an administrative receiver, includes an administrative receiver.

**Regulations**

means the Financial Collateral Arrangements (No 2) Regulations 2003 (S.I. 2003/3226) or equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial



collateral arrangements, and **Regulation** means any of them.

<b>Secured Liabilities</b>	means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of the Company to the Grant Funder under each Funding Document.
<b>Security Assets</b>	means all of the assets of the Company which are the subject of any Security created or to be created by this Debenture.
<b>Senior Security</b>	has the meaning given to that expression in the Intercreditor Agreement.
<b>Shares</b>	means all shares held by the Company in any of its Subsidiaries from time to time.
<b>Subsidiary</b>	means a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006.

## 1.2 Construction

- (a) Unless a contrary intention appears, any reference in this Debenture to:
- (i) this **Debenture**, a **Funding Document** or any other agreement or instrument is a reference to this Debenture, that Funding Document or other agreement or instrument as amended, novated, supplemented, replaced, extended or restated from time to time;
  - (ii) the **Company**, the **Grant Funder** or a **Receiver** includes any one or more of its assigns, transferees and successors in title (in the case of the Company, so far as any such is permitted) to or of its rights and/or obligations under the Funding Documents and, in the case of the Security Agent, any person for the time being appointed as Security Agent(s) in accordance with the Funding Documents;
  - (iii) the **Grant Funder** or a **Receiver** (except for the references in Clause 17 (*Power of attorney*)), includes its duly appointed nominees, attorneys, correspondents, trustees, advisers, agents, delegates and sub-delegates;
  - (iv) **assets** includes present and future properties, revenues and rights of every description;
  - (v) **disposal** includes a sale, transfer, assignment, grant, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary, and **dispose** will be construed accordingly;
  - (vi) **guarantee** means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any

person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;

- (vii) **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (viii) a **person** includes any individual, firm, company, corporation, authority, government, state or agency of a state or any association, trust, joint venture, consortium or partnership or other entity (whether or not having separate legal personality); and
- (ix) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation.

(b) In this Debenture any reference to:

- (i) a provision of law is a reference to that provision as amended or re-enacted;
- (ii) the singular includes the plural and vice versa; and
- (iii) a time of day is a reference to London time.

### 1.3 Third party rights

- (a) The Grant Funder, any Receiver and their respective officers, employees and agents may enforce any term of this Debenture which purports to confer a benefit on that person, but no other person who is not a party to this Debenture has any right under the Contracts (Rights of Third Parties) Act 1999 (the **Third Parties Act**) to enforce or to enjoy the benefit of any term of this Debenture.
- (b) Notwithstanding any term of any Funding Document, the parties to this Debenture and any Receiver may rescind, vary, waive, release, assign, novate or otherwise dispose of all or any of their respective rights or obligations under this Debenture without the consent of any person who is not a party to this Debenture.

### 1.4 Effect as a deed

This Debenture shall take effect as a deed even if it is signed under hand on behalf of the Grant Funder.

### 1.5 Law of Property (Miscellaneous Provisions) Act 1989

The terms of the other Funding Documents and of any side letters between any parties in relation to any Funding Document are incorporated in this Debenture to the extent required to ensure that any purported disposition of an interest in Land contained in this Debenture is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

## **1.6 Intercreditor Agreement**

The terms of this Debenture, the Security created under or pursuant to it and the rights and remedies of the Grant Funder under it and the covenants of the Company under it, are subject to the terms of the Senior Security and the Intercreditor Agreement.

## **2. Covenant to pay**

The Company covenants with the Grant Funder that the Company will on demand pay and discharge the Secured Liabilities when due.

## **3. Creation of Security**

### **3.1 Land**

The Company charges:

- (a) by way of legal mortgage its interest in the Land referred to opposite its name in Schedule 2 (*Land charged by way of legal mortgage*); and
- (b) by way of fixed charge any right, title or interest which it has now or may subsequently acquire to or in any other Land.

### **3.2 Shares**

The Company mortgages or (if or to the extent that this Debenture does not take effect as a mortgage) charges by way of fixed charge:

- (a) all Shares; and
- (b) all related Distribution Rights.

### **3.3 Investments**

The Company mortgages or (if and to the extent that this Debenture does not take effect as a mortgage) charges by way of fixed charge:

- (a) all Investments; and
- (b) all related Distribution Rights,  
including those held for it by any nominee.

### **3.4 Equipment**

The Company charges by way of fixed charge all Equipment in so far as it is not charged by way of legal mortgage under Clause 3.1 (*Land*).

### **3.5 Receivables**

The Company charges by way of fixed charge:

- (a) all Receivables; and

- (b) all benefits, rights and Security held in respect of, or to secure the payment of, the Receivables.

### **3.6 Intellectual Property Rights**

The Company charges by way of fixed charge all Intellectual Property Rights.

### **3.7 Goodwill**

The Company charges by way of fixed charge its goodwill.

