



Registration of a Charge

Company name: **LIBERIS LIMITED**

Company number: **05654231**



X9KC7MA8

Received for Electronic Filing: **21/12/2020**

Details of Charge

Date of creation: **17/12/2020**

Charge code: **0565 4231 0010**

Persons entitled: **SILICON VALLEY BANK**

Brief description: **THE COMPANY CHARGES BY WAY OF FIRST FIXED CHARGE THE INTELLECTUAL PROPERTY (AS DEFINED IN THE INSTRUMENT) INCLUDING, WITHOUT LIMITATION, THE TRADE MARKS (I) LIBERIS WITH TRADE MARK NUMBER UK00003021416, (II) EASIPAYMENTS WITH TRADEMARK NUMBER UK00003287843 AND (III) LIBERIS GROUP WITH TRADE MARK NUMBER UK00003380912. FOR FURTHER INFORMATION, PLEASE SEE CLAUSE 6.8 AND SCHEDULE 1 OF THE INSTRUMENT.**

Contains fixed charge(s).

Contains floating charge(s) .

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: **PHILIP DOUGLAS ABBOTT**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 5654231

Charge code: 0565 4231 0010

The Registrar of Companies for England and Wales hereby certifies that a charge dated 17th December 2020 and created by LIBERIS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 21st December 2020 .

Given at Companies House, Cardiff on 22nd December 2020

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



Companies House



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

EXECUTION VERSION

Date: **17 December** **2020**

Liberis Limited

as Chargor

Silicon Valley Bank

as Bank

Charge over Intellectual Property Rights and Credit Balances

this document is registrable at the UK Companies Registry

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THIS DEED is made by way of deed the 17 day of December 2020

BETWEEN:

- (1) **LIBERIS LIMITED** (the "**Chargor**") a company registered in England and Wales with registration number 05654231 and whose registered office is at 11th Floor 1 Lyric Square, London, United Kingdom, W6 0NB; and
- (2) **SILICON VALLEY BANK**, (the "**Bank**") a California corporation, with its principal place of business at 3003 Tasman Drive, Santa Clara, California 95054, USA and with its United Kingdom branch located at Alphabeta, 14-18 Finsbury Square, London EC2A 1BR.

IT IS AGREED as follows:

1. Definitions and interpretation

1.1 Definitions

In this Deed:

"**Account**" means the corporate bank account of the Chargor with the Bank, the details of which are account number [REDACTED] and sort code [REDACTED] and any sub-account of that account, or any replacement of that account designated by the Bank as such;

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

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

"**Business Day**" means any day that is not a Saturday, Sunday or a day on which the Bank is closed for general business in London or the State of California;

"**Charged Intellectual Property**" means the intellectual property rights charged by this Deed as more particularly referred to in Clause 3.3 (*Intellectual Property*);

"**Collateral**" means the assets of the Chargor for the time being mortgaged, or charged (whether by way of fixed or floating charge) to the Bank or subject to any other security in favour of the Bank by or pursuant to this Deed;

"**Copyrights**" means all copyright rights, applications or registrations and like protections in each work or authorship or derivative work, whether published or not (whether or not it is a trade secret) now or later existing, created, acquired or held;

"**Default Rate**" has the meaning given to it in the Loan Agreement;

"**Event of Default**" means the events specified as such in Clause 21 (*Events of Default*) of the Loan Agreement;

"**Fixed Charge Assets**" means the assets of the Chargor charged by way of fixed charge or subject to any other security in favour of the Bank by or pursuant to Clause 3 (*Charges*) of this Deed;

"**Floating Charge Assets**" means the assets of the Chargor charged by way of floating charge to the Bank pursuant to Clause 3.4 (*Floating charge*);

