



**Registration of a Charge**

Company name: **AVANTI SPACE LIMITED**

Company number: **05316540**



X5ZC459U

Received for Electronic Filing: **01/02/2017**

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**Details of Charge**

Date of creation: **26/01/2017**

Charge code: **0531 6540 0005**

Persons entitled: **THE BANK OF NEW YORK MELLON, LONDON BRANCH**

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:

**MILBANK, TWEED, HADLEY & MCCLOY LLP**



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

Company number: 5316540

Charge code: 0531 6540 0005

The Registrar of Companies for England and Wales hereby certifies that a charge dated 26th January 2017 and created by AVANTI SPACE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 1st February 2017 .

Given at Companies House, Cardiff on 2nd February 2017

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



**Companies House**



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

**DEBENTURE**

**dated** 26 January 2017

**granted by**

**AVANTI COMMUNICATIONS GROUP PLC** and the other  
parties named herein  
**as Chargors**

**in favour of**

**THE BANK OF NEW YORK MELLON, LONDON BRANCH**  
**as Primary Security Agent**

**MILBANK, TWEED, HADLEY & M<sup>c</sup>CLOY LLP**  
London

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THIS DEED is made on 26 January 2017

BETWEEN:

- (1) THE COMPANIES listed in Schedule 1 (the “Initial Chargors”); and
- (2) THE BANK OF NEW YORK MELLON, LONDON BRANCH as security trustee for itself and the other Shared Collateral Creditors (the “Primary Security Agent”).

IT IS AGREED AS FOLLOWS:

1. INTERPRETATION

1.1 Definitions

In this Debenture:

“Additional Shares” means any additional shares acquired by a Chargor in its Subsidiaries including pursuant to any issue or transfer of such shares to the relevant Chargor after the date of this Debenture.

“Artemis” means a satellite which is located at Orbital Position 21.5 degrees East;

“Business Days” means any day (other than a Saturday or a Sunday), on which banks are open for general business in London;

“Charged Property” means all the assets and undertakings of the Chargors which from time to time are subject of the security created or expressed to be created in favour of the Primary Security Agent by or pursuant to this Debenture;

“Chargor” means each of the Initial Chargors and each New Chargor;

“Default Rate” means the rate at which interest is payable under clause 21.5 (*Interest on demand*) of the Intercreditor Agreement;

“Enforcement Event” means:

- (a) an “Acceleration Event” as defined in the Intercreditor Agreement; or
- (b) the final maturity date relating to any Secured Obligations, if they have not been discharged on such date in accordance with the relevant Debt Document and the maturity date has not been amended or extended.

“Equipment” means all plant, machinery, computers, office and other equipment, furnishings and vehicles and other chattels together with any spare parts, replacements or modifications and the benefit of all contracts, licences and warranties relating thereto and HYLAS 1, HYLAS 3 and Artemis (as well as HYLAS 4 once acquired) and associated equipment including all ground segment equipment for tracking, telemetry, control and monitoring of HYLAS 1, HYLAS 3 and Artemis (as well as HYLAS 4 once acquired), any equipment relating to the monitoring and/or maintaining of any Orbital Positions, transponders, including as specified in any relevant Security Accession Deed;

“Existing Debenture” means the debenture dated 3 October 2013 between Avanti Communications Group plc, Avanti Broadband Limited, Avanti Communications Limited, Avanti Space Limited, Avanti HYLAS 2 Limited, Avanti Communications Marketing Services Limited, the Primary Security Agent and The Bank of New York Mellon, London

Branch as notes trustee, as amended by way of an amendment letter dated on or about the date of this Debenture between the same such parties;

**“Existing Side Letter”** means the side letter governed by New York law from Avanti Communications Group plc, Avanti Broadband Limited, Avanti Communications Limited, Avanti Space Limited, Avanti HYLAS 2 Limited, Avanti Communications Marketing Services Limited to the Primary Security Agent and the purchasers and notes trustee in respect of the senior secured indenture between Avanti Communications Group Plc as issuer and others dated 3 October 2013 as amended from time to time;

**“Hedging Agreements”** means any, with respect to any Chargor:

- (a) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements;
- (b) other agreements or arrangements designed to manage interest rates or interest rate risk; and
- (c) other agreements or arrangements designed to protect the Chargor party thereto against fluctuations in currency exchange rates (including any foreign exchange contract, currency swap agreement, currency option, cap, floor, ceiling or collar) or commodity prices.

**“HYLAS 1** means a satellite which is located at 33.5 degrees West;

**“HYLAS 3”** means a satellite which is intended to be located at 31.0 degrees East;

**“HYLAS 4”** means a satellite which is intended to be located at 33.5 West;

**“Insurance Policies”** means all policies of insurance and all proceeds of them either now or in the future held by, or written in favour of, a Chargor or in which it is otherwise interested;

**“Intercreditor Agreement”** means the Intercreditor Agreement originally dated on or about the date of this Debenture between, among others, the Parent, the Original Debtors, the Primary Security Agent, the Amended Existing Note Trustee, the PIK Toggle Note Trustee, and others;

**“Intellectual Property”** means any patents, trademarks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered and the benefit of all applications and rights to use such assets which may now or in the future subsist;

**“Investment”** means any stock, share, debenture, loan stock, securities, bonds, certificates of deposits, options, warrants, interest in any investment fund or investment scheme and any other comparable investment (including all warrants, options and any other rights to subscribe for, convert into or otherwise acquire these investments), in each case whether owned directly by or to the order of a Chargor or by any trustee, fiduciary, nominee or clearance system on its behalf and all Related Rights (including all rights against any such trustee, fiduciary, nominee or clearance system);

**"Legal Reservations"** means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court, the limitation of enforcement by laws relating to insolvency, reorganisation and

other laws generally affecting the rights of creditors and similar principles or limitations under the laws of any applicable jurisdiction;

- (b) the time barring of claims under applicable limitation laws, 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 similar principles or limitations under the laws of any applicable jurisdiction;
- (c) any general principles, reservations or qualifications, in each case as to matters of law as set out in any legal opinion delivered pursuant to the Debt Documents or delivered in connection with the accession of a New Chargor under any other provision of or otherwise in connection with any Debt Document (provided that where any such legal opinion has been delivered in relation to a Chargor and/or a particular document, the said general principles, reservations or qualifications shall only be deemed to apply to such Chargor and/or document (other than in the case where the definition is used in respect of a person and/or a document in respect of which a legal opinion has not been rendered under this Debenture where the said general principles, reservations or qualifications shall, to the extent applicable, be deemed to apply to such person and/or document));
- (d) the principle that any additional interest imposed under any relevant agreement may be held to be unenforceable on the grounds that it is a penalty and thus void;
- (e) the principle that in certain circumstances security granted by way of fixed charge may be characterised as a floating charge or that security purported to be constituted by way of an assignment may be recharacterised as a charge;
- (f) the principle that an English court may not give effect to an indemnity for legal costs incurred by an unsuccessful litigant; and
- (g) the principle that the creation or purported creation of Security over any contract or agreement which is subject to a prohibition against transfer, assignment or charging may be void or ineffective and may give rise to a breach of contract or agreement over which Security has been created or purportedly been created.

**"Material Adverse Effect"** means any event or circumstance which, taking into account all relevant circumstances, has a material adverse effect on:

- (a) the business, assets or financial condition of the Group taken as a whole; or
- (b) the ability of the Group taken as a whole to perform its payment obligations under the Debt Documents; or
- (c) subject to the Legal Reservations, the validity, enforceability or effectiveness of any Security granted or purporting to be granted pursuant to any of the Debt Documents in a manner or to the extent materially adverse to the interests of the Shared Collateral Creditors taken as a whole and, if capable of remedy, is not remedied within 15 Business days of any Chargor becoming aware of the issue or being given notice of the issue by the Primary Security Agent.