### **3.8 Uncalled capital**

The Company charges by way of fixed charge its uncalled capital.

### **3.9 Authorisations**

The Company charges by way of fixed charge the benefit of all Authorisations held by it in relation to any Security Asset.

### **3.10 Assigned Agreements**

- (a) The Company assigns absolutely all its rights and interests under the Assigned Agreements to which it is party.
- (b) Until an Event of Default occurs, but subject to Clause 7.7 (*Assigned Agreements and Insurances*), the Company may continue to deal with the counterparties to the relevant Assigned Agreements.

### **3.11 Accounts held with third parties**

The Company assigns absolutely or (if and to the extent that the assignment is not effective) charges by way of fixed charge all amounts from time to time standing to the credit of each account (including any Account) held with a party, other than the Grant Funder, in its name or to which it is beneficially entitled.

### **3.12 Insurances**

- (a) The Company assigns absolutely all its rights and interests in the Insurances.
- (b) Until an Event of Default occurs, but subject to Clause 7.7 (*Assigned Agreements and Insurances*), the Company may continue to deal with the counterparties to the Insurances.

### **3.13 Contractual rights**

The Company charges by way of fixed charge all its rights under any agreement to which it is a party other than the Assigned Agreements which are effectively assigned by Clause 3.10 (*Assigned Agreements*).

### **3.14 Other assets**

- (a) The Company charges by way of floating charge all its present and future business, undertaking and assets which are not effectively mortgaged, charged by way of fixed charge or assigned under this Clause 3.
- (b) Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to any floating charge created by this Debenture.

### **3.15 Trust**

- (a) Subject to Clause 3.15(b), if or to the extent that for any reason the assignment or charging of any Security Asset is prohibited, the Company holds it on trust for the Grant Funder.
- (b) If the reason referred to in Clause 3.15(a) is that:
  - (i) a consent or waiver must be obtained; or
  - (ii) a condition must be satisfied,then:
  - (iii) subject to Clause 3.15(c), the Company shall apply for the consent or waiver; and
  - (iv) the Company shall use all reasonable endeavours to satisfy the condition,in each case within 14 days of the date of this Debenture or, if the Security Asset is acquired after the date of this Debenture, within 14 days of the date of acquisition.
- (c) Where the consent or waiver is not to be unreasonably withheld, the Company shall:
  - (i) use all reasonable endeavours to obtain it as soon as possible; and
  - (ii) keep the Grant Funder informed of the progress of the negotiations to obtain it.
- (d) On the waiver or consent being obtained, or the condition being satisfied, the Security Asset shall be mortgaged, charged or assigned (as appropriate) under this Clause 3 and the trust referred to in Clause 3.15(a) shall terminate.

## **4. Nature of Security created**

The Security created under this Debenture is created:

- (a) as a continuing security to secure the payment and discharge of the Secured Liabilities;
- (b) (except in the case of assets which are the subject of a legal mortgage under this Debenture) over all present and future assets of the kind described which are owned by the Company and, to the extent that it does not own those assets, shall extend to any right or interest which it may have in them;

- (c) in favour of the Grant Funder; and
- (d) with full title guarantee (except that the covenant set out in section 3(1) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to all charges, incumbrances and rights, even if the Company does not know and could not reasonably be expected to know about them).

## **5. Conversion of floating charge**

### **5.1 Conversion on notice**

Subject to Clause 5.2 (*Limitation*), the Grant Funder may by notice to the Company at any time during the Security Period convert the floating charge created by the Company under this Debenture into a fixed charge in respect of any Security Asset specified in that notice if:

- (a) an Event of Default is continuing; or
- (b) the Grant Funder considers that Security Asset to be in danger of being seized, attached, charged, taken possession of or sold under any form of distress, sequestration, execution or other process or otherwise to be in jeopardy.

### **5.2 Limitation**

Clause 5.1 (*Conversion on notice*) shall not apply by reason only of a moratorium being obtained, or anything being done with a view to a moratorium being obtained, under section 1A of the Insolvency Act 1986.

### **5.3 Automatic conversion**

The floating charge created by the Company under this Debenture will convert automatically into fixed charges:

- (a) if the Grant Funder receives notice of an intention to appoint an administrator of the Company;
- (b) if any steps are taken, (including the presentation of a petition, the passing of a resolution or the making of an application) to appoint a liquidator, provisional liquidator, administrator or Receiver in respect of the Company over all or any part of its assets, or if such person is appointed;
- (c) if the Company creates or attempts to create Security over all or any of the Security Assets, other than the Permitted Security;
- (d) on the crystallisation of any other floating charge over the Security Assets;
- (e) if any person seizes, attaches, charges, takes possession of or sells any Security Asset under any form of distress, sequestration, execution or other process, or attempts to do so; and
- (f) in any other circumstances prescribed by law.

## **6. Representations and warranties**

### **6.1 General**

The Grant Funder has entered into this Debenture in reliance on the representations of the Company set out in this Clause 6, and the Company warrants to the Grant Funder on the date of this Debenture, as set out in this Clause 6.

