



Registration of a Charge

Company name: **DEVICE AUTHORITY LTD**

Company number: **04676191**



X8I9EN80

Received for Electronic Filing: **15/11/2019**

Details of Charge

Date of creation: **11/11/2019**

Charge code: **0467 6191 0011**

Persons entitled: **TERN PLC
ALSOP LOUIE CAPITAL, 3 L.P.
THE ANN SAMENUK REVOCABLE TRUST DATED 8/12/1996**

Brief description:

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC**

**COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION
FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL
INSTRUMENT.**

Certified by:

REED SMITH LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 4676191

Charge code: 0467 6191 0011

The Registrar of Companies for England and Wales hereby certifies that a charge dated 11th November 2019 and created by DEVICE AUTHORITY LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 15th November 2019 .

Given at Companies House, Cardiff on 18th November 2019

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 11 November 2019

(1) DEVICE AUTHORITY LTD

(2) NOTEHOLDERS

DEBENTURE

This Deed is subject to an Intercreditor agreement to be entered into on or about the date hereof.

Certified as a true copy of the
original instrument other than material
redacted pursuant to s.859G of the
Companies Act 2006

REED SMITH LLP
Reed Smith LLP
Date 15.11.2019

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THIS DEED is dated

11 November 2019 and granted by:

- (1) **DEVICE AUTHORITY LTD** (the "**Chargor**") a company incorporated in England and Wales with registered number 04676191 whose registered office is at Level 2, Thames Tower, Station Road, Reading, United Kingdom, RG1 1LX, in favour of:
- (2) **THE NOTEHOLDERS.**

WHEREAS:

- (A) Pursuant to the terms of a loan note instrument of the Chargor dated on or around the date of this Deed (as amended from time to time) (the "**Loan Note Instrument**"), the Noteholders agreed to subscribe for loan notes in the Chargor.
- (B) The Chargor has agreed to enter into this Deed as security for the liability of the Chargor to the Noteholders under the Loan Note Instrument and the Loan Notes.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

Unless otherwise defined in this Deed, terms defined in the Loan Note Instrument shall have the same meaning in this Deed.

"**Business Days**" means a day (other than a Saturday, Sunday) on which banks are open for general business in the City of London, United Kingdom;

"**Chargor's Obligations**" means all the Chargor's liabilities to the Noteholders (whether present or future actual or contingent and whether incurred alone or jointly with another) under the Loan Notes, the Loan Note Instrument and this Deed;

"**Expenses**" means all expenses (on a full indemnity basis) together with any VAT incurred by the Noteholders or any receiver at any time in connection with the Property or the Chargor's Obligations or in taking or perfecting this Deed or in preserving defending or enforcing the security created by this Deed or in exercising any right or power under this Deed or otherwise plus Interest thereon from the date such expenses are incurred;

"**First Tranche Loan Notes**" means the US\$323,330 10% secured convertible loan notes constituted by the Company on 30 November 2017;

"**Fourth Tranche Loan Notes**" means the US\$730,516 5% secured convertible loan notes constituted by the Company on or about 13 September 2018;

"**Fifth Tranche Loan Notes**" means the US\$531,930 5% secured convertible loan notes constituted by the Company on or about 11 January 2019;

"**Intellectual Property**" means the Chargor's present and future patents, rights to inventions, copyright and related rights, trade marks business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether

registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

"Interest" means interest at the rate(s) (if any) charged under the Loan Note Instrument;

"Legal Reservations" means:

- (a) the principle that equitable remedies may be granted or 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;
- (c) the principle that in certain circumstances Security Interest granted by way of fixed charge may be recharacterised as a floating charge or that Security Interest purported to be constituted by an assignment may be recharacterised as a charge;
- (d) the principle that any provision for the payment of compensation or additional interest imposed pursuant to any relevant agreement may be held to be unenforceable on the grounds that it is a penalty and thus void;
- (e) the principle that an English Court may not give effect to a provision dealing with the cost of litigation where the litigation is unsuccessful or the court itself has made an order for costs;

"Limitation Acts" means the Limitation Act 1980 and the Foreign Limitation Periods Act 1984;

"Loan Notes" means up to US\$775,000 5% fixed rate secured loan notes issued or to be issued to the Noteholders pursuant to the Loan Note Instrument;

"Noteholder Majority" has the meaning given to it in the Loan Note Instrument;