"Intellectual Property" means any all subsisting intellectual property rights presently or in the future owned by the Chargor in any part of the world including the intellectual property specified in Schedule 1 (if any) and Patents and rights of a similar nature, applications for patents and such rights, divisions, prolongations, renewals, extensions, supplementary protection certificates and continuations of such applications for Patents, registered and unregistered trademarks, registered and unregistered service marks, registered and unregistered designs, utility models (in each case for their full period and all extensions and renewals of them), applications for any of them and the right to apply for any of them in any part of the world, inventions, processes, software, formulae, technology (whether patentable or not) data, drawings, specifications, business or trade secrets, technical information, confidential information, Know-how, business names, trade names, brand names, domain names, database rights, Copyrights and rights in the nature of database rights and copyright, design rights, get-up and any uniform resource identifier and any similar rights existing in any country and all legal equitable and other rights in any of them owned by the Chargor and the benefit (subject to the burden) of any and all agreements, arrangements and licences (where such agreements and licences permit the creation of security without prior consent) in connection with any of the foregoing;

"Know-how" means all the body of knowledge, technical experience, expertise and skills, technical processes, secret processes, formulae and technical information held by the Chargor and relating to its business, which is not in the public domain;

"Loan Agreement" means the working capital and term loan agreement dated on or about the date of this Deed between (i) the Bank, (ii) Liberis Guarantee Limited and Liberis Loans Limited (as original borrowers) and (iii) Liberis Guarantee Limited, Liberis Loans Limited, Liberis Holdings Limited, Liberis Finance Limited and the Chargor (as an original guarantors);

"Loan Documents" is defined in the Loan Agreement;

"Obligor" is defined in the Loan Agreement;

"Patents" means patents, patent applications and like protections, including improvements, divisions, continuations, renewals, reissues, extensions and continuations in part of the same;

"Permitted Security Interests" is defined in the Loan Agreement;

"Receiver" means a receiver or receiver and manager appointed by the Bank under this Deed;

"Secured Obligations" means all present and future monies, obligations and liabilities of each Obligor to the Bank under or in connection with the Loan Documents, in each case whether actual or contingent, and whether owed or incurred alone or jointly and/or severally with another and as principal or as surety or in any other capacity or of any nature;

"Security Period" means the period commencing on the date of this Deed and ending on the date upon which all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full; and

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

1.2 Terms defined in the Loan Agreement

Words or expressions defined in the Loan Agreement shall unless otherwise defined in this Deed or unless the context otherwise requires, have the same meaning when used in this Deed. In the

event of any conflict between the terms of this Deed and the terms of the Loan Agreement, this Deed will prevail.

1.3 Interpretation

Unless a contrary indication appears, any reference in this Deed to:

- (a) "**assets**" includes present and future properties, revenues and rights of every description;
- (b) the Bank, the Chargor, an Obligor or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- (c) the "**Charged Intellectual Property**", the "**Collateral**" or the "**Secured Obligations**" includes a reference to any part of them or it;
- (d) Clause and Schedule headings are for ease of reference only;
- (e) this "**Deed**", each "**Loan Document**", the "**Loan Agreement**" or any other agreement or instrument is a reference to this Deed, each Loan Document or that other agreement or instrument as amended, novated, supplemented, extended, restated (however fundamentally and whether or not more onerous) or replaced and includes any change in the purpose of, any extension of or any increase in, any facility under that Loan Document or other agreement or instrument;
- (f) the masculine gender includes the feminine and neuter genders and the singular includes the plural and vice versa;
- (g) a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
- (h) a provision of law is a reference to that provision as amended or re-enacted;
- (i) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation; and
- (j) "**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.

1.4 Effect as a Deed

It is intended that this Deed take effect as a deed notwithstanding the fact that the Bank may only execute this document under hand.

1.5 Intercreditor Agreement

This Deed is subject to the terms of the Intercreditor Agreement.

2. Covenant to pay

- (a) The Chargor covenants with the Bank that it will pay and discharge to the Bank the Secured Obligations on the due date and in the currency specified and otherwise in all respects in the manner provided in the Loan Agreement and in this Deed.
- (b) The sole recourse of the Bank to the Chargor under this Deed is to the Chargor's interest in the Collateral.
- (c) The total amount recoverable by the Bank from the Chargor in relation to the Secured Obligations under this Deed shall be limited to the amount realised from the disposal of the Collateral and satisfied only from the proceeds of sale or other disposal of the Collateral pursuant to this Deed.