### **6.2 Status**

- (a) It is a limited liability corporation, duly incorporated and validly existing under the law of England and Wales.
- (b) It has the power to own its assets and carry on its business as it is being conducted.

### **6.3 Binding obligations**

The obligations expressed to be assumed by it in this Debenture are, subject to the Legal Reservations, legal, valid, binding and enforceable obligations.

### **6.4 Non-conflict with other obligations**

The entry into and performance by it of, and the transactions contemplated by this Debenture and the granting of this Security do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.

### **6.5 Power and authority**

- (a) It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Debenture and the transactions contemplated by it.
- (b) No limit on its powers will be exceeded as a result of the entry into, performance and delivery of, this Debenture and the transactions contemplated by it.

## **6.6 Authorisations**

- (a) All Authorisations required or desirable to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Debenture have been obtained or effected and are in full force and effect, except registration of particulars of this Debenture at Companies House under the Companies Act 2006 and payment of associated fees, which registrations and fees will be made and paid promptly after the date of this Debenture.
- (b) All Authorisations necessary for the conduct of the business, trade and ordinary activities of the Company have been obtained or effected and are in full force and effect.

## **6.7 Repetition**

The representations and warranties set out in this Clause 6 shall survive the execution of this Debenture and are deemed to be repeated by reference to the facts and circumstances then existing on each date on which the Repeating Representations are deemed to be repeated.

## **7. Positive covenants**

The covenants in this Clause 7 remain in force from the date of this Debenture until the expiry of the Security Period.

### **7.1 Preservation of the Security Assets**

The Company shall:

- (a) keep all Land, all Equipment and all other tangible assets which form part of the Security Assets in good and substantial repair, fair wear and tear excepted, and permit the Grant Funder free access at all reasonable times and on reasonable notice to view their state and condition;
- (b) preserve, maintain and renew as and when necessary all Intellectual Property Rights which form part of the Security Assets;
- (c) observe and perform all covenants, undertakings, laws and regulations from time to time affecting any Security Asset or the use or enjoyment of it;
- (d) pay all Tax, rents, rates, duties, fees, charges, assessments, impositions, calls, instalments and outgoings which are properly payable at any time during the Security Period in respect of any Security Asset or by the owner or occupier of it (and if it fails to pay that amount when due, the Grant Funder may pay it);
- (e) notify the Grant Funder of any action commenced by a third party to seize, attach, charge, take possession of or sell any Security Asset which (to the best of its knowledge and belief) has been started or threatened; and
- (f) at its own cost, defend any proceedings (including proceedings to seize, attach, charge, take possession of or sell) brought by a third party relating to any Security Asset.



## 7.2 Land

- (a) The Company shall promptly notify the Grant Funder in writing if it:
  - (i) intends to acquire any estate or interest in Land; or
  - (ii) acquires any estate or interest in Land.
- (b) The Company shall remedy any material defect or want of repair promptly after service by the Grant Funder of notice of the defect or want of repair.
- (c) The Company shall give immediate notice in writing to the Grant Funder if:
  - (i) it receives any notice under section 146 of the Act; or
  - (ii) any proceedings are commenced against it for the forfeiture of any lease of any Land.
- (d) If the Company acquires any freehold or leasehold property after the date of this Debenture it shall:
  - (i) immediately on request by the Grant Funder and at the cost of the Company, execute and deliver to the Grant Funder a legal mortgage in favour of the Grant Funder of that property in any form which the Grant Funder may require;
  - (ii) take such action and do all such acts and things which are necessary or desirable for the purposes of perfecting such legal mortgage.
- (e) The Company shall:
  - (i) perform all its obligations under any law or regulation in any way related to or affecting its Land, except to the extent that non-performance of those obligations would not materially adversely affect the value or marketability of any of its Land; and
  - (ii) must, within 14 days after receipt by it of any material application, requirement, order or notice served or given by any public or local or any other authority with respect to its Land (or any part of it):
    - (A) deliver a copy to the Grant Funder; and
    - (B) inform the Grant Funder of the steps taken or proposed to be taken to comply with the relevant requirements.
- (f) In respect of any Land acquired by the Company, upon the request of the Grant Funder, the Company shall:
  - (i) grant the Grant Funder or its lawyers on request all facilities within the power of the Company to enable the Grant Funder or its lawyers (at the expense of the Company) to:

- (A) carry out investigations of title to the Land; and
- (B) make such enquiries in relation to any part of the Land as a prudent mortgagee might carry out; and
- (ii) if reasonably required by the Grant Funder, provide it with a report on title of the Company to the Land concerning those items which may properly be sought to be covered by a prudent mortgagee in a lawyer's report of that nature.

### **7.3 Intellectual Property**

The Company covenants that, at all times during the Security Period:

- (a) promptly upon request from the Grant Funder, provide the Grant Funder with details of all Intellectual Property;
- (b) promptly upon request by the Grant Funder and at the cost of the Company, execute and deliver to the Grant Funder in favour of the Grant Funder a Security in respect of such Intellectual Property in any form which the Grant Funder may require and (if such Intellectual Property is in registrable form) procure registration of that Security with the relevant registration authority.