**"Material Contracts"** means the contracts listed in SCHEDULE 2 (*Material Contracts*) of this Debenture and including any contract entered into by a Chargor, the aggregate value of which exceeds US\$10,000,000;

**"New Chargor"** means any entity that accedes to this Debenture by execution of a Security Accession Deed;



“**Operating Accounts**” means any bank accounts of a Chargor, in each case, together with the debt or debts represented thereby;

“**Orbital Position**” means the geostationary position of each respective Satellite;

“**Parties**” means each of the parties to this Debenture from time to time;

“**Property**” means all freehold and leasehold property from time to time owned by a Chargor or in which a Chargor is otherwise interested and shall include:

- (a) the proceeds of sale of all or any part of such property;
- (b) all rights, benefits, privileges, warranties, covenants, easements, appurtenances and licences relating to such property;
- (c) all money received by or payable to a Chargor in respect of such property; and
- (d) all buildings, fixtures and fittings from time to time on such property;

including, but not limited to the property, if any, specified in SCHEDULE 3 (*Properties*) and as specified in any relevant Security Accession Deed;

“**Receiver**” means an administrator, a receiver and manager or (if the Primary Security Agent so specifies in the relevant appointment) receiver in each case appointed under this Debenture;

“**Related Rights**” means all dividends, distributions and other income paid or payable on a Share or Investment, together with all shares or other property derived from any Share or Investment and all other allotments, accretions, rights, benefits and advantages of all kinds accruing, offered or otherwise derived from or incidental to that Share or Investment (whether by way of conversion, redemption, bonus, preference, option or otherwise);

“**Satellite**” means any of HYLAS 1, HYLAS 3, and, once acquired, HYLAS 4 and Artemis (together, the “**Satellites**”);

“**Secured Obligations**” means all the Liabilities and all other present and future liabilities and obligations at any time due, owing or incurred by any member of the Group and by each Debtor to any Shared Collateral Creditor under the Debt Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity.

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

“**Security Accession Deed**” means a deed executed by a member of the Group substantially in the form set out in SCHEDULE 5 (*Form of Security Accession Deed*), with those amendments which the Primary Security Agent may approve or reasonably require; and

“**Shares**” means all shares owned by a Chargor in its Subsidiaries from time to time, including any Additional Shares, and including but not limited to the shares specified in SCHEDULE 4 (*Shares*) and as specified in any relevant Security Accession Deed.

## 1.2 Construction

In this Debenture, unless a contrary intention appears, a reference to:

- (a) an “**agreement**” includes any legally binding arrangement, concession, contract, deed or franchise (in each case whether oral or written);
- (b) an “**amendment**” includes any amendment, supplement, variation, novation, modification, replacement or restatement and “**amend**”, “**amending**” and “**amended**” shall be construed accordingly;
- (c) “**assets**” includes present and future properties, revenues and rights of every description;
- (d) “**including**” means including without limitation and “**includes**” and “**included**” shall be construed accordingly;
- (e) “**losses**” includes losses, actions, damages, claims, proceedings, costs, demands, expenses (including fees) and liabilities and “**loss**” shall be construed accordingly;
- (f) 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 any two or more of the foregoing;
- (g) 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 regulatory, self-regulatory or other authority or organisation; and
- (h) the Parties intend that this document shall take effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

### 1.3 Other References

- (a) In this Debenture, unless a contrary intention appears, a reference to:
  - (i) any Shared Collateral Creditor, Chargor, the Primary Security Agent or any other person is, where relevant, deemed to be a reference to or to include, as appropriate, that person’s successors in title, permitted assignees and transferees and in the case of the Primary Security Agent, any person for the time being appointed as a Primary Security Agent in accordance with the Debt Documents;
  - (ii) any Debt Document or other agreement or instrument is to be construed as a reference to that agreement or instrument as amended or novated, including by way of increase obligations or addition of new obligations made available under them or accession or retirement of the parties to these agreements but excluding any amendment or novation made contrary to any provision of any Debt Document;
  - (iii) any clause or schedule is a reference to, respectively, a clause of and schedule to this Debenture and any reference to this Debenture includes its schedules; and
  - (iv) a provision of law is a reference to that provision as amended or re-enacted.
- (b) The index to and the headings in this Debenture are inserted for convenience only and are to be ignored in construing this Debenture.
- (c) Words importing the plural shall include the singular and vice versa.

#### 1.4 **Incorporation by reference**

Unless the context otherwise requires or unless otherwise defined in this Debenture, words and expressions defined in the Intercreditor Agreement have the same meaning when used in this Debenture.

#### 1.5 **Miscellaneous**

- (a) The terms of the documents under which the Secured Obligations arise and of any side letters between any Chargor and any Shared Collateral Creditor relating to the Secured Obligations are incorporated into this Debenture to the extent required for any purported disposition of the Charged Property contained in this Debenture to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- (b) Notwithstanding any other provision of this Debenture, the obtaining of a moratorium under section 1A of the Insolvency Act 1986, or anything done with a view to obtaining such a moratorium (including any preliminary decision or investigation), shall not be an event causing any floating charge created by this Debenture to crystallise or causing restrictions which would not otherwise apply to be imposed on the disposal of property by any Chargor or a ground for the appointment of a Receiver.
- (c) The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Debenture and no rights or benefits expressly or impliedly conferred by this Debenture shall be enforceable under that Act against the Parties by any other person.
- (d) The parties hereto intend that this document shall take effect as a deed notwithstanding that any party may only execute this document under hand.

#### 2. **COVENANT TO PAY**

Each Initial Chargor as primary obligor covenants with and undertakes to the Primary Security Agent (for the benefit of itself and the other Shared Collateral Creditors) that it will on demand pay the Secured Obligations when they fall due for payment.

#### 3. **CHARGING PROVISIONS**

##### 3.1 **Specific Security**

Subject to the existence of the Existing Debenture, each Initial Chargor, as continuing security for the payment of the Secured Obligations, charges in favour of the Primary Security Agent with full title guarantee the following assets, both present and future from time to time owned by it or in which it has an interest:

- (a) by way of first legal mortgage all Property now belonging to or vested in it; and
- (b) by way of first fixed charge:
  - (i) all other interests (not effectively charged under Clause 3.1 (a)) in any Property and the benefit of all other agreements relating to land;
  - (ii) all of its rights, title and interest in the Intellectual Property;
  - (iii) all of its rights, title and interest in the Equipment;
  - (iv) all the Investments, Shares and all corresponding Related Rights;

- (v) all book debts and other debts arising in the ordinary course of trading;
- (vi) all monies standing to the credit of the Operating Accounts;
- (vii) all rights, title and interest in the Material Contracts;
- (viii) all of its rights and interest in the Hedging Agreements;
- (ix) the benefit of all licences, consents and agreements held by it in connection with the use of any of its assets;
- (x) its goodwill and uncalled capital; and
- (xi) if not effectively assigned by Clause 3.2 (*Security Assignment*), all its rights, title and interest in (and claims under) the Insurance Policies.

### 3.2 Security Assignment

- (a) Subject to the existence of the Existing Debenture, as further continuing security for the payment of the Secured Obligations, each Initial Chargor assigns absolutely with full title guarantee to the Primary Security Agent all its rights, title and interest in the Insurance Policies subject to reassignment by the Primary Security Agent to the relevant Initial Chargor of all such rights, title and interest upon payment or discharge in full of the Secured Obligations.
- (b) Prior to an Enforcement Event, each Initial Chargor may continue to exercise and enjoy all of its rights, interests and benefits under the Insurance Policies.

### 3.3 Floating Charge

- (a) Subject to the existence of the Existing Debenture, as further continuing security for the payment of the Secured Obligations, each Initial Chargor charges with full title guarantee in favour of the Primary Security Agent by way of first floating charge all its present and future assets, undertakings and rights to the extent not effectively mortgaged, charged or assigned pursuant to Clause 3.1 (*Specific Security*) and Clause 3.2 (*Security Assignment*).
- (b) Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to the floating charge created by this Debenture.

### 3.4 Conversion of Floating Charge

- (a) The Primary Security Agent may, by notice to any Chargor, convert the floating charge created under 3.3 (*Floating Charge*) of this Debenture into a fixed charge with immediate effect as regards those assets specified in the notice, if:
  - (i) an Enforcement Event has occurred; or
  - (ii) the Primary Security Agent considers (acting reasonably) that any asset charged under the floating charge created under this Debenture is in danger of being seized or sold pursuant to any form of legal process.
- (b) The floating charge created under this Debenture will automatically (without notice) and immediately be converted into a fixed charge over all the assets of the relevant Chargor which are subject to the floating charge created under this Debenture, if:

- (i) the members of that Chargor convene a meeting for the purposes of considering any resolution for its winding-up, dissolution, or a compromise, assignment or arrangement with any group of creditors for reasons of actual or anticipated financial difficulties and, for the avoidance of doubt, other than a solvent winding-up, dissolution or reorganisation;
  - (ii) a resolution is passed by the members of that Chargor for its winding up by reason of actual or anticipated financial difficulties;
  - (iii) that Chargor creates, or purports to create, Security (except as permitted by the Debt Documents or with the prior consent of the Primary Security Agent) on or over any material asset which is subject to the floating charge created under this Debenture;
  - (iv) 15 Business Days following the presentation of a petition, which has not been dismissed by such date, by a third party with a view to levying distress, attachment, execution or other legal process against any such asset provided that the asset in question has a value in excess of £500,000 and provided further that only the floating charge created over such asset shall be converted into a fixed charge pursuant to this paragraph;
  - (v) an administrator is appointed in respect of that Chargor or a person entitled to appoint an administrator in respect of that Chargor gives notice of its intention to do so or files a notice of appointment with the court; or
  - (vi) if any other floating charge created by that Chargor over a material part of that Chargor's assets crystallises for any reason.
- (c) Upon the conversion of any floating charge pursuant to this Clause 3.4, each relevant Chargor shall, at its own expense, immediately upon request by the Primary Security Agent execute a fixed charge or legal assignment in such form as the Primary Security Agent may reasonably require.
- (d) If the circumstances giving rise to the conversion of a floating charge into a fixed charge cease to or no longer exist and no other such circumstances exist, the Primary Security Agent shall at the request and cost of the relevant Chargor release such fixed charge only. For the avoidance of doubt the relevant asset shall thereafter be subject to the floating charge created pursuant to Clause 3.3 (*Floating Charge*).