3. Charges

3.1 General

All the security created under this Deed is created with full title guarantee in favour of the Bank as continuing security for the payment or discharge of the Secured Obligations.

3.2 Credit balances

The Chargor charges by way of first fixed charge the Account and the monies deposited in it and interest accruing and arrears and claims arising in respect of the Account.

3.3 Intellectual Property

The Chargor charges by way of first fixed charge the Intellectual Property.

3.4 Floating charge

- (a) The Chargor charges by way of first floating charge all the present and future Fixed Charge Assets.
- (b) Subject to paragraph 3.4(c) below, the Bank may by notice to the Chargor convert the floating charge created by paragraph (a) of this Clause 3.4 (*Floating charge*) (in this clause the "**floating charge**") into a fixed charge as regards all or any of the Chargor's assets specified in the notice at any time when the security created by this Deed is enforceable, or if the Bank has reasonable grounds for considering those assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process and the floating charge will in any event be converted to a fixed charge immediately if any subsequent floating charge is converted to a fixed charge or if an administrator is appointed in relation to the Chargor or the Bank receives notice of an intention to appoint an administrator in relation to the Chargor.
- (c)
 - (i) Subject to paragraph (ii) below, the Bank shall not be entitled to convert the floating charge into a fixed charge as a result only of a Chargor obtaining a moratorium or anything done with a view to obtaining a moratorium under Part A1 of the Insolvency Act 1986.
 - (ii) Paragraph (i) above does not apply to any floating charge referred to in section A52(4) of Part A1 of the Insolvency Act 1986.

3.5 Continuing security

The security from time to time created by or pursuant to this Deed shall:

- (a) be in addition to and independent of every bill, note, guarantee, or other security which the Bank may at any time hold for the Secured Obligations and no prior or other security held by the Bank over the Collateral shall merge in the security created by or pursuant to this Deed; and
- (b) remain in full force and effect as a continuing security until the end of the Security Period.

4. Restrictions on dealing

4.1 Negative pledge

The Chargor shall not at any time without the prior written consent of the Bank (and to the intent that any purported dealing in contravention of this Clause 4.1 (*Negative pledge*) shall be void and of no effect):

- (a) create, or purport to create, extend or permit to subsist any security over any of its undertaking or assets whether in any such case ranking in priority to or pari passu with or after the security created by the Chargor under this Deed or any other security of the Bank created pursuant to this Deed other than the Permitted Security Interests or as may be permitted by the Intercreditor Agreement; or
- (b) sell, transfer, lease, lend or otherwise dispose of whether by means of one or a number of transactions related or not and whether at one time or over a period of time, the whole or any part of the Collateral or enter into an agreement for sale, transfer, lease, loan or other disposal of the whole or any such part of the Collateral other than:
 - (i) as permitted by the Loan Agreement; or
 - (ii) a sale, transfer, lease or other disposal on arm's length terms in the ordinary course of trading of the Chargor of any Floating Charge Assets.

5. Perfection of the Bank's security

5.1 Further assurance

- (a) The Chargor shall from time to time during the Security Period, whenever reasonably requested by the Bank and at the Chargor's cost, execute in favour of the Bank, or as it may direct, such further or other legal assignments, transfers, mortgages, legal or other charges or securities as in each such case the Bank shall reasonably stipulate over the Chargor's estate or interest in any property or assets of whatever nature or tenure and wherever situate and forming part of the Collateral for perfecting the security intended to be created by this Deed and (at any time when this Deed is enforceable) for facilitating the realisation of the Collateral created or intended to be created under this Deed.
- (b) Without prejudice to the generality of paragraph (a) above, such assignments, transfers, mortgages, legal or other charges, or securities shall be in such form as shall be prepared in reasonable terms on behalf of the Bank containing provisions such as those contained in this Deed or provisions to similar effect and/or such other consistent

provisions of whatever kind as the Bank shall reasonably consider requisite for the perfection of the security created or intended to be created by or pursuant to this Deed.

5.2 Notices to third parties

The Chargor shall from time to time during the Security Period as requested by the Bank deliver any notices to any third party having rights or liabilities in or to any of the Collateral which the Bank considers material and will use reasonable endeavours to procure the issue by such third party of acknowledgements required by the Bank.