"Noteholder Majority Consent" has the meaning given to it in the Loan Note Instrument;

"Noteholders" means the persons for the time being entered in the Register as holders of the Loan Notes (which as at the date of this Deed included the persons listed in Schedule 1) and "Noteholder" shall mean anyone of them;

"Permitted Security" means:

- (a) the debenture in substantially the same form as this Deed granted by the Chargor in favour of the holders of the First Tranche Loan Notes, which shall be regulated with this Deed under the terms of an intercreditor agreement to be entered into on or about the date of this Deed;
- (b) the debenture in substantially the same form as this Deed granted by the Chargor in favour of the holders of the Second Tranche Loan Notes, which shall be regulated with this Deed under the terms of an intercreditor agreement to be entered on or about the date of this Deed;
- (c) the debenture in substantially the same form as this Deed granted by the Chargor in favour of the holders of the Third Tranche Loan Notes, which shall be regulated with this Deed under the terms of an intercreditor agreement to be entered on or about the date of this Deed; and

- (d) the debenture in substantially the same form as this Deed granted by the Chargor in favour of the holders of the Fourth Tranche Loan Notes, which shall be regulated with this Deed under the terms of an intercreditor agreement to be entered on or about the date of this Deed;
- (e) the debenture in substantially the same form as this Deed granted by the Chargor in favour of the holders of the Fifth Tranche Loan Notes, which shall be regulated with this Deed under the terms of an intercreditor agreement to be entered on or about the date of this Deed;
- (f) the debenture in substantially the same form as this Deed granted by the Chargor in favour of the holders of the Sixth Tranche Loan Notes, which shall be regulated with this Deed under the terms of an intercreditor agreement to be entered on or about the date of this Deed; and
- (g) the debenture in substantially the same form as this Deed granted by the Chargor in favour of the holders of the Seventh Tranche Loan Notes, which shall be regulated with this Deed under the terms of an intercreditor agreement to be entered on or about the date of this Deed;

"Property" means the whole and any part of the property and assets of the Chargor charged by Clause 3.1 and 3.2;

"Second Tranche Loan Notes" means the US\$1,688,684 5% secured convertible loan notes constituted by the Company on or about 27 December 2017;

"Security" 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;

"Seventh Tranche Loan Notes" means up to US\$418,895 5% secured convertible loan notes constituted by the Company on or about 26 September 2019;

"Sixth Tranche Loan Notes" means the US\$418,895 5% secured convertible loan notes constituted by the Company on or about 11 April 2019; and

"Third Tranche Loan Notes" means the US\$425,000 5% secured convertible loan notes constituted by the Company on or about 14 June 2018.

1.2 Interpretation

- (a) Unless a contrary indication appears any reference in this Deed to:
 - (i) the **"Noteholders"** or the **"Chargor"** shall be construed so as to include, in each case, its successors in title and permitted assigns and transferees;
 - (ii) **"Chargor's Obligations"** or **"Property"** includes any part of it or them and any reference to freehold and leasehold property includes all fixtures (trade or otherwise) from time to time affixed thereto and all covenants and rights affecting or concerning the same;
 - (iii) any other agreement, document or instrument is a reference to that other agreement, document or instrument as amended, varied, supplemented or novated;

- (iv) a "**person**" includes any person, firm, company, corporation, government state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or two or more of the foregoing;
- (v) a "**receiver**" includes any receiver or receiver and manager or administrative receiver or any administrator who can be appointed by the Noteholders under any law currently in force and any other officer who can be appointed in respect of the Property or the Chargor by the Noteholders under any law which is enacted or comes into force after the date of this Deed;
- (vi) the singular is deemed to include the plural and vice versa;
- (vii) a provision of law is a reference to that provision as amended or re-enacted; and
- (b) the word "including" shall be construed as meaning "including, without limitation", and any general words preceding or following any list or example shall not have its meaning limited to any matter of the same type or kind as are specifically included in such preceding or following examples or list.
- (c) Clause headings are for ease of reference only.
- (d) This Deed shall take effect as a deed even though the Noteholders may have executed it under hand only.
- (e) Where there is any ambiguity or conflict between the rights conferred by law or any other agreement document or instrument and the rights conferred by this Deed then the terms of this Deed shall prevail.
- (f) An Event of Default is "continuing" if it has not been remedied or waived.
- (g) Other than a receiver, no person who is not a party to this Deed shall be able to enforce any term of this Deed under the Contracts (Rights of Third Parties) Act 1999.