### **7.4 Receivables**

The Company shall:

- (a) collect in the Receivables when they fall due for payment;
- (b) pay the Receivables into its account with its bankers or such account which the Grant Funder may specify.

### **7.5 Accounts**

The Company shall:

- (a) promptly upon request by the Grant Funder, give notice in such form as the Grant Funder shall reasonably require to any bank or financial institution with which an Account is maintained and deliver to the Grant Funder a copy of such notice; and
- (b) use all reasonable endeavours to procure that each bank served with a notice under paragraph (a) promptly countersigns and returns it to the Grant Funder.

### **7.6 Shares and Investments**

The Company covenants that, at all times during the Security Period:

- (a) if it forms or acquires any Subsidiary after the date of this Debenture, it shall notify the Grant Funder immediately; and
- (b) as soon as any Shares or Investments are registered in, or transferred into the name of, the Company, or held by or in the name of the Grant Funder (and in any event as

soon as the Grant Funder so requests), it shall deposit with the Grant Funder, in respect of or in connection with those Shares or Investments:

- (i) all stock and share certificates and documents of or evidencing title;
- (ii) signed undated transfers, completed in blank and, if the Grant Funder so requires, pre-stamped; and
- (iii) any other documents which the Grant Funder may from time to time require for perfecting its title, or the title of any purchaser,

all of which will be held by the Grant Funder at the expense and risk of the Company.

#### **7.7 Assigned Agreements and Insurances**

- (a) The Company shall:
  - (i) perform all its obligations under the Assigned Agreements and Insurances in a diligent and timely manner;
  - (ii) promptly upon request by the Grant Funder, give notice to the other parties to the Assigned Agreements and Insurances in such form as the Grant Funder shall reasonably require and deliver to the Grant Funder a copy of each such notice; and
- (b) use all reasonable endeavours to procure that each party served with a notice under paragraph (a)(ii) above promptly countersigns and returns it to the Grant Funder.
- (c) While no Default is continuing, the Company may exercise all its rights in respect of the Assigned Agreements and the Insurances (in each case to which it is a party) including (subject to the Grant Agreements and the Intercreditor Agreement) receiving and exercising all rights relating to proceeds of those Assigned Agreements and Insurances.

#### **7.8 Payments without deduction**

The Company covenants with the Grant Funder that all payments to be made by it under this Debenture shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

#### **8. Negative covenants**

The covenants in this Clause 8 remain in force from the date of this Debenture until the expiry of the Security Period.

##### **8.1 Disposals**

- (a) The Company shall not enter into a single transaction or a series of transactions (whether related or not), whether voluntary or involuntary and whether at the same time or over a period of time, to sell, lease, transfer, loan (and, in the case of the Receivables, factor or discount them), nor otherwise dispose of any Security Asset, nor enter into an agreement to make any such disposal.

- (b) Provided no Default is continuing, Clause 8.1(a) does not apply to a Permitted Disposal.

## **8.2 Negative pledge**

The Company shall not create or permit to subsist any Security over any Security Asset except for Permitted Security.

## **8.3 Preservation of the Security Assets**

The Company shall not, without the prior written consent of the Grant Funder:

- (a) enter into any onerous obligation or restriction affecting any Security Asset; or
- (b) in relation to any Land forming part of the Security Assets:
  - (i) part with possession of it, confer on any other person any right or licence to occupy it or grant any licence to assign, sub-let or create any Security over it;
  - (ii) exercise any of the powers conferred by sections 99 and 100 of the Act of leasing, letting, entering into agreements for leases or lettings or accepting or agreeing to accept surrenders of leases;
  - (iii) vary, assign or otherwise dispose of or allow to be forfeited any leasehold interest;
  - (iv) agree any rent review;
  - (v) make any structural or material alteration, or do or allow anything to be done which falls within the definition of development in section 55 of the Town and Country Planning Act 1990;
  - (vi) allow any person other than itself to be registered under the Land Registration Act 2002 as proprietor, or create or permit to arise any interest which overrides under the Land Registration Act 2002 (and the Company shall reimburse the Grant Funder for its reasonable costs of lodging (aa) a caution against first registration of the title to that Land or (bb) if that Land is unregistered, a land charge);
  - (vii) make an application, consent to or acquiesce in the application by any third party, to the Land Registry to enter any matter on the register of title; or
- (c) take any Security in connection with its liability under this Debenture from any guarantor of, or provider of Security for, any of the Secured Liabilities.

## **8.4 Assigned Agreements and Insurances**

The Company shall not, without the prior written consent of the Grant Funder:

- (a) make or agree to make any material amendments to;
- (b) waive any of its material rights under; or

- (c) exercise any right to terminate,  
any of the Assigned Agreements or the Insurances.