6. Undertakings by the Chargor

The Chargor shall at all times during the Security Period comply with the undertakings contained in this Clause 6 (*Undertakings by the Chargor*).

6.1 Information

The Chargor shall provide the Bank, its employees, professional advisers and agents with all such information respecting the Chargor's business and affairs as the Bank may reasonably from time to time require subject always to the Bank adhering to its duty of confidentiality (including, without limitation, pursuant to Clause 31 (*Confidentiality*) of the Loan Agreement) in respect of such information.

6.2 Pay outgoings

The Chargor shall punctually pay or cause to be paid all rents, rates, taxes, duties, assessments and other outgoings payable in respect of the Collateral.

6.3 Indemnity against outgoings

The Chargor shall indemnify the Bank (and as a separate covenant any Receiver or administrator appointed by it) against all existing and future rents, taxes, duties, fees, renewal fees, charges, assessments, impositions and outgoings whatsoever (whether imposed by deed or statute or otherwise and whether in the nature of capital or revenue and even though of a wholly novel character) which now or at any time during the Security Period are payable by the Chargor, the Bank and/or any Receiver or administrator appointed by it in respect of the Collateral or by the owner or occupier of the Collateral. If any such sums as are referred to in this Clause 6.3 (*Indemnity against outgoings*) shall be paid by the Bank (or any such Receiver or administrator) the same shall be repaid by the Chargor on demand with interest from the time or respective times of the same having been paid at the Default Rate.

6.4 Comply with statutory provisions

The Chargor shall comply or cause compliance in all respects with all applicable laws and regulations (whether domestic or foreign) for the time being in force and requirements of any competent authority relating to the Collateral save where any non-compliance would have no prejudicial effect on the value of the Collateral, and in particular (but without limitation) shall observe and perform or cause to be observed and performed all permissions, agreements and conditions to which the Collateral is subject, and before the Chargor serves any discretionary notices the Chargor will obtain the Bank's consent (not to be unreasonably withheld or delayed).

6.5 VAT

The Chargor shall not without the prior written consent of the Bank exercise any option to waive exemption from VAT in relation to the Collateral and shall give to the Bank on demand all such details of the Chargor's registration for VAT purposes as the Bank shall require.

6.6 Supply details of notices received

The Chargor shall give full particulars to the Bank of any notice or order or proposal for a notice or order made, given or issued to the Chargor under or by virtue of any statute, within fourteen days of receipt of such notice, order or proposal by the Chargor and, if so required by the Bank, shall produce such notice, order or proposal to the Bank or its agents and also as soon as practicable take all reasonable and necessary steps to comply with any such notice, order or proposal or (if required to do so by the Bank) to join with the Bank at the cost of the Chargor in making such representation or appeals as the Bank may deem fit in respect of any such notice, order or proposal and (without limitation) at all times during the Security Period to give to the Bank or its agents such information as they shall reasonably require as to all matters relating to the Collateral.

6.7 Notify material matters

The Chargor shall notify the Bank of any matters materially affecting the value, enforceability or collectability of the Collateral and of all material disputes, counterclaims, returns and rejections by or of customers of the Chargor.

6.8 Intellectual property

- (a) The Chargor shall maintain, protect and preserve the Charged Intellectual Property and all necessary certificates, licences, permits and authorisations from time to time required in relation to the Charged Intellectual Property and otherwise comply with the provisions of Clause 19.4 (*Intellectual Property rights*) of the Loan Agreement.
- (b) The Chargor shall if requested to do so by the Bank, make entries in any public register of any Intellectual Property rights (of any nature) comprised in the Collateral which either record the existence of this Deed or the restrictions on disposal imposed by this Deed.

6.9 Not to jeopardise the Collateral

The Chargor shall not do or cause or permit to be done anything which may materially depreciate, jeopardise or otherwise prejudice the value to the Bank of the Collateral.

6.10 COMI

The Chargor shall maintain its "centre of main interests" as defined in, and for the purposes of, Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast) ("**Recast Insolvency Regulation**"), in the United Kingdom and the Chargor has no "establishment" (as that term is defined in Article 2(10) of the Recast Insolvency Regulation) in any other jurisdiction.