2. **COVENANT TO PAY**

The Chargor covenants with the Noteholders that it will on demand pay the Chargor's Obligations when they fall due for payment.

3. **CHARGES**

3.1 **Fixed Charge**

As a continuing security for the payment and discharge of the Chargor's Obligations, the Chargor with full title guarantee charges to the Noteholders by way of fixed charge the Intellectual Property.

3.2 **Floating Charge**

As a continuing security for the payment and discharge of the Chargor's Obligations, the Chargor with full title guarantee charges to the Noteholders, by way of floating charge, all the Intellectual Property of the Chargor at any time not effectively charged pursuant to Clause 3.1.

3.3 **Qualifying Floating Charge**

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by Clause 3.2.

3.4 Automatic Crystallisation of Floating Charge

The floating charge created by Clause 3.2 shall automatically and immediately (without notice) convert into a fixed charge over the assets subject to that floating charge if the Chargor:

- (a) creates, or attempts to create, without the prior written consent of the Noteholders, Security (other than the Permitted Security) or a trust in favour of another person over all or any part of the Property (except as expressly permitted by the terms of this Deed or the Loan Note Instrument);
- (b) any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Property;
- (c) a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Chargor; or
- (d) if any other floating charge created by the Chargor crystallises for any reason.

3.5 Crystallisation of Floating Charge by Notice

The Noteholders may, in their sole discretion with Noteholder Majority Consent, at any time and by written notice to the Chargor, convert the floating charge created under this deed into a fixed charge as regards any part of the Property specified by the Noteholders in that notice.

3.6 Assets Acquired After any Floating Charge has Crystallised

Any asset acquired by the Chargor after any crystallisation of the floating charge created under this Deed that, but for that crystallisation, would be subject to a floating charge under this deed, shall (unless the Chargor confirms otherwise to the Noteholders in writing) be charged to the Noteholders by way of fixed charge.

3.7 Property Restricting Charging

- (a) There shall be excluded from the charge created by Clauses 3.1 and from the operation of Clause 7.1 any Intellectual Property in which the Chargor has an interest under any licence or other agreement which prohibits either absolutely or conditionally (including requiring the consent of any third party) the Chargor from creating any charge over its interest in that Intellectual Property until the relevant condition or waiver has been satisfied or obtained and the Chargor shall use all reasonable endeavours to satisfy any such condition or obtain any such waiver.
- (b) Immediately upon receipt of the relevant waiver or consent, the formerly excluded Intellectual Property shall stand charged to the Noteholders under Clause 3.1. If required by the Noteholders, at any time following receipt of that waiver or consent, the Chargor will forthwith execute a valid fixed charge or legal assignment in such form as the Noteholders shall reasonably require.

3.8 Continuing Security

This Deed shall remain in force as a continuing security to the Noteholders notwithstanding any payment or settlement of the whole or any part of the Chargor's Obligations or any other act, event or matter unless and until the Noteholders discharge this Deed in writing.

3.9 Release of Security

Upon repayment in full of the Loan Notes or conversion of all outstanding Loan Notes in accordance with the terms of the Loan Note Instrument, the Noteholders shall, at the request and cost of the Chargor and upon confirmation to the satisfaction of the Noteholders that all amounts under the Loan Notes have been unconditionally and irrevocably paid, repaid and discharged in full or converted, take whatever action is necessary to release the security constituted by this Deed.

4. RESTRICTIONS

4.1 General

The Chargor will not without prior written Noteholder Majority Consent:

- (a) create or permit to subsist any Security on the Property other than the Permitted Security and the security granted under this Deed; or
- (b) sell, transfer or otherwise dispose of the Property charged by Clauses 3.1 and 3.2.

5. RIGHTS AND POWERS

5.1 Enforceability of Security

- (a) The Security granted by the Chargor hereunder shall become enforceable upon the occurrence and during the continuance of an Event of Default.
- (b) The Noteholders shall enforce the Security Interest created under this Deed upon written instruction of the Noteholder Majority (acting by Noteholder Majority Consent).

5.2 Powers of the Noteholders

- (a) Following the security created hereunder becoming enforceable:

Section 103 of the Law of Property Act 1925 shall not apply and the Noteholders may exercise power of sale and other powers under that or any other Act or this Deed at any time after the date of this Deed.