### 3.5 Property Restricting Charging

- (a) There shall be excluded from the charge created by Clause 3.1 (*Specific Security*) and from the operation of Clause 4 (*Further Assurance*):
  - (i) any leasehold property held by a Chargor under a lease which prohibits either absolutely or conditionally (including requiring the consent of any third party) that Chargor from creating any charge over its leasehold interest; and
  - (ii) any Intellectual Property in which a Chargor has an interest under any licence or other agreement which prohibits either absolutely or conditionally (including requiring the consent of any third party) that Chargor from creating any charge over its interest in that Intellectual Property,

in each case until the relevant condition or waiver has been satisfied or obtained.

#### **4. FURTHER ASSURANCE**

##### **4.1 General**

- (a) The obligations set out in sub-clause 4.1 (b) and (c) below are in addition to the covenants set out in Section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994.
- (b) Each Chargor shall promptly (and at its own expense) do all such acts (including payment of all stamp duties or fees) or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions on terms equivalent or similar to those set out in this Debenture) as the Primary Security Agent may reasonably specify (and in such form as the Primary Security Agent may reasonably require):
  - (i) to perfect the Security created or intended to be created under or evidenced by this Debenture or for the exercise of any rights, powers and remedies of the Primary Security Agent, any Receiver or the other Shared Collateral Creditors provided by or pursuant to this Debenture or by law;
  - (ii) to confer on the Primary Security Agent, on behalf of the Shared Collateral Creditors, Security over any property and assets of that Chargor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Debenture; 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 Debenture.
- (c) Each 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 Primary Security Agent on behalf of the Shared Collateral Creditors by or pursuant to this Debenture.

#### **5. NEGATIVE PLEDGE**

No Chargor may create or agree to create or permit to subsist any Security over all or any part of the Charged Property except to the extent not prohibited by the Debt Documents or with the prior consent of the Primary Security Agent.

#### **6. REPRESENTATIONS AND WARRANTIES**

##### **6.1 General**

Each Chargor represents and warrants to the Primary Security Agent as set out in this Clause 6 on the date of this Debenture.

##### **6.2 Ownership**

It is the sole beneficial owner of the Charged Property free from all Security except as created by this Debenture, the Existing Debenture or as permitted under the Debt Documents.

##### **6.3 Status**

- (a) It is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.

- (b) It has the power to own its assets and carry on its business as it is being conducted.

#### **6.4 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 this Debenture.
- (b) No limit on its powers will be exceeded as a result of the grant of security or giving of indemnities contemplated by this Debenture.

#### **6.5 Governing law and enforcement**

Subject to the Legal Reservations, the choice of English law as the governing law of this Debenture will be recognised and enforced in England and Wales.

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

The entry into and performance by it of, and the transactions contemplated by, the Debt Documents and the granting of Security pursuant to this Debenture 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 (save to the extent any such conflict arises as a result of the existence of the Existing Debenture).

#### **6.7 Binding obligations**

- (a) Subject to the Legal Reservations, the obligations expressed to be assumed by it in each Debt Document to which it is a party are legal, valid, binding and enforceable obligations; and
- (b) Subject to the Legal Reservations, without limiting the generality of paragraph (a) above, this Debenture creates the security interests which it purports to create and those security interests are valid and effective.

#### **6.8 Insolvency**

- (a) No corporate action, legal proceeding or other procedure or step in relation to:
  - (i) a composition, compromise, assignment or arrangement with any creditor of the relevant Chargor;
  - (ii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the relevant Chargor or any of its assets; or
  - (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the relevant Chargor or any of its assets; or

- (iv) enforcement of any security over any assets of the relevant Chargor, or any analogous procedure or step in any jurisdiction; or
- (v) creditors' process, expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affecting any asset or assets of the relevant Chargor,

has been taken or, to the knowledge of the relevant Chargor, threatened in relation to it.

(b) None of the following circumstances apply:

- (i) the relevant Chargor is unable or has admitted its inability to pay its debts as they fall due, has suspended or threatened to suspend making payments on any of its debts or, by reason of actual or anticipated financial difficulties, has commenced negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness;
- (ii) the value of the assets of the relevant Chargor is less than its liabilities (taking into account contingent and prospective liabilities); and
- (iii) a moratorium has been declared in respect of any indebtedness of the relevant Chargor.

#### 6.9 Validity and admissibility in evidence

(a) All acts or authorisations required or desirable:

- (i) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Debt Documents to which it is a party; and
- (ii) to make the Debt Documents to which it is a party admissible in evidence in England and Wales,

have been obtained or effected and are in full force and effect.

(b) All authorisations necessary for the conduct of its business, trade and ordinary activities have been obtained or effected and are in full force and effect.

#### 6.10 Intellectual Property

It and each of its Subsidiaries:

- (a) is the sole legal and beneficial owner of or has licensed to it all the Intellectual Property which is material in the context of its business and which is required by it in order to carry on its business as it is being conducted; and
- (b) does not (nor does any of its Subsidiaries), in carrying on its businesses, infringe any Intellectual Property of any third party in any respect which is reasonably likely to have a Material Adverse Effect.



## **7. PROTECTION OF SECURITY**

### **7.1 Title Documents**

- (a) Each Chargor will (to the extent not deposited pursuant to the terms of the Existing Debenture or Existing Side Letter) promptly deposit with the Primary Security Agent (or as it shall direct):
  - (i) all deeds and documents of title relating to all real property mortgaged or charged under this Debenture and, if those deeds and documents are with the Land Registry, will promptly deposit them with the Primary Security Agent (or as it shall direct) upon their release;
  - (ii) all stocks and share certificates and other documents of title relating to the Shares together with stock transfer forms executed in blank and left undated on the basis that the Primary Security Agent shall be able to hold such documents of title and stock transfer forms until the Secured Obligations have been irrevocably and unconditionally discharged in full and shall be entitled, at any time to complete, under its power of attorney given in this Debenture, the stock transfer forms on behalf of the relevant Chargor in favour of itself or such other person as it shall select; and
  - (iii) following an Enforcement Event, all other documents relating to the Charged Property which the Primary Security Agent may from time to time reasonably require.
- (b) Each Chargor shall, on the purchase or acquisition by it of any Additional Shares:
  - (i) promptly notify the Primary Security Agent of the details of the Additional Shares; and
  - (ii) after allowing reasonable time for the stamping of any stock transfer form, updating of the statutory books of the acquired company and the issue of any share certificate, promptly (to the extent not deposited with the Primary Security Agent pursuant to the terms of the Existing Debenture or Existing Side Letter) deposit with the Primary Security Agent (or as it shall direct) all stock and share certificates and other documents of title to, or representing, such Additional Shares, together with stock transfer forms executed in blank and left undated, in each case, in accordance with paragraph (a)(ii) above.
- (c) The Primary Security Agent may retain any document delivered to it under this Clause 7.1 or otherwise until the security created under this Debenture is released and, if for any reason it ceases to hold any such document before that time, it may by notice to the relevant Chargor require that the document be redelivered to it and the relevant Chargor shall promptly comply (or procure compliance) with that notice.
- (d) Any document required to be delivered to the Primary Security Agent under Clause 7.1 (a) which is for any reason not so delivered or which is released by the Primary Security Agent to a Chargor shall be held on trust by the relevant Chargor for the Primary Security Agent.