## **9. Dividends and voting rights**

### **9.1 Before Default or demand**

Until the Grant Funder so demands or a Default occurs:

- (a) the Company shall pay all monies arising from the Distribution Rights relating to the Shares and Investments into the Holding Account;
- (b) the Company shall not exercise any voting and other rights and powers attached to the Shares and Investments in a manner which the Grant Funder considers may prejudice the interests of the Grant Funder under the Funding Documents; and
- (c) promptly following receipt, the Company shall forward to the Grant Funder copies of all notices, documents and other communications received in connection with the Shares and Investments.

### **9.2 After Default demand**

After the Grant Funder so demands or a Default occurs the Company shall promptly pay over to the Grant Funder all monies arising from the Distribution Rights relating to the Shares and Investments which it may receive, and exercise all voting and other rights and powers attached to the Shares and Investments in any manner which the Grant Funder may direct.

### **9.3 Other obligations in respect of Shares and Investments**

The Company shall:

- (a) promptly copy to the Grant Funder, and comply with, all requests for information which is within its knowledge and which are made under section 793 of the Companies Act 2006 or any similar provision contained in any articles of association or other constitutional document relating to any of its Shares and Investments; and
- (b) comply with all other conditions and obligations assumed by it in respect of any of the Shares and Investments where failure to so comply would adversely affect the interests of the Grant Funder.

## **10. Enforcement**

### **10.1 When Security becomes enforceable**

The Security created by the Company under this Debenture shall become enforceable:

- (a) on the occurrence of an Event of Default;
- (b) if the Grant Funder so requires in order to protect its interests; or
- (c) if the Company so requests.

## 10.2 Powers on enforcement

At any time after the Security under this Debenture has become enforceable, the Grant Funder may (without prejudice to any other of its rights and remedies and without notice to the Company) do all or any of the following:

- (a) exercise all the powers and rights conferred on mortgagees by the Act, as varied and extended by this Debenture, without the restrictions contained in sections 103 or 109(1) of the Act;
- (b) exercise the power of leasing, letting, entering into agreements for leases or lettings or accepting or agreeing to accept surrenders of leases in relation to any Security Asset, without the restrictions imposed by sections 99 and 100 of the Act;
- (c) to the extent that any Security Asset constitutes Financial Collateral, as defined in the Regulations, appropriate it and transfer the title in and to it to the Grant Funder insofar as not already transferred, subject to paragraphs (1) and (2) of Regulation 18;
- (d) subject to Clause 11.1(a) (*Method of appointment and removal*), appoint one or more persons to be a Receiver or Receivers of all or any of the Security Assets; and
- (e) appoint an administrator of the Company.

## 10.3 Disposal of the Security Assets

In exercising the powers referred to in Clause 10.2 (*Powers on enforcement*), the Grant Funder or any Receiver may sell or dispose of all or any of the Security Assets at the times, in the manner and order, on the terms and conditions and for the consideration determined by it.

## 10.4 Application of moneys

- (a) The Grant Funder or any Receiver shall apply moneys received by them under this Debenture after the Security created under this Debenture has become enforceable in the following order:
  - (i) **first**, in or towards the payment pro rata of, or the provision pro rata for, any unpaid costs and expenses of the Grant Funder and any Receiver under this Debenture or which are incidental to any Receiver's appointment, together with interest at the Default Rate (both before and after judgment) from the date those amounts became due until the date they are irrevocably paid in full;
  - (ii) **secondly**, in or towards the payment pro rata of, or the provision pro rata for, any unpaid fees, commission or remuneration of the Grant Funder and any Receiver;
  - (iii) **thirdly**, in or towards the discharge of all liabilities having priority to the Secured Liabilities;
  - (iv) **fourthly**, in or towards the discharge of the Secured Liabilities in accordance with the Grant Agreement; and

- (v) **fifthly**, in the payment of any surplus to the Company or other person entitled to it,

and section 109(8) of the Act shall not apply.

- (b) The Company shall hold on trust for the Grant Funder all moneys received by virtue of the Insurances and, at the option of the Grant Funder, the Company shall apply those moneys:
  - (i) in replacing or reinstating the assets destroyed, damaged or lost (any deficiency being made good by the Company); or
  - (ii) (except in the case of leasehold premises) in reduction of the Secured Liabilities.
- (c) Clause 10.4(a) will override any appropriation made by the Company.

## **11. Appointment and powers of Receivers**

### **11.1 Method of appointment and removal**

- (a) The Grant Funder may not appoint a Receiver by reason only of a moratorium being obtained, or anything being done with a view to a moratorium being obtained, under section 1A of the Insolvency Act 1986.
- (b) Every appointment or removal of a Receiver, of any delegate or of any other person by the Grant Funder pursuant to this Debenture may be made in writing under the hand of any officer or manager of the Grant Funder (subject to any requirement for a court order in the removal of an administrative receiver).