- (i) Section 109(1) of the Law of Property Act 1925 shall not apply to this Deed and the Noteholders may at any time following demand by it pursuant to Clause 2 or if requested by the Chargor or following the crystallisation of the floating charge under Clause 3.4 or 3.5 under the hand of any official or manager or by deed appoint or remove a receiver or receivers of the Property and may fix and pay the fees of a receiver but any receiver shall be deemed to be the agent of the Chargor and the Chargor shall be solely responsible for the receiver's acts defaults and remuneration.
- (ii) All or any of the powers conferred on a receiver by Clause 5.3 may be exercised by the Noteholders without first appointing a receiver or notwithstanding any appointment.
- (iii) The Noteholders will not be liable to account to the Chargor as mortgagee in possession for any money not actually received by the Noteholders and if the

Noteholders or any receiver takes possession of the Property, it or he may at any time relinquish such possession.

- (iv) Section 93(1) of the Law of Property Act 1925 shall not apply to this Deed.

5.3 Receivers

- (a) Any receiver appointed by the Noteholders shall be a receiver and manager or administrative receiver or administrator or other officer (as the case may require or as the Noteholders may designate) and shall (in addition to all powers conferred on him by law) have the following powers which in the case of joint receivers may be exercised jointly or severally both in the name of the Chargor and otherwise:
- (i) to take possession of and manage the assets subject to the security created by this Deed;
 - (ii) to carry into effect and complete any transaction by executing deeds or documents in the name of or on behalf of the Chargor;
 - (iii) to take, continue or defend any proceedings and enter into any arrangement or compromise;
 - (iv) to borrow any money and secure the payment of any money in priority to the Chargor's Obligations for the purpose of the exercise of any of his powers; and
 - (v) to do any other acts which the receiver may consider to be incidental or conducive to any of his powers or to the realisation of the Property.
- (b) A receiver shall apply all money he receives first in repayment of all money borrowed by him and his expenses and liabilities and in payment of his fees and secondly towards the remaining matters specified in Section 109(8) of the Law of Property Act 1925.
- (c) Each receiver (whether or not an administrative receiver or an administrator) shall have the powers, rights and discretions set out in Schedules 1 and B1 of the Insolvency Act 1986 as if the receiver was an administrative receiver or administrator as the case may be.

5.4 Protection of Purchasers

No purchaser or other person shall be obliged or concerned to see or enquire whether the right of the Noteholders to appoint a receiver or the right of the Noteholders or any receiver to exercise any of the rights or powers conferred by this Deed has arisen or become exercisable nor be concerned with notice to the contrary or with the propriety of the exercise of such rights or powers.

5.5 Protection

Neither the Noteholders nor any receiver shall be liable to the Chargor in respect of any loss or damage which arises out of the exercise or attempted exercise of or the failure to exercise any of their respective rights or powers.

5.6 Power of Attorney

The Chargor by way of security irrevocably appoints the Noteholders and any receiver severally

to be the attorney of the Chargor (with full power of substitution and delegation) in the Chargor's name and on the Chargor's behalf and as the Chargor's act and deed, at any time, to sign or execute all deeds instruments and documents or to do such acts or to take continue or defend any proceedings which the Chargor is required to execute or do under the terms of this Deed or which may be required by the Noteholders or any receiver for the exercise of any of their rights or powers conferred by this Deed or by law. The Chargor ratifies and agrees to ratify anything any such attorney shall do by virtue of this power of attorney.

6. APPROPRIATION

The Noteholders may at any time and from time to time without notice (both before and after demand) apply all payments received in respect of the Chargor's Obligations in or towards discharge of such part of the Chargor's Obligations as a Noteholder Majority (acting by Noteholder Majority Consent) thinks fit, provided, however, that any Noteholder may not be entitled as Noteholder to terms more favourable than those received by the other Noteholders. Prior to any such appropriation the Noteholders may at their discretion hold any such payments in a suspense account.