## **8. UNDERTAKINGS**

### **8.1 Voting and Distribution Rights**

- (a) Prior to the occurrence of an Enforcement Event:

- (i) each Chargor shall be entitled to receive and retain all dividends, distributions and other monies paid on or derived from its Shares and Investments; and
  - (ii) each Chargor shall be entitled to exercise all voting and other rights and powers attaching to its Shares and Investments provided that it shall not exercise any such voting rights or powers in a manner which would prejudice the interests of the Shared Collateral Creditors under this Debenture or adversely affect the validity, enforceability or existence of the Charged Property or the Security created under this Debenture.
- (b) Following the occurrence of an Enforcement Event:
- (i) all voting rights in respect of the Shares and Investments shall be exercised by the Chargor as directed by the Primary Security Agent, unless the Primary Security Agent has notified the Chargor in writing that it wishes to give up this right.
  - (ii) each Chargor shall hold any dividends, distributions and other monies paid on or derived from the Shares and Investments on trust for the Shared Collateral Creditors and pay the same to, or as directed by, the Primary Security Agent.
- (c) If, at any time, any Shares or Investments are registered in the name of the Primary Security Agent or its nominee, the Primary Security Agent will not be under any duty to ensure that any dividends, distributions or other monies payable in respect of those Shares or Investments are duly and promptly paid or received by it or its nominee, or to verify that the correct amounts are paid or received, or to take any action in connection with the taking up of any (or any offer of any) stocks, shares, rights, moneys or other property paid, distributed, accruing or offered at any time by way of interest, dividend, redemption, bonus, rights, preference, option, warrant or otherwise on or in respect of or in substitution for, any of those Shares or Investments.

## 9. IMPLIED COVENANTS FOR TITLE

- (a) The covenants set out in Sections 3(1), 3(2) and 6(2) of the Law of Property (*Miscellaneous Provisions*) Act 1994 will not extend to Clause 3 (*Charging Provisions*).
- (b) It shall be implied in respect of Clause 3 (*Charging Provisions*) that each Chargor is disposing of the Charged Property free from all charges and encumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment).

## 10. PRIMARY SECURITY AGENT'S POWER TO REMEDY

### 10.1 Power to Remedy

If any Chargor fails to comply with any obligation set out in Clause 7 (*Protection of Security*) or Clause 8 (*Undertakings*) and that failure is not remedied to the reasonable satisfaction of the Primary Security Agent within 14 days of the Primary Security Agent giving written notice to the relevant Chargor or the relevant Chargor becoming aware of the failure to comply, it will allow (and irrevocably authorises) the Primary Security Agent or any person which the Primary Security Agent nominates to take any action on behalf of that Chargor which is necessary to ensure that those obligations are complied with.

## 10.2 Indemnity

Each Chargor will indemnify the Primary Security Agent against all losses properly incurred by the Primary Security Agent as a result of a breach by any Chargor of its obligations under Clause 7 (*Protection of Security*) or Clause 8 (*Undertakings*) and in connection with the exercise by the Primary Security Agent of its rights contained in Clause 10.1 above. All sums the subject of this indemnity will be payable by the relevant Chargor to the Primary Security Agent within 10 Business Days on demand and if not so paid will bear interest at the Default Rate. Any unpaid interest will be compounded with monthly rests.

## 11. CONTINUING SECURITY

### 11.1 Continuing Security

The Security constituted by this Debenture shall be a continuing security notwithstanding any intermediate payment or settlement of all or any part of the Secured Obligations or any other act, matter or thing.

### 11.2 Other Security

The Security constituted by this Debenture is to be in addition to and shall neither be merged in nor in any way exclude or prejudice or be affected by any other Security or other right which the Primary Security Agent and/or any other Shared Collateral Creditor may now or after the date of this Debenture hold for any of the Secured Obligations, and this Security may be enforced against each Chargor without first having recourse to any other rights of the Primary Security Agent or any other Shared Collateral Creditor.

## 12. ENFORCEMENT OF SECURITY

### 12.1 Enforcement Powers

For the purpose of all rights and powers implied or granted by statute, the Secured Obligations are deemed to have fallen due on the date of this Debenture. The power of sale and other powers conferred by section 101 of the Law of Property Act 1925 and all other enforcement powers conferred by this Debenture shall be immediately exercisable at any time after an Enforcement Event.

### 12.2 Statutory Powers

The powers conferred on mortgagees, receivers or administrative receivers by the Law of Property Act 1925 and the Insolvency Act 1986 (as the case may be) shall apply to the Security created under this Debenture, unless they are expressly or impliedly excluded. If there is ambiguity or conflict between the powers contained in those Acts and those contained in this Debenture, those contained in this Debenture shall prevail.

### 12.3 Exercise of Powers

All or any of the powers conferred upon mortgagees by the Law of Property Act 1925 as varied or extended by this Debenture, and all or any of the rights and powers conferred by this Debenture on a Receiver (whether expressly or impliedly), may be exercised by the Primary Security Agent without further notice to any Chargor at any time after an Enforcement Event, irrespective of whether the Primary Security Agent has taken possession or appointed a Receiver of the Charged Property.

#### 12.4 Disapplication of Statutory Restrictions

The restriction on the consolidation of mortgages and on power of sale imposed by sections 93 and 103 respectively of the Law of Property Act 1925 shall not apply to the security constituted by this Debenture.

#### 12.5 Appropriation under the Financial Collateral Regulations

- (a) To the extent that any of the Charged Property constitutes “financial collateral” and this Debenture and the obligations of the Chargors hereunder constitute “security financial collateral arrangement” (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (as amended) (the “Regulations”)), the Primary Security Agent shall have the right to appropriate all or any part of such financial collateral in or towards discharge of the Secured Obligations and may exercise that right to appropriate by giving notice to the relevant Chargors at any time after an Enforcement Event.
- (b) The Parties hereto agree that the value of any Charged Property appropriated in accordance with paragraph (a) above shall be:
  - (i) in the case of cash denominated in the currency of denomination of the Secured Obligations, the amount thereof (plus any accrued but unposted interest attributable thereto) on the date of the appropriation;
  - (ii) in the case of any other cash, the amount of the currency of denomination of the Secured Obligations that the Primary Security Agent could purchase with the amount thereof (plus any accrued but unposted interest attributable thereto) on the date of the appropriation at its spot rate of exchange for such purchase in the London foreign exchange market at or about 11.00 a.m. on that date; and
  - (iii) in the case of Shares, Investments and Related Rights, the market price thereof determined by the Primary Security Agent by reference to the price thereof quoted at the time of the appropriation on a public index or by such other method (including independent valuation) as the Primary Security Agent may select (acting reasonably),

and each Chargor agrees that the methods of valuation provided for in this Clause are commercially reasonable.

#### 12.6 Powers of Leasing

The Primary Security Agent may lease, make agreements for leases at a premium or otherwise, accept surrenders of leases and grant options or vary or reduce any sum payable under any leases or tenancy agreements as it thinks fit, without the need to comply with any of the provisions of sections 99 and 100 of the Law of Property Act 1925.

#### 12.7 Fixtures

At any time after an Enforcement Event has occurred, the Primary Security Agent may sever any fixtures from the property to which they are attached and sell them separately from that property.

#### 13. RELEASE

The Primary Security Agent is irrevocably authorised to and, upon the delivery to the Primary Security Agent of (i) a director's certificate from the relevant Chargor substantially in the

form set out in Schedule 6 hereto and (ii) an English law legal opinion of external counsel stating that the conditions to such a release constituting a Permitted Release have been met; provided that in giving such opinion, such counsel may rely on the aforementioned director's certificate as to compliance with such conditions and as to any matters of fact, shall (at the cost of the relevant Chargor and without any consent, sanction, authority or further confirmation from any other Shared Collateral Creditor), release the Security created hereunder over any Charged Property in each case in accordance with the terms of the Intercreditor Agreement:

- (a) upon irrevocable and unconditional payment in full of principal, interest and all other Secured Obligations;
  - (b) by a Chargor upon the release of such Chargor from any Guarantee Liabilities that constitute Secured Obligations granted by such Chargor;
  - (c) in connection with any disposition of Charged Property that is a Non-Distressed Disposal; and
  - (d) as otherwise permitted under the terms of the Debt Documents,
- (such release, a "Permitted Release").

## **14. RECEIVERS**

### **14.1 Appointment of Receiver**

- (a) Subject to paragraph (c) below, at any time after the Security has become enforceable, or if so requested by the relevant Chargor, the Primary Security Agent may by writing under hand signed by any officer or manager of the Primary Security Agent, appoint any person (or persons) to be a Receiver of all or any part of the Charged Property.
- (b) Section 109(1) of the Law of Property Act 1925 shall not apply to this Debenture.
- (c) The Primary Security Agent shall be entitled to appoint a Receiver save to the extent prohibited by section 72A Insolvency Act 1986.