### **11.2 Powers of Receiver**

Every Receiver shall have all the powers:

- (a) of the Grant Funder under this Debenture;
- (b) conferred by the Act on mortgagees in possession and on receivers appointed under the Act;
- (c) in relation to, and to the extent applicable to, the Security Assets or any of them, the powers specified in Schedule 1 of the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver within the meaning of that Act); and
- (d) in relation to any Security Asset, which he would have if he were its only beneficial owner.

### **11.3 Joint or several**

If two or more persons are appointed as Receivers of the same assets, they may act jointly and/or severally so that (unless any instrument appointing them specifies to the contrary) each of them may exercise individually all the powers and discretions conferred on Receivers by this Debenture.

#### **11.4 Receiver as agent**

Every Receiver shall be the agent of the Company which shall be solely responsible for his acts and defaults and for the payment of his remuneration.

#### **11.5 Receiver's remuneration**

Every Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Grant Funder, and the maximum rate specified in section 109(6) of the Act shall not apply.

#### **12. Protection of purchasers**

No purchaser or other person dealing with the Grant Funder or any Receiver shall be bound or concerned:

- (a) to see or enquire whether the right of the Grant Funder or any Receiver to exercise any of the powers conferred by this Debenture has arisen or not;
- (b) with the propriety of the exercise or purported exercise of those powers; or
- (c) with the application of any moneys paid to the Grant Funder, to any Receiver or to any other person.

#### **13. Protection of the Grant Funder and Receivers**

##### **13.1 Exclusion of liability**

None of the Grant Funder, any Receiver or any of their respective officers or employees shall have any responsibility or liability:

- (a) for any action taken, or any failure to take any action, in relation to all or any of the Security Assets;
- (b) to account as mortgagee in possession or for any loss upon realisation of any Security Asset;
- (c) for any loss resulting from any fluctuation in exchange rates in connection with any purchase of currencies under Clause 18 (*Currency*); or
- (d) for any other default or omission in relation to all or any of the Security Assets for which a mortgagee in possession might be liable,

except in the case of gross negligence or wilful misconduct on the part of that person.

##### **13.2 General indemnity**

- (a) The Company shall indemnify the Grant Funder, any Receiver and their respective officers and employees against all actions, proceedings, demands, claims, costs, expenses, and other liabilities incurred by them in respect of all or any of the following:



- (i) any act or omission by any of them in relation to all or any of the Security Assets;
- (ii) any payment relating to or in respect of all or any of the Security Assets which is made at any time by any of them;
- (iii) any stamp, registration or similar Tax or duty which becomes payable in connection with the entry into, or the performance or enforcement of, this Debenture;
- (iv) carrying out or purporting to carry out any of the rights, powers and discretions conferred on them by or permitted under this Debenture; and
- (v) any breach by the Company of any of its covenants or other obligations to the Grant Funder,

except in the case of gross negligence or wilful misconduct on the part of that person.

- (b) The Company shall pay interest at the Default Rate on the sums payable under this Clause 13.2 from the date on which the liability was incurred to the date of actual payment (both before and after judgment).

### **13.3 Indemnity out of the Security Assets**

The Grant Funder, any Receiver and their respective officers and employees shall be entitled to be indemnified out of the Security Assets in respect of the actions, proceedings, demands, claims, costs, expenses and liabilities referred to in Clause 13.2 (*General indemnity*).

## **14. Preservation of Security**

### **14.1 Reinstatement**

If any payment by the Company or discharge given by the Grant Funder (whether in respect of the obligations of the Company or any Security for those obligations or otherwise) is avoided or reduced as a result of insolvency, liquidation, administration or any similar event:

- (a) the liability of the Company and the Security created by the Company under this Debenture shall continue as if the payment, discharge, avoidance or reduction had not occurred; and
- (b) the Grant Funder shall be entitled to recover the value or amount of that Security or payment from the Company, as if the payment, discharge, avoidance or reduction had not occurred.

### **14.2 Waiver of defences**

Neither the Security created by this Debenture nor the obligations of the Company under this Debenture will be affected by an act, omission, matter or thing which, but for this Clause 14.2, would reduce, release or prejudice that Security or any of those obligations (whether or not known to it or the Grant Funder) including:

- (a) any time, waiver or consent granted to, or composition with, the Company or other person;
- (b) the release of the Company or any other person under the terms of any composition or arrangement with any person;
- (c) the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over, assets of the Company or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Company or any other person;
- (e) any amendment (however fundamental), replacement, variation, novation, assignment or the avoidance or termination of a Funding Document or any other document or Security;
- (f) any unenforceability, illegality or invalidity of any obligation of, or any Security created by, any person under any Funding Document or any other document; or
- (g) any insolvency, liquidation, administration or similar procedure.

#### **14.3 Immediate recourse**

The Company waives any right it may have of first requiring the Grant Funder (or any trustee or agent on its behalf) to proceed against or enforce any other rights or Security or claim payment from any person before claiming from the Company under this Debenture. This waiver applies irrespective of any law or any provision of a Funding Document to the contrary.