7. When security becomes enforceable

7.1 Timing

The security created by this Deed shall, for all purposes, be immediately enforceable:

- (a) at any time when an Event of Default is continuing; or
- (b) if the Chargor requests the Bank to exercise any of its powers under this Deed.

7.2 Enforcement

After this security created by this Deed is enforceable, the Bank may in its absolute discretion enforce all or any part of the security created by this Deed in any manner it sees fit.

8. Enforcement of security

8.1 Power of sale

- (a) At any time when the security created by this Deed is enforceable, the Bank may exercise the power of sale and all other rights, powers and discretions conferred on mortgagees by section 101 of the Act as varied or extended by this Deed.
- (b) Section 103 of the Act shall not restrict the exercise by the Bank of the statutory power of sale conferred on it by section 101 of the Act, which power shall arise and may be exercised by the Bank immediately upon the security created by this Deed becoming enforceable and at any time thereafter, and the provisions of the Act relating to and regulating the exercise of the statutory power of sale shall, so far as they relate to the security created by or pursuant to this Deed, be varied and extended accordingly.

8.2 Other powers of Bank

In addition to any other power conferred on the Bank by this Deed, at any time when the security created by this Deed is enforceable, any right, power or discretion conferred or which may be conferred on a Receiver by or pursuant to this Deed may be exercised by the Bank in relation to any of the Collateral without first appointing a Receiver or notwithstanding the appointment of a Receiver.

8.3 Consolidation of mortgages

The restriction on the right of consolidating mortgage securities contained in section 93 of the Act shall not apply to this Deed.

9. Appointment of Receiver or administrator

9.1 Timing of appointment

At any time after having been requested so to do by the Chargor or at any time when the security created by this Deed is enforceable, the Bank may appoint one or more persons to be a Receiver or Receivers of the whole or any part of the Collateral or an administrator or administrators of the Chargor, in each case in accordance with and to the extent permitted by applicable laws. The Bank may:

- (a) remove any Receiver previously appointed; and
- (b) appoint another person or other persons as Receiver or Receivers, either in the place of a Receiver so removed or who has otherwise ceased to act or to act jointly with a Receiver or Receivers previously appointed.

9.2 Joint Receivers

If at any time and by virtue of any such appointment(s) any two or more persons shall hold office as Receivers of the same assets or income, each one of such Receivers shall be entitled (unless the contrary shall be stated in any deed or other instrument appointing them) to exercise all powers and discretions conferred by this Deed or by law on Receivers individually and to the exclusion of the other or others of them.

9.3 Form of appointment and removal

Every such appointment or removal, and every delegation, appointment or removal by the Bank in the exercise of any right to delegate its power or to remove delegates contained in this Deed, may be made either by deed or by instrument in writing under the hand of any officer of the Bank or any person authorised in writing by any such officer or, in the case of an administrator or administrators by notice of appointment in the prescribed form, or by any other effective means.

9.4 Powers of Receiver – statutory

Every Receiver for the time being holding office by virtue of an appointment made by the Bank under this Deed shall (subject to any limitations or restrictions expressed in the deed or other instrument appointing him but notwithstanding any winding-up or dissolution of the Chargor) have, in relation to the Collateral, or as the case may be, that part of the Collateral in respect of which he was appointed:

- (a) all the powers (as varied and extended by this Deed) conferred by the Act on mortgagors and on mortgagees in possession and receivers appointed under the Act; and
- (b) power in the name or on behalf and at the cost of the Chargor to exercise all powers and rights of an absolute owner and do or omit to do anything which the Chargor itself could do.