### **14.2 Powers of Receiver**

Each Receiver appointed under this Debenture shall have (subject to any limitations or restrictions which the Primary Security Agent may incorporate in the deed or instrument appointing it) all the powers conferred from time to time on receivers by the Law of Property Act 1925 and the Insolvency Act 1986 (each of which is deemed incorporated in this Debenture), so that the powers set out in schedule 1 to the Insolvency Act 1986 shall extend to every Receiver, whether or not an administrative receiver. In addition, notwithstanding any liquidation of the relevant Chargor, each Receiver shall have power to:

- (a) manage, develop, reconstruct, amalgamate or diversify any part of the business of the relevant Chargor;
- (b) enter into or cancel any contracts on any terms or conditions;
- (c) incur any liability on any terms, whether secured or unsecured, and whether to rank for payment in priority to this security or not;
- (d) let or lease or concur in letting or leasing, and vary the terms of, determine, surrender leases or tenancies of, or grant options and licences over, or otherwise deal with, all or any of the Charged Property, without being responsible for loss or damage;

- (e) establish subsidiaries to acquire interests in any of the Charged Property and/or arrange for those subsidiaries to trade or cease to trade and acquire any of the Charged Property on any terms and conditions;
- (f) make and effect all repairs, renewals and improvements to any of the Charged Property and maintain, renew, take out or increase insurances;
- (g) exercise or refrain from exercising all voting and other rights attaching to the Shares or Investments and stocks, shares and other securities owned by the relevant Chargor and comprised in the Charged Property, but only following a written notification from either the Receiver or the Primary Security Agent to the relevant Chargor stating that the Primary Security Agent shall exercise all voting rights in respect of the Shares or Investments and stocks, shares and other securities owned by the relevant Chargor and comprised in the Charged Property;
- (h) redeem any prior Security on or relating to the Charged Property and settle and pass the accounts of the person entitled to that prior Security, so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the relevant Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver;
- (i) appoint and discharge officers and others for any of the purposes of this Debenture and/or to guard or protect the Charged Property upon terms as to remuneration or otherwise as he may think fit;
- (j) settle any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the relevant Chargor or relating to any of the Charged Property;
- (k) implement or continue the development of (and obtain all consents required in connection therewith) and/or complete any buildings or structures on any real property comprised in the Charged Property;
- (l) purchase or acquire any land or any interest in or right over land;
- (m) exercise on behalf of the relevant Chargor all the powers conferred on a landlord or a tenant by any legislation from time to time in force in any relevant jurisdiction relating to rents or agriculture in respect of any part of the Property; and
- (n) do all other acts and things (including signing and executing all documents and deeds) as the Receiver considers to be incidental or conducive to any of the matters or powers in this Clause 14.2, or otherwise incidental or conducive to the preservation, improvement or realisation of the Charged Property, and use the name of the relevant Chargor for all such purposes,

and in each case may use the name of any Chargor and exercise the relevant power in any manner which he may think fit.

#### 14.3 Receiver as Agent

Each Receiver shall be the agent of the relevant Chargor, which shall be solely responsible for his acts or defaults, and for his remuneration and expenses, and be liable on any agreements or engagements made or entered into by him. The Primary Security Agent will not be responsible for any misconduct, negligence or default of a Receiver.

#### 14.4 Removal of Receiver

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

#### 14.5 Remuneration of Receiver

The Primary Security Agent may from time to time fix the remuneration of any Receiver appointed by it.

#### 14.6 Several Receivers

If at any time there is more than one Receiver, each Receiver may separately exercise all of the powers conferred by this Debenture (unless the document appointing such Receiver states otherwise).

### 15. APPLICATION OF PROCEEDS

#### 15.1 Order of Application

All moneys received or recovered by the Primary Security Agent or any Receiver pursuant to this Debenture shall (subject to the claims of any person having prior rights thereto) be applied in the order and manner specified by clause 15 (*Application of proceeds*) of the Intercreditor Agreement, notwithstanding any purported appropriation by any Chargor.

#### 15.2 Insurance Proceeds

If an Enforcement Event has occurred, all moneys received by virtue of any insurance maintained or effected in respect of the Charged Property shall be paid to the Primary Security Agent (or, if not paid by the insurers directly to the Primary Security Agent, shall be held on trust for the Primary Security Agent) and shall, at the option of the Primary Security Agent (acting on the instructions of the Instructing Group), be applied in replacing or reinstating the assets destroyed, damaged or lost (any deficiency being made good by the relevant Chargor) or (except in the case of leasehold premises) be applied in the order and manner specified by clause 15 (*Application of proceeds*) of the Intercreditor Agreement.

#### 15.3 Section 109 Law of Property Act 1925

Sections 109(6) and (8) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this Debenture.

#### 15.4 Suspense Account

Until the Secured Obligations are paid in full, the Primary Security Agent or the Receiver (as applicable) may place and keep (for such time as it shall determine) any money received, recovered or realized pursuant to this Debenture or on account of any Chargor's liability in respect of the Secured Obligations in an interest bearing separate suspense account (to the credit of either the relevant Chargor or the Primary Security Agent or the Receiver as the Primary Security Agent or the Receiver shall think fit) and the Primary Security Agent or the Receiver may retain the same for the period which it considers expedient without having any obligation to apply all or any part of that money in or towards discharge of the Secured Obligations.

## **16. PROTECTION OF PRIMARY SECURITY AGENT AND RECEIVER**

### **16.1 No Liability**

Neither the Primary Security Agent nor any Receiver shall be liable in respect of any of the Charged Property or for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers.

### **16.2 Possession of Charged Property**

Without prejudice to Clause 16.1 above, if the Primary Security Agent or the Receiver enters into possession of the Charged Property, it will not be liable to account as mortgagee in possession and may at any time at its discretion go out of such possession.

### **16.3 Primary liability of Chargor**

Each Chargor shall be deemed to be a principal debtor and the sole, original and independent obligor for the Secured Obligations and the Charged Property shall be deemed to be a principal security for the Secured Obligations. The liability of each Chargor under this Debenture and the charges contained in this Debenture shall not be impaired by any forbearance, neglect, indulgence, abandonment, extension of time, release, surrender or loss of securities, dealing, variation or arrangement by the Primary Security Agent or any other Shared Collateral Creditor, or by any other act, event or matter whatsoever whereby the liability of the relevant Chargor (as a surety only) or the charges contained in this Debenture (as secondary or collateral charges only) would, but for this provision, have been discharged.

### **16.4 Waiver of defences**

The obligations of each Chargor under this Debenture will not be affected by an act, omission, matter or thing which, but for this this Debenture, would reduce, release or prejudice any of its obligations under this this Debenture (without limitation and whether or not known to it or any Shared Collateral Creditor) including:

- (a) any time, waiver or consent granted to, or composition with, any Debtor or other person;
- (b) the release of any other Debtor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Debtor 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 an Debtor or any other person;
- (e) any amendment, novation, supplement, extension restatement (however fundamental and whether or not more onerous) or replacement of a Debt Document or any other document or security including, without limitation, under any Debt Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Debt Document or any other document or security; or
- (g) any insolvency or similar proceedings.



## **16.5 Primary Security Agent**

- (a) Notwithstanding any other provisions of this Debenture, it is expressly understood and agreed by the Parties that this Debenture is executed and delivered by the Primary Security Agent not individually or personally but solely in its capacity as the Primary Security Agent in the exercise of the powers and authority conferred and vested in it under the Debt Documents. The Primary Security Agent will act in accordance with the terms of the Debt Documents and will be entitled to seek instructions from the Instructing Group as to any actions to be taken by it under this Debenture and shall have the rights, benefits, protections, immunities and indemnities conferred on it under the Debt Documents.
- (b) The provisions of this Clause shall survive the termination of this Debenture. The provisions set out in the Intercreditor Agreement shall govern the rights, duties and obligations of the Primary Security Agent under this Debenture.

## **16.6 Cumulative Powers**

The powers which this Debenture confers on the Primary Security Agent, the other Shared Collateral Creditors and any Receiver appointed under this Debenture are cumulative, without prejudice to their respective powers under the general law, and may be exercised as often as the relevant person thinks appropriate. The Primary Security Agent, the other Shared Collateral Creditors or the Receiver may, in connection with the exercise of their powers, join or concur with any person in any transaction, scheme or arrangement whatsoever. The respective powers of the Primary Security Agent, the other Shared Collateral Creditors and the Receiver will in no circumstances be suspended, waived or otherwise prejudiced by anything other than an express consent or amendment.