#### **14.4 Appropriations**

During the Security Period the Grant Funder may:

- (a) refrain from applying or enforcing any moneys, Security or rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Liabilities, or, subject to Clause 10.4(a) (*Application of moneys*), apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and the Company shall not be entitled to the benefit of the same; and
- (b) place in an interest-bearing suspense account any moneys received from the Company or on account of the Secured Liabilities.

#### **14.5 Deferral of Company's rights**

During the Security Period and unless the Grant Funder otherwise directs, the Company shall not exercise any rights which it may have by reason of performance by it of its obligations under this Debenture or the enforcement of the Security created by this Debenture:

- (a) to claim any contribution from any guarantor of, or provider of Security in respect of, the Company's obligations under the Funding Documents; or
- (b) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Grant Funder under any Funding Document or of any guarantee or Security taken pursuant to, or in connection with, the Funding Documents by the Grant Funder;
- (c) to exercise any right of set-off against any guarantor of, or provider of Security in respect of, the Company's obligations under the Funding Documents; and/or
- (d) to claim or prove as a creditor of any guarantor of, or provider of Security in respect of, the Company's obligations under the Funding Documents.

#### **14.6 Additional Security**

This Debenture is in addition to, is not in any way prejudiced by and shall not merge with any contractual right or remedy or other Security now or in the future held by or available to the Grant Funder.

#### **14.7 New accounts**

If the Grant Funder receives notice (actual or otherwise) of any subsequent Security over or affecting all or any of the Security Assets it may open a new account or accounts with each Borrower and, if it does not do so, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that subsequent Security, and as from that time all payments made by a Borrower to the Grant Funder:

- (a) shall be credited or be treated as having been credited to the new account of that Borrower; and
- (b) shall not operate to reduce the Secured Liabilities at the time when the Grant Funder received or was deemed to have received such notice.

#### **15. Tacking**

For the purposes of section 94(1) of the Act and section 49(3) of the Land Registration Act 2002 the Grant Funder confirms on behalf of the Lenders that the Lenders shall make further advances to the Borrowers on the terms and subject to the conditions of the Funding Documents.

#### **16. Further assurance**

##### **16.1 Registration at Companies House**

The Company consents to the registration of this Debenture at Companies House pursuant to part 25 of the Companies Act 2006.

##### **16.2 Further action**

The Company shall, at its own expense, promptly take any action and sign or execute any further documents which the Grant Funder may require in order to:

- (a) give effect to the requirements of this Debenture;
- (b) protect, preserve and perfect the Security intended to be created by or pursuant to this Debenture;
- (c) protect and preserve the ranking of the Security intended to be created by or pursuant to this Debenture with any other Security over any assets of the Company; or
- (d) facilitate the realisation of all or any of the Security Assets or the exercise of any rights, powers and discretions conferred on the Grant Funder, any Receiver or any administrator in connection with all or any of the Security Assets,

and any such document may (i) disapply section 93 of the Act and (ii) contain an assignment to the Grant Funder of the Receivables in any manner reasonably required by the Grant Funder.

### **16.3 Deposit of documents**

The Company covenants that, on the date of this Debenture and at all times during the Security Period as soon as it receives them (and in any event as soon as the Grant Funder so requests), it shall deposit with the Grant Funder, in respect of or in connection with the Security Assets:

- (a) all deeds, certificates and other documents of or evidencing title;
- (b) in respect of Shares and Investments mortgaged under Clause 3.2 (Shares) and 3.3 (Investments) respectively, signed undated transfers, completed in blank and, if the Grant Funder so requires, pre-stamped; and
- (c) any other documents which the Grant Funder may from time to time require for perfecting its title, or the title of any purchaser,

all of which will be held by the Grant Funder at the expense and risk of the Company.

### **16.4 Law of Property (Miscellaneous Provisions) Act 1994**

The covenant set out in section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to the provisions set out in this Clause 16.

### **17. Power of attorney**

The Company irrevocably and by way of security appoints each of:

- (a) the Grant Funder;
- (b) any delegate or sub-delegate of, or other person nominated in writing by, an officer of the Grant Funder; and
- (c) any Receiver,

jointly and severally as the Company's attorney, in the Company's name, on its behalf and in such manner as the attorney may in its or his absolute discretion think fit following the occurrence of an Event of Default or following the failure by the Company to comply with a request from the Grant Funder, to take any action and sign or execute any further documents which the Company is required to take, sign or execute in accordance with this Debenture. The Company agrees, promptly on the request of the Grant Funder or any Receiver, to ratify and confirm all such actions taken and documents signed or executed.

**18. Currency**

**18.1 Conversion of moneys received**

The Grant Funder may convert any moneys received, recovered or realised in any currency under this Debenture (including the proceeds of any previous conversion under this Clause 18.1) from their existing currency into any other currency, by purchasing that other currency at such exchange rate which is commercially available to it at the time of conversion. The Grant Funder shall not be obliged to obtain the best available exchange rate.