9.5 Powers of Receiver – specific

In addition and without prejudice to the generality of the foregoing or any other provision of this Deed, every Receiver shall (notwithstanding any winding-up or dissolution of the Chargor) have the following powers:

- (a) Take possession

power to take possession of, collect and get in all or any part of the Collateral and for that purpose to make, or to require the directors of the Chargor to make, calls upon the holders of the Chargor's share capital in respect of any such capital of the Chargor which remains uncalled and to enforce payment of calls so made and any previous unpaid calls by taking proceedings in the name of the Chargor or by his own name;
- (b) Carry on business

power to carry on, manage, develop, amalgamate, reconstruct or diversify the whole or any part of the Chargor's business, including the power where the Chargor has one or more subsidiaries of supervising, controlling and financing such subsidiary or subsidiaries (inclusive of any bodies corporate as are referred to in paragraph (d) below) and its or their business or businesses and the conduct of such business or businesses;

(c) Sell assets

power to sell or assign the Collateral in such manner and generally upon such terms and conditions as he thinks fit and to convey or transfer the same in the name of the Chargor;

(d) Form subsidiaries

power to promote, or subscribe for or otherwise acquire the share capital of any body corporate with a view to such body corporate becoming a subsidiary of the Chargor and purchasing, leasing or otherwise acquiring an interest in the Collateral or carrying on any business in succession to the Chargor or any subsidiary of the Chargor;

(e) Severance

power to sever and sell separately from the Collateral all or any fixed plant and machinery and other fixtures and fittings comprised in the Collateral;

(f) Improve, develop or repair

power to alter, improve, develop, complete, construct, modify, refurbish or repair any building or land and to complete or undertake or concur in the completion or undertaking (with or without modification), of any project in which the Chargor was concerned or interested prior to his appointment being a project for the alteration, improvement, development, completion, construction, modification, refurbishment or repair of any building or land;

(g) No statutory restriction on sale etc.

power to sell, lease or otherwise dispose of or concur in selling, leasing, accepting surrenders or otherwise disposing of the Collateral without the restriction imposed by section 103 of the Act or the need to observe any of the restrictions or other provisions of sections 99 or 100 of the Act and upon such terms as he shall think fit;

(h) Method of sale or disposal

power to carry any sale, lease or other disposal of any land or buildings and other property and assets into effect by conveying, transferring, assigning or leasing in the name of the Chargor and for that purpose to enter into covenants and other contractual obligations in the name of and so as to bind the Chargor;

(i) Consents and licences

power to apply for and obtain any appropriate Authorisation in relation to the Collateral, its use or development;

(j) Chargor's name

power to use the Chargor's name for registration and to effect any necessary election for tax or other purposes;

(k) Compromise

power to make any arrangement or compromise or settlement of claims or enter into any contracts or arrangements as he shall think fit;

- (l) Insurances

power to effect and renew insurances;
- (m) Proceedings

power to take or defend proceedings in the name of the Chargor including proceedings for the compulsory winding-up of the Chargor and proceedings for directions under section 35(1) of the Insolvency Act 1986 and power to settle and compromise any proceedings;
- (n) Employees

power to employ, engage and appoint such managers, agents, servants and other employees and professional advisers on such terms as he shall think fit including without limitation power to engage his own firm in the conduct of the receivership;
- (o) Borrow money

power to raise or borrow money from the Bank or any other person to rank for payment in priority to the security created by or pursuant to this Deed and with or without a mortgage or mortgage debenture on the Collateral;
- (p) Protection of assets

power to make and effect all repairs and insurances and do all other acts which the Chargor might do in the ordinary conduct of its business as well for the protection as for the improvement of the Collateral and to commence and/or complete any building operations on the Collateral and to apply for and maintain any planning permissions, building regulation approvals and any other permissions, consents or licences, in each case as he may in his absolute discretion think fit;
- (q) Leases

power to let the Collateral for such term and at such rent (with or without a premium) as he may think proper and to accept a surrender of any lease or tenancy of the Collateral on such terms as he may think fit (including the payment of money to a lessee or tenant on a surrender);
- (r) Receipts

power to give valid receipts for all monies and execute all assurances and things which may be proper or desirable for realising the Collateral; and
- (s) General powers

power to do all such other things as may seem to the Receiver to be incidental or conducive to any other power vested in him or to be conducive to the realisation of the security created by or pursuant to this Deed.

9.6 Receiver as agent

Every Receiver shall be deemed at all times and for all purposes to be the agent of the Chargor which shall be solely responsible for his acts and defaults and liable on any contracts or

engagements made or entered into by