## **17. POWER OF ATTORNEY**

Each Chargor, by way of security, irrevocably and severally appoints the Primary Security Agent, each Receiver and any person nominated for the purpose by the Primary Security Agent or any Receiver (in writing and signed by an officer of the Primary Security Agent or Receiver) as its attorney (with full power of substitution and delegation) in its name and on its behalf and as its act and deed to execute, seal and deliver (using the company seal where appropriate) and otherwise perfect and do any deed, assurance, agreement, instrument, act or thing which it ought to execute and do under the terms of this Debenture, or which may be required or deemed proper in the exercise of any rights or powers conferred on the Primary Security Agent or any Receiver under this Debenture or otherwise for any of the purposes of this Debenture, and each Chargor covenants with the Primary Security Agent and each Receiver to ratify and confirm all such acts or things made, done or executed by that attorney.

## **18. PROTECTION FOR THIRD PARTIES**

### **18.1 No Obligation to Enquire**

No purchaser from, or other person dealing with, the Primary Security Agent or any Receiver (or their agents) shall be obliged or concerned to enquire whether:

- (a) the right of the Primary Security Agent or any Receiver to exercise any of the powers conferred by this Debenture has arisen or become exercisable or as to the propriety or validity of the exercise or purported exercise of any such power; or
- (b) any of the Secured Obligations remain outstanding and/or are due and payable or be concerned with notice to the contrary and the title and position of such a purchaser or other person shall not be impeachable by reference to any of those matters.

## **18.2 Receipt Conclusive**

The receipt of the Primary Security Agent or any Receiver shall be an absolute and a conclusive discharge to a purchaser, and shall relieve him of any obligation to see to the application of any moneys paid to or by the direction of the Primary Security Agent or any Receiver.

## **19. REINSTATEMENT AND RELEASE**

### **19.1 Amounts Avoided**

If any amount paid by a Chargor in respect of the Secured Obligations is capable of being avoided or set aside on the liquidation or administration of the relevant Chargor or otherwise, then for the purposes of this Debenture that amount shall not be considered to have been paid. No interest shall accrue on any such amount, unless and until such amount is so avoided or set aside.

### **19.2 Discharge Conditional**

Any settlement or discharge between a Chargor and any Shared Collateral Creditor shall be conditional upon no security or payment to that Shared Collateral Creditor by that Chargor or any other person being avoided, set aside, ordered to be refunded or reduced by virtue of any provision or enactment relating to insolvency and accordingly (but without limiting the other rights of that Shared Collateral Creditor under this Debenture) that Shared Collateral Creditor shall be entitled to recover from that Chargor the value which that Shared Collateral Creditor has placed on that security or the amount of any such payment as if that settlement or discharge had not occurred.

### **19.3 Covenant To Release**

Once all the Secured Obligations have been irrevocably paid in full in accordance with the Debt Documents and none of the Shared Collateral Creditor has any actual or contingent liability to advance further monies to, or incur liability on behalf of, any Chargor, the Primary Security Agent and each Shared Collateral Creditor shall, at the request and cost of each Chargor, execute any documents (or procure that its nominees execute any documents) or take any action which may be necessary to release the Charged Property from the Security constituted by this Debenture in accordance with the Intercreditor Agreement.

## **20. SET-OFF**

### **20.1 Set-off rights**

After an Enforcement Event, the Primary Security Agent shall be entitled to set-off against the Secured Obligations, any amount or other obligations (contingent or otherwise) owing by the Primary Security Agent or a Shared Collateral Creditor to a Chargor and to apply any credit balance to which a Chargor is entitled on any account with the Primary Security Agent or a Shared Collateral Creditor in accordance with Clause 15 (*Application of Proceeds*).

### **20.2 Different Currencies**

A Shared Collateral Creditor may exercise its rights under Clause 20.1 (*Set-off rights*) notwithstanding that the amounts concerned may be expressed in different currencies and each Shared Collateral Creditor is authorised to effect any necessary conversions at a market rate of exchange selected by it.

### 20.3 Unliquidated Claims

If, at any time after notice demanding payment of any sum which is then due but unpaid in respect of the Secured Obligations has been given by the Primary Security Agent to any Chargor, the relevant obligation or liability is unliquidated or unascertained, the Primary Security Agent may set-off the amount which it calculates (reasonably and in good faith) will be the final amount of that obligation or liability once it becomes liquidated or ascertained.

### 20.4 No Set-off

The Chargor will pay all amounts payable under this Debenture without any set-off, counterclaim or deduction whatsoever unless required by law, in which event the Chargor will pay an additional amount to ensure that the payment recipient receives the amount which would have been payable had no deduction been required to have been made.

## 21. RULING OFF

If the Primary Security Agent or any other Shared Collateral Creditor receives notice of any subsequent Security or other interest affecting any of the Charged Property (except as permitted by the Debt Documents) it may open a new account for the relevant Chargor in its books. If it does not do so then (unless it gives express notice to the contrary to the relevant Chargor), as from the time it receives that notice, all payments made by the relevant Chargor to it (in the absence of any express appropriation to the contrary) shall be treated as having been credited to a new account of the relevant Chargor and not as having been applied in reduction of the Secured Obligations.

## 22. REDEMPTION OF PRIOR CHARGES

The Primary Security Agent may, at any time after an Enforcement Event, redeem any prior Security on or relating to any of the Charged Property or procure the transfer of that Security to itself, and may settle and pass the accounts of any person entitled to that prior Security. Any account so settled and passed shall (subject to any manifest error) be conclusive and binding on each Chargor. Each Chargor will on demand pay to the Primary Security Agent all principal monies and interest and all losses incidental to any such redemption or transfer.

## 23. NOTICES

Clause 24 (*Notices*) of the Intercreditor Agreement is incorporated into this Debenture *mutatis mutandis*.

## 24. CHANGES TO PARTIES

### 24.1 Assignment by the Primary Security Agent

The Primary Security Agent may at any time assign or otherwise transfer all or any part of its rights under this Debenture in accordance with the Debt Documents.

### 24.2 Changes to Parties

Each Chargor authorises and agrees to changes to parties pursuant to the terms of the Intercreditor Agreement and authorises the Primary Security Agent to execute on its behalf any document required to effect the necessary transfer of rights or obligations contemplated by those provisions.

**24.3 New Subsidiaries**

Each of the Chargors will procure that any new Subsidiary of it which is required to do so by the terms of any Debt Document executes a Security Accession Deed.

**24.4 Consent of Chargors**

Each Chargor consents to new Subsidiaries becoming Chargors as contemplated by Clause 24.3 above and irrevocably appoints the Parent as its agent for the purpose of executing any Security Accession Deed on its behalf.

**25. MISCELLANEOUS**

**25.1 Certificates Conclusive**

A certificate or determination of the Primary Security Agent as to any amount payable under this Debenture will be conclusive and binding on each Chargor, except in the case of fraud or manifest error.

**25.2 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.

**25.3 Invalidity of any Provision**

If any provision of this Debenture is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired in any way.

**25.4 Amendments**

This Debenture may only be amended or modified by written agreement between the Parties and subject to the terms of the Intercreditor Agreement.

**25.5 Failure to Execute**

Failure by one or more Parties (“Non-Signatories”) to execute this Debenture on the date hereof will not invalidate the provisions of this Debenture as between the other Parties who do execute this Debenture.

**26. GOVERNING LAW AND JURISDICTION**

- (a) This Debenture and any non-contractual claims arising out of or in connection with it shall be governed by and construed in accordance with English law.
- (b) Subject to Clause (c) below, the Parties agree that the courts of England shall have exclusive jurisdiction to settle any dispute arising out of or in connection with this Debenture, whether contractual or non-contractual (including a dispute regarding the existence, validity or termination of this Debenture) (a “Dispute”). 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) The Parties agree that, for the benefit of the Primary Security Agent only, nothing in this Debenture shall limit the right of the Primary Security Agent to bring any legal action against any of the Chargors in any other court of competent jurisdiction.

IN WITNESS whereof this Debenture has been duly executed as a deed on the date first above written.