**19. Discharge of Security**

Upon the irrevocable and unconditional payment and discharge in full of the Secured Liabilities, the Grant Funder shall, or shall procure that its appointees will, at the request and cost of the Company:

- (a) release the Security Assets from this Debenture; and
- (b) re-assign to the Company those Security Assets that have been assigned to the Grant Funder under Clause 3 (*Creation of Security*).

Section 93 of the Act shall not apply to this Debenture.

**20. Costs and expenses**

**20.1 Transaction expenses**

The Company shall promptly on demand pay the Grant Funder the amount of all costs and expenses (including legal fees) reasonably incurred by it in connection with the negotiation, preparation, printing and execution of this Debenture.

**20.2 Amendment costs**

If the Company requests an amendment, waiver, consent or release of or in relation to this Debenture, the Company shall, within three Business Days of demand, reimburse the Grant Funder for the amount of all costs and expenses (including legal fees) reasonably incurred by it in responding to, evaluating, negotiating or complying with that request or requirement.

**20.3 Enforcement costs**

The Company shall, within three Business Days of demand, pay to the Grant Funder or any Receiver the amount of all costs and expenses (including legal fees) incurred by the Grant

Funder or any Receiver in connection with the enforcement of, or the preservation of any rights under, this Debenture or the investigation of any possible Default.

## **21. Notices**

### **21.1 Communications in writing**

Any communication to be made under or in connection with this Debenture shall be made in writing.

### **21.2 Addresses**

(a) The address (and the department or officer, if any, for whose attention the communication is to be made) of each party for any communication or document to be made or delivered under or in connection with this Debenture is that identified with its name below or any substitute address or department or officer as either party may notify to the other by not less than five Business Days' notice.

(b) The addresses referred to in Clause 21.2(a) are:

(i) **The Company:**

Address: Second Floor,  
Citylabs,  
Oxford Road,  
Manchester,  
M13 9WH  
Attention: Dr. Joachim Schorr

(ii) **The Grant Funder:**

Address: Town Hall  
Albert Square  
Manchester  
M60 2LA  
Attention: City Treasurer

### **21.3 Delivery**

Any communication or document made or delivered by one person to another under or in connection with this Debenture will only be effective (i) when it has been left at the relevant address or (ii) two Business Days after being deposited in the post postage prepaid, in an envelope addressed to it at that address, and, if a particular department or officer is specified as part of its address details provided under Clause 21.2 (*Addresses*), if addressed to that department or officer.

(a) Any communication or document to be made or delivered to the Grant Funder will be effective only when actually received by the Grant Funder and then only if it is expressly marked for the attention of the department or officer identified with the

Grant Funder's signature below (or any substitute department or officer as the Grant Funder shall specify for this purpose).

**21.4 English language**

- (a) Any notice given under or in connection with this Debenture must be in English.
- (b) All other documents provided under or in connection with this Debenture must be:
  - (i) in English; or
  - (ii) if not in English, and if so required by the Grant Funder accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

**22. Calculations and certificates**

**22.1 Accounts**

In any litigation or arbitration proceedings arising out of or in connection with this Debenture, the entries made in the accounts maintained by the Grant Funder are *prima facie* evidence of the matters to which they relate.

**22.2 Certificates and determinations**

Any certification or determination by the Grant Funder of a rate or amount under this Debenture is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

**23. Partial invalidity**

If, at any time, any provision of this Debenture is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability 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.

**24. Remedies and waivers**

No failure to exercise, nor any delay in exercising, on the part of the Grant Funder, any right or remedy under this Debenture 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 in this Debenture are cumulative and not exclusive of any rights or remedies provided by law.

**25. Amendments and waivers**

Any term of this Debenture may be amended or waived only with the written consent of the Company and the Grant Funder.

**26. Counterparts**

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

**27. Governing law and enforcement**

**27.1 Governing law**

This Debenture is governed by English law.

**27.2 Jurisdiction**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Debenture (including a dispute regarding the existence, validity or termination of this Debenture) (a **Dispute**).
- (b) 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.
- (c) This Clause 27.2 is for the benefit of the Grant Funder only. As a result, the Grant Funder shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Grant Funder may take concurrent proceedings in any number of jurisdictions.

**Executed** as a deed and delivered on the date appearing at the beginning of this Debenture.



## SIGNATORIES TO DEBENTURE

### Company

SIGNED as a deed )  
by **APIS ASSAY TECHNOLOGIES LTD.** )  
acting by a director in the presence of )

Director

In the presence of:

JESSICA GREENHALGH

Name

IRWIN MITCHELL LLP, ONE ST PETER'S SQUARE  
MANCHESTER, M2 3AF

Address

SOLICITOR

Occupation

### Grant Funder

The **COMMON SEAL** of **THE COUNCIL** )  
**OF THE CITY OF MANCHESTER** was )  
hereunto affixed in pursuance of an Order )  
of the Council of the said City: )

.....  
Authorised Signatory