7. PRESERVATION

7.1 Rights and Further Assurance

- (a) This Deed is in addition to any other security or rights present or future held by the Noteholders in respect of the Chargor's Obligations and shall not merge with or prejudice such other security or any contractual or legal rights of the Noteholders. The Noteholders may take perfect vary or enforce all or any such other security or rights (or refrain from doing so) without releasing reducing or otherwise affecting this Deed.
- (b) The covenants set out in Section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to include the obligations set out in sub-clause 7 (c) and (d) below.
- (c) The Chargor shall promptly (and at its own expense) do all such acts (including payment of all stamp duties or fees) or execute or re-execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions on terms equivalent or similar to those set out in this Deed) as the Noteholders may reasonably specify (and in such form as the Noteholders may reasonably require):
 - (i) to perfect the Security created or intended to be created under or evidenced by this Deed (which may include the execution or re-execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of this Deed) or for the exercise of any rights, powers and remedies of the Noteholders, or any receiver provided by or pursuant to this Deed or by law;
 - (ii) to confer on the Noteholders, Security over any property and assets of the Chargor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Deed; and/or
 - (iii) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created under this Deed.
- (d) The Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection

or maintenance of any Security conferred or intended to be conferred on the Noteholders by or pursuant to this Deed.

7.2 Set-Off

- (a) The Chargor shall not claim any set-off or counterclaim in respect of any payment due from the Chargor to the Noteholders in respect of the Chargor's Obligations.
- (b) In addition to any lien or right to which the Noteholders may be entitled by law the Noteholders may from time to time without notice and both before and after demand set off the whole or any part of the Chargor's Obligations against any liability of the Noteholders (on a pro rata basis among the Noteholders based on the outstanding amount of their Loan Notes) to the Chargor (in either case whether actual or contingent present or future and irrespective of the branch or office currency or place of payment).

8. NOTICES

Each notice, demand or other communication required to be given under, or in connection with, this Deed:

- 8.1 must be in writing, and may be delivered by hand or sent by pre-paid first-class letter or by facsimile or email:

- (a)
 - (i) which is addressed to the Chargor shall be hand delivered or sent to the Chargor to the attention of Darron Antill at the Chargor's registered office for the time being, or by email to darron.antill@deviceauthority.com; or
 - (ii) which is addressed to the Noteholders shall be hand delivered or sent to the Noteholders to the addresses set forth in Schedule 1.

or to any other address, or email address as is notified in writing by one party to the other from time to time;

- (b) will be effectively served:
 - (i) on the day of receipt, where any hand delivered letter, facsimile message or email is received on any Business Day before or during normal working hours;
 - (ii) on the following Business Day, where any hand delivered letter, facsimile message or email is received either on any Business Day after normal working hours or on any day which is not a Business Day; or
 - (iii) on the tenth Business Day following the day of posting, upon despatch of any posted letter by post office first class mail postage prepaid and in proving such service it shall only be necessary to prove that the same was stamped, addressed and posted as aforesaid.

9. REPRESENTATIONS WARRANTIES AND COVENANTS

9.1 Representations and Warranties

The Chargor represents and warrants to the Noteholders that:

- (a) the Chargor is duly incorporated and is a validly existing limited liability company under the laws of its place of incorporation has the capacity to sue or be sued in its own name and has power to carry on its business as now being conducted and to own its property and other assets and is not insolvent or in liquidation administration receivership or any other form of insolvency procedure;
- (b) the Chargor has full power and authority to execute deliver and perform its obligations under this Deed and no limitation on the powers of the Chargor will be exceeded as a result of the Chargor entering into this Deed;
- (c) the execution, delivery and performance by the Chargor of this Deed and the performance of its obligations under this Deed have been duly authorized by all necessary corporate action and do not contravene or conflict with:
 - (i) the Chargor's memorandum and articles of association or other equivalent constitutional documents;
 - (ii) any existing law statute rule or regulation or any judgment decree or permit to which the Chargor is subject; or
 - (iii) the terms of any agreement or other document or instrument to which the Chargor is a party or which is binding upon it or any of its assets;
- (d) subject to the Legal Reservations this Deed is the legal valid and binding obligation of the Chargor and is enforceable against the Chargor in accordance with its terms;
- (e) there are no mortgages charges liens pledges or other security interests existing over any of the Property; and
- (f) its centre of main interests (for the purpose of Regulation (EU) 2015/848 on insolvency proceedings) is in England and Wales.

9.2 General Covenants

- (a) The Chargor shall:
 - (i) permit the Noteholders and its representatives access upon reasonable notice to inspect the books and records of the Chargor and provide the Noteholders on request with all such information and documents as the Noteholders may reasonably require; and
 - (ii) obtain comply with and maintain all authorisations consents licences permits and registrations required in relation to its business and this Deed.
- (b) The Chargor shall not do or permit to be done anything which could reasonably be expected to prejudice the security created by this Deed or its priority or the value of any of the Property.
- (c) The Chargor shall not, without the written consent of the Noteholders, do or permit to be done anything by virtue of which its centre of main interest (for the purposes of EC Regulation (EU) 2015/848 on insolvency proceedings) could be anywhere other than in England and Wales.

9.3 Intellectual Property Covenants

- (a) **Preservation of rights.** The Chargor shall take all necessary action to safeguard and maintain present and future rights in, or relating to, the Intellectual Property including (without limitation) by observing all covenants and stipulations relating to those rights, and by paying all applicable renewal fees, licence fees and other outgoings.
- (b) **Maintenance of Intellectual Property.** The Chargor shall not permit any Intellectual Property to be abandoned, cancelled or to lapse.

9.4 **Registration of Intellectual Property**

- (a) The Chargor shall use all reasonable efforts to register applications for the registration of any Intellectual Property, and shall keep the Noteholders informed of all matters relating to each such registration.
- (b) Without prejudice to the obligations on the Chargor in (a) above, the Chargor as registered proprietor appoints the Noteholders as its agent to apply for the particulars of this Deed and of the Noteholders' interest in its existing trademarks and trade mark applications and any future trademarks or trade mark applications registered or to be registered in the United Kingdom in the name of the Chargor, to be made on the Register of Trade Marks under section 25(1) of the Trade Marks Act 1994, and the Chargor agrees to execute all documents and forms required to enable those particulars to be entered on the Register of Trade Marks.

9.5 **Costs and Indemnity**

- (a) The Chargor shall pay to, or reimburse the Noteholders and any receiver on demand all Expenses incurred by the Noteholders and/ or any receiver in relation to:
 - (i) enforcing (or attempting to do so) any of the Noteholders' or any receiver's rights under this Deed; and
 - (ii) suing for or recovering, any of the Chargor's Obligations.
- (b) The Chargor hereby agrees to indemnify and hold harmless the Noteholders and any receiver and their respective managers, officers, employees, officers and agents from and against all actions, liabilities and Expenses incurred or suffered as a result of:
 - (i) the exercise, or purported exercise, in good faith and with reasonable care of any of the powers, authorities or discretions vested in them under this Deed;
 - (ii) any matter or thing done, or omitted to be done, in good faith in relation to the Property;
 - (iii) any default or delay by the Chargor in performing any of its obligations under this Deed; or
 - (iv) any representation or warranty made in this Deed having been incorrect in any material respect when made.

10. **LAW AND JURISDICTION**

10.1 **Governing Law**

This Deed shall be governed by and construed in accordance with English law.

10.2 Jurisdiction

- (a) In relation to any dispute legal action or proceedings arising out of or in connection with this Deed ("**Proceedings**") the Chargor irrevocably submits to the non-exclusive jurisdiction of the English courts save that this submission shall not affect the right of the Noteholders to take Proceedings in any other court or courts having jurisdiction to the extent permitted by law.
- (b) The Chargor waives any objection to Proceedings in any courts referred to in Clause 10.2(a) on the grounds of venue or on the grounds that Proceedings have been brought in an inappropriate forum.

11. MISCELLANEOUS

11.1 Assignments

- (a) The Chargor may not assign and/or transfer any one or more of its rights and/or obligations under this Deed.
- (b) The Chargor's Obligations to the Noteholders shall continue notwithstanding any change of Noteholder, any change of name of the Noteholders and/or the Noteholders' absorption by or in or amalgamation with any other company or person or the acquisition of all or part of its undertaking by any other company or person.

11.2 Payments

The Chargor shall make each payment under this Deed on demand in the manner and to the place specified by the Noteholders in such demand. If the Chargor is required by law to make any deduction or withholding from any such payment the Chargor shall simultaneously pay to the Noteholders whatever additional amount is necessary to ensure that the Noteholders receives and retains a net amount equal to the payment it would have received had no deduction or withholding been made.

11.3 Interest

Interest will accrue and be calculated on the Chargor's Obligations (including without limitation amounts due but unpaid under this Deed) to the date of payment or discharge in full (both before and after judgment) on a daily basis at the interest rate specified in the Loan Note Instrument.

11.4 Certificates

A certificate signed by an official or officer of each Noteholder as to the amount due or owing from the Chargor shall be conclusive evidence against the Chargor except where there is manifest error or a question of law.