**SCHEDULE 1**

**THE CHARGORS**

<b>Name of Chargor</b>	<b>Registered Number</b>	<b>Registered Address</b>
Avanti Communications Group Plc	06133927	Cobham House 20 Black Friars Lane London EC4V 6EB
Avanti Broadband Limited	03958887	Cobham House 20 Black Friars Lane London EC4V 6EB
Avanti Communications Infrastructure Limited	05316577	Cobham House 20 Black Friars Lane London EC4V 6EB
Avanti Communications Africa Infrastructure Limited	09995469	Cobham House 20 Black Friars Lane London EC4V 6EB
Avanti Communications Limited	03101607	Cobham House 20 Black Friars Lane London EC4V 6EB
Avanti Space Limited	05316540	Cobham House 20 Black Friars Lane London EC4V 6EB
Avanti HYLAS 2 Limited	07072502	Cobham House 20 Black Friars Lane London EC4V 6EB
Avanti Communications Marketing Services Limited	07407494	Cobham House 20 Black Friars Lane London EC4V 6EB

## SCHEDULE 2

## MATERIAL CONTRACTS

MATERIAL CUSTOMER CONTRACTS OVER USD 10M			
Customer	Contract Type	Satellite	Description
Alphasat Communications Limited	Sales - Consumer	HYLAS 1	Contract for the provision of virtual network operator services with coverage over the United Kingdom and Ireland
European Commission – BATS	Consultancy	n/a	Grant funding from the European Commission in respect of a collaborative project on broadband access via integrated terrestrial and satellite systems
Macdonald, Dettwilder and Associates Corporation	Firm fixed price contract for the on ground delivery of the HYLAS 3 communications payload	HYLAS 3	Firm fixed price contract for the ground delivery of the Hylas 3 Communications Payload
European Space Agency	Embarkation Agreement	HYLAS 3	Embarkation Agreement for a payload hosted on-board the EDRS-C satellite
Orbital Sciences Corporation ATK	Satellite Construction Contract	HYLAS 4	Construction of HYLAS 4 satellite
Arianespace SA	Launch Services Contract	HYLAS 4	Launch of HYLAS 4 satellite
Inmarsat Global Limited	Satellite Network Filing and Spectrum Use Agreement	HYLAS 2	Ka-Band Satellite Network filing and spectrum use Agreement

MATERIAL SUPPLIER AGREEMENTS OVER USD 10M			
Supplier	Contract Type	Satellite	Description
BT	Master Services Agreement	HYLAS 1	Operational services relating to the HYLAS 1 ground station located in Goonhilly, England
Hughes Network Systems Limited	Framework Agreement	HYLAS 1	Provision of -equipment including Hughes -network operations center hardware, end user remote terminals and associated software licences
MacDonald Dettwiler and Associates Corporation	Satellite Construction Agreement	HYLAS 3	Construction of HYLAS 3 payload
The European Space Agency	Embarkation Agreement	HYLAS 3	Agreement for hosted payload on-board the EDRS-C satellite to be developed, launched and operated by The European Space Agency.
Everything Everywhere Limited	Supply of Goods and/or Services Agreement	HYLAS 1	Supply of goods and services
Eurona Wireless Telecom S.A.	Commercial Agreement	HYLAS 1	Commercial Agreement for the Provision of Capacity, Equipment, Hosting Services and Satellite Reconfiguration Services
The Secretary of State for International Development	iMLango GEC Funding Agreement	HYLAS 2	Contract for Girls' Education Challenge Window 3: Strategic Partnership (iMLango)
Government of Indonesia / Ministry of Defence	Defence Contract	ARTEMIS	Agreement for the provision of services

### SCHEDULE 3

### PROPERTIES

#### Registered Land

Chargor	County and District (or London Borough)	Address or description	Freehold or Leasehold	Title No.
Avanti Communications Group plc	City of London	Cobham House 20 Black Friars Lane London EC4V 6EB	Leasehold	AGL257457



**SCHEDULE 4****SHARES****Shares**

<b>Name of Chargor which holds the shares</b>	<b>Name of company issuing shares</b>	<b>Number and class of shares</b>
Avanti Communications Infrastructure Limited	Avanti Broadband Limited	1,255,297 ordinary shares of £0.0001
Avanti Communications Infrastructure Limited	Avanti Communications Limited	7,606,284 ordinary shares of £0.01
Avanti Communications Infrastructure Limited	Avanti Space Limited	100 ordinary shares of £1.00
Avanti Broadband Limited	Avanti Communications Marketing Services Limited	1 ordinary share of £1.00
Avanti Broadband Limited	Avanti Broadband (Ire) Limited	1000 ordinary shares of £1.00
Avanti Communications Group Plc	Avanti HYLAS 2 Limited	4,325 ordinary shares of £0.01
Avanti Communications Group Plc	Avanti Communications Infrastructure Limited	100 ordinary shares of £1.00
Avanti Communications Group Plc	Avanti Communications Africa Infrastructure Limited	1 ordinary share of £1.00
Avanti Communications Group Plc	Avanti Space 3 Limited	1 ordinary share of £1.00
Avanti Communications Group Plc	Avanti Local TV Services Limited	1 ordinary share of £1.00
Avanti Communications Africa Infrastructure Limited	Avanti Communications Africa Infrastructure 1 Limited	1 ordinary share of £1.00
Avanti Communications Africa Infrastructure Limited	Avanti Communications Africa Infrastructure 2 Limited	1 ordinary share of £1.00

## SCHEDULE 5

### FORM OF SECURITY ACCESSION DEED

THIS SECURITY ACCESSION DEED is made on [●]

BETWEEN:

- (1) [●] Limited, a company incorporated in England and Wales with registered number [●] (the “New Chargor”);
- (2) Avanti Communications Group plc as agent for the existing Chargors (the “Chargors’ Agent”); and
- (3) [●] as security trustee for itself and the other Shared Collateral Creditors (the “Primary Security Agent”).

RECITAL:

This Security Accession Deed is supplemental to a debenture dated [●] between, amongst others, the Parent, the Chargors named therein and the Primary Security Agent, as previously supplemented and amended by earlier Security Accession Deeds (if any) (the “Debenture”).

NOW THIS DEED WITNESSES as follows:

#### 1. INTERPRETATION

##### 1.1 Definitions

Terms defined in the Debenture shall have the same meaning when used in this Security Accession Deed.

##### 1.2 Construction

Clauses 1.2 (*Construction*) to 1.5 (*Miscellaneous*) of the Debenture will be deemed to be set out in full in this Security Accession Deed, with the exception that references in those clauses to the Debenture shall be interpreted as references to this Security Accession Deed.

#### 2. ACCESSION OF NEW CHARGOR

##### 2.1 Accession

The New Chargor agrees to become a Chargor for the purposes of the Debenture with immediate effect and agrees to be bound by all of the terms of the Debenture as if it had originally been a party to the Debenture as a Chargor.

##### 2.2 Covenant to pay

The New Chargor as primary obligor covenants with the Primary Security Agent (for the benefit of itself and the other Shared Collateral Creditors) that it will on demand pay the Secured Obligations when they fall due for payment.

##### 2.3 Specific Security

- (a) The New Chargor, as continuing security for the payment of the Secured Obligations, charges in favour of the Primary Security Agent with full title guarantee the following

assets, both present and future, from time to time owned by it or in which it has an interest:

- (i) by way of first legal mortgage all Property now belonging to or vested in it (including any property specified in Schedule 1 (*Properties*)); and
- (ii) by way of fixed charge:
  - (A) all other interests (not charged under Clause 2.3(a)) in any Property and the benefit of all other agreements relating to land;
  - (B) all of its rights, title and interest in the Intellectual Property;
  - (C) all of its rights, title and interest in the Equipment;
  - (D) all the Investments, Shares and all corresponding Related Rights;
  - (E) all book debts and other debts arising in the ordinary course of trading;
  - (F) all monies standing to the credit of the Operating Accounts;
  - (G) all rights, title and interest in the Material Contracts;
  - (H) all rights and interest in the Hedging Agreements;
  - (I) the benefit of all licences, consents and agreements held by it in connection with the use of any of its assets;
  - (J) its goodwill and uncalled capital; and
  - (K) if not effectively assigned by Clause 2.4 (*Security Assignment*), all its rights and interests in (and claims under) the Insurance Policies.

## **2.4 Security Assignment**

As further security for the payment of the Secured Obligations, the New Chargor assigns absolutely with full title guarantee to the Primary Security Agent all its rights, title and interest in the Insurance Policies (subject to reassignment by the Primary Security Agent to the New Chargor of all such rights, title and interest upon payment or discharge in full of the Secured Obligations).

## **2.5 Floating charge**

As further security for the payment of the Secured Obligations, the New Chargor charges with full title guarantee in favour of the Primary Security Agent (for the benefit of itself and the other Shared Collateral Creditors) by way of first floating charge all its present and future assets, undertakings and rights.

## **3. Implied Covenants for Title**

- 3.1 The covenants set out in Sections 3(1), 3(2) and 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to Clause 2 (Accession of New Chargor). It shall be implied in respect of Clause 2 (Accession of New Chargor) that the New Chargor is disposing of the Charged Property free from all charges and encumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment).

4. **CONSENT OF EXISTING CHARGORS**

The Chargors' Agent, on behalf of itself and the other existing Chargors, agrees to the terms of this Security Accession Deed and agrees that its execution will in no way prejudice or affect the security granted by each of the existing Chargors under (and covenants given by each of them in) the Debenture.