11.5 Severability

Each of the provisions of this Deed shall be severable and distinct from one another and if one or more of such provisions is invalid or unenforceable the remaining provisions shall not in any way be affected.

11.6 Delay or Omission

The Noteholders' rights and powers under this Deed will not be affected or impaired by any delay

or omission by the Noteholders in exercising them or any previous exercise of any such rights or powers or by any grant of time or indulgence to or failure to exercise any right against the Chargor or any other person in relation to any of the Chargor's Obligations or any other obligation the performance of which the Chargor has agreed to guarantee and/or secure.

11.7 Counterparts


This Deed may be executed in any number of counterparts in which case this Deed will be as effective as if all signatures on the counterparts were on a single copy of this Deed.

11.8 Prior Charges

At any time after the security constituted by this Deed has been enforceable, the Noteholders or any receiver may redeem any prior mortgage, charge, encumbrance or other security interest and/or agree and settle any account with the holder of the same and such redemption, agreement and/or settlement shall be binding on the Chargor and any monies expended (whether on account of any principal, interest, cost or expense) or incurred shall be repaid by the Chargor on demand.

SCHEDULE 1

THE NOTEHOLDERS AS AT THE DATE OF THIS DEED

Name	Address
Tern PLC	27/28 Eastcastle Street, London, United Kingdom, W1W 8DH
Alsop Louie Capital, 3 L.P.	943 Howard Street, San Francisco, CA 94103
The Ann Samenuk Revocable Trust dated 8/12/1996	

IN WITNESS of which this Deed has been duly executed as a deed and delivered on the date on its first page.

SIGNED and DELIVERED as a deed by

The Chargor

DEVICE AUTHORITY LTD acting by two)
directors, a director and the company)
secretary or a director and a witness)



Director



~~*Director / Company Secretary / Witness*~~

Name of Witness:

HARRIETT TUCKER.....

Address of Witness:



Occupation of Witness:

The Noteholders:

TERN PLC acting by two directors, a)
director and the company secretary or a)
director and a witness)

.....
Director

.....
Director / Company Secretary / Witness

Name of Witness:

.....

Address of Witness:

.....

.....

Occupation of Witness:

.....

IN WITNESS of which this Deed has been duly executed as a deed and delivered on the date on its first page.

SIGNED and DELIVERED as a deed by

The Chargor

DEVICE AUTHORITY LTD acting by two)
directors, a director and the company)
secretary or a director and a witness)

.....
Director

.....
Director / Company Secretary / Witness

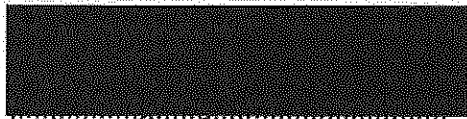
Name of Witness:

Address of Witness:

Occupation of Witness:

The Noteholders:

TERN PLC acting by two directors, a)
director and the company secretary or a)
director and a witness)


Director Sarah Payne


.....
Director / Company Secretary / Witness

Name of Witness:

Address of Witness:

Occupation of Witness:

VANESSA MACKINLAY

ALSOP LOUIE CAPITAL, 3 L.P.)
acting by Alsop Louie Capital 3. L.P., its)
General Partner, in the presence of a)
witness)

[Redacted Signature]

by
Name: Steward Alsop
Title: Managing Member

[Redacted Signature]

Witness
Meredith MacNeill

Name of Witness:

Address of Witness:

[Redacted Address]

Occupation of Witness:

THE ANN SAMENUK REVOCABLE)
TRUST DATED 8/12/1996 acting by its)
named personal representative, Ann)
Samenuk, in the presence of a witness)

.....
Named Personal Representative

.....
Witness

Name of Witness:

Address of Witness:

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

Occupation of Witness:

.....

ALSOP LOUIE CAPITAL, 3 L.P.
acting by Alsop Louie Capital 3, L.P., its
General Partner, in the presence of a
witness

)
)
)
)

by

Name:

Title:

Witness

Name of Witness:

Address of Witness:

Occupation of Witness:

THE ANN SAMENUK REVOCABLE
TRUST DATED 8/12/1996 acting by its
named personal representative, Ann
Samenuk, in the presence of a witness

)
)
)
)

Named Personal Representative

Witness

Name of Witness: *Theresa M. Conlon*

Address of Witness:

Occupation of Witness:

Realtor