5. **NEGATIVE PLEDGE**

Clause 5 (*Negative Pledge*) of the Debenture shall be deemed to be incorporated in full in this Security Accession Deed.

6. **CONSTRUCTION OF DEBENTURE**

The Debenture and this deed shall be read together as one instrument on the basis that references in the Debenture to "this deed" or "this Debenture" will be deemed to include this Security Accession Deed.

7. **NOTICES**

The New Chargor confirms that its address details for notices in relation to Clause 23 (*Notices*) of the Debenture are as follows:

Address: [●]

Facsimile: [●]

Attention: [●]

8. **GOVERNING LAW**

This Security Accession Deed (and any dispute, controversy, proceedings or claims of whatever nature arising out of or in any way relating to this Security Accession Deed or its formation) and obligations of the Parties hereto and any matter, claim or dispute arising out of or in connection with this Security Accession Deed (including any non-contractual claims arising out of or in association with it) shall be governed by and construed in accordance with English law.

IN WITNESS whereof this Deed has been duly executed on the date first above written.

## SIGNATORIES TO DEED OF ACCESSION

### THE NEW CHARGOR

**EXECUTED as a DEED by**  
*[Name of New Chargor]* acting by:

[●] as Director: \_\_\_\_\_

Witness: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

#### Notice Details

Address: [●]

Facsimile: [●]

Attention: [●]

### THE CHARGORS' AGENT

**EXECUTED as a DEED by**  
**AVANTI COMMUNICATIONS GROUP PLC** acting by:

[●] as Director: \_\_\_\_\_

Witness: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

#### Notice Details

Address: [●]

Facsimile: [●]

Attention: [●]

**THE PRIMARY SECURITY AGENT**

**EXECUTED as a DEED by**

*[Name of Primary Security Agent]* acting by:

[●]as Authorised Signatory: \_\_\_\_\_

**Notice Details**

Address: [●]

Facsimile: [●]

Attention: [●]

Email: [●]

**SCHEDULES TO DEED OF ACCESSION**

**SCHEDULE 1**

**PROPERTIES**

[•]

**SCHEDULE 2**

**SHARES**

[•]

## SCHEDULE 6

### FORM OF DIRECTOR'S CERTIFICATE

To: The Bank of New York Mellon, London Branch as Primary Security Agent

[Date]

This director's certificate (this "Certificate") is delivered by [●] (the "Company") in connection with the debenture dated [●] 2013 (as amended, restated, supplemented or otherwise modified from time to time, the "Debenture") (undefined capitalised terms used herein shall have the meanings set forth in the Debenture) between, amongst others, the Company and The Bank of New York Mellon, London Branch as Primary Security Agent.

I, the undersigned, being a director of the Company hereby confirm and certify that (for and on behalf of the Company) as at the date of this certificate:

- (a) I am authorised by the Company to give this Certificate.
- (b) As at the date of this certificate the following copy documents relating to the Company are correct, complete and in full force and effect and have not been amended or superseded as at the date of this certificate the constitutional documents of the Company (attached to this certificate as Schedule 1);
- (c) Attached to this certificate in Schedule 2 is a list of names, together with true and correct specimens of the signatures, of each person authorised to:
  - (i) execute the [*insert description of release documents*] (the "Release Documents"); and
  - (ii) sign or send any document or notice in connection with the Release Documents; and
- (d) The release of Security over the Charged Property effected by the Release Documents would constitute a Permitted Release.

\_\_\_\_\_  
Director



**SIGNATORIES TO DEBENTURE**

**THE CHARGORS**

**EXECUTED as a DEED by**

**AVANTI COMMUNICATIONS GROUP PLC acting by:**

as Director: \_\_\_\_\_

Witness: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

PATRICK WILLCOCKS  
GENERAL COUNSEL GROUP &  
COMPANY SECRETARY  
AVANTI COMMUNICATIONS GROUP PLC  
COBHAM HOUSE 20 BLACKFRIARS LANE  
LONDON EC4V 6EB

**Notice Details**

Address: \_\_\_\_\_

Facsimile: +44 20 7749 1633

Attention: \_\_\_\_\_

**EXECUTED as a DEED by  
AVANTI BROADBAND LIMITED acting by:**

as Director: \_\_\_\_\_

Witness: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

PATRICK WILLCOCKS  
GENERAL COUNSEL GROUP &  
COMPANY SECRETARY  
AVANTI COMMUNICATIONS GROUP PLC  
COBHAM HOUSE 20 BLACKFRIARS LANE  
LONDON EC4V 6EB

**Notice Details**

Address: \_\_\_\_\_

Facsimile: +44 20 7749 1633

Attention: \_\_\_\_\_

**EXECUTED as a DEED by  
AVANTI COMMUNICATIONS LIMITED acting by:**

as Director: \_\_\_\_\_

Witness: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

PATRICK WILLCOCKS  
GENERAL COUNSEL GROUP &  
COMPANY SECRETARY  
AVANTI COMMUNICATIONS GROUP PLC  
COBHAM HOUSE 20 BLACKFRIARS LANE  
LONDON EC4V 6EB

**Notice Details**

Address: \_\_\_\_\_

Facsimile: +44 20 7749 1633

Attention: \_\_\_\_\_

**EXECUTED as a DEED by**  
**AVANTI SPACE LIMITED acting by:**

as Director: \_\_\_\_\_

Witness: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

PATRICK WILLCOCKS  
GENERAL COUNSEL GROUP &  
COMPANY SECRETARY  
AVANTI COMMUNICATIONS GROUP PLC  
COBHAM HOUSE 20 BLACKFRIARS LANE  
LONDON EC4V 6EB

**Notice Details**

Address: \_\_\_\_\_

Facsimile: +44 20 7749 1633

Attention: \_\_\_\_\_

**EXECUTED as a DEED by  
AVANTI HYLAS 2 LIMITED acting by:**

as Director: \_\_\_\_\_

Witness: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

**PATRICK WILLCOCKS  
GENERAL COUNSEL GROUP &  
COMPANY SECRETARY  
AVANTI COMMUNICATIONS GROUP PLC  
COBHAM HOUSE 20 BLACKFRIARS LANE  
LONDON EC4V 6EB**

**Notice Details**

Address: \_\_\_\_\_

Facsimile: +44 20 7749 1633

Attention: \_\_\_\_\_

**EXECUTED as a DEED by**  
**AVANTI COMMUNICATIONS MARKETING SERVICES LIMITED** acting by:

as Director: \_\_\_\_\_

Witness: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

**PATRICK WILLCOCKS**  
**GENERAL COUNSEL GROUP &**  
**COMPANY SECRETARY**  
**AVANTI COMMUNICATIONS GROUP PLC**  
**COBHAM HOUSE 20 BLACKFRIARS LANE**  
**LONDON EC4V 6EB**

**Notice Details**

Address: \_\_\_\_\_

Facsimile: +44 20 7749 1633

Attention: \_\_\_\_\_

**EXECUTED as a DEED by**  
**AVANTI COMMUNICATIONS INFRASTRUCTURE LIMITED** acting by:

as Director: \_\_\_\_\_

Witness: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

**PATRICK WILLCOCKS**  
**GENERAL COUNSEL GROUP &**  
**COMPANY SECRETARY**  
**AVANTI COMMUNICATIONS GROUP PLC**  
**COBHAM HOUSE 20 BLACKFRIARS LANE**  
**LONDON EC4V 6EB**

**Notice Details**

Address: \_\_\_\_\_

Facsimile: +44 20 7749 1633

Attention: \_\_\_\_\_

**EXECUTED as a DEED by**  
**AVANTI COMMUNICATIONS AFRICA INFRASTRUCTURE LIMITED acting by:**

as Director: \_\_\_\_\_

Witness: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

PATRICK WILLCOCKS  
GENERAL COUNSEL GROUP &  
COMPANY SECRETARY  
AVANTI COMMUNICATIONS GROUP PLC  
COBHAM HOUSE 20 BLACKFRIARS LANE  
LONDON EC4V 6EB

**Notice Details**

Address: \_\_\_\_\_

Facsimile: +44 20 7749 1633

Attention: \_\_\_\_\_



**THE PRIMARY SECURITY AGENT**

**EXECUTED as a DEED by**

**THE BANK OF NEW YORK MELLON, LONDON BRANCH** acting by its duly authorized signatory:



Michael Lee



**Notice Details**

**Address:**

The Bank of New York Mellon  
One Canada Square  
London E14 5AL

**Facsimile:** (+44)(0)20 7964 2536

**Attention:** CONVENTIONAL DEBT EMEA - TEAM 4

**Email:** CORP504@BNYMELLON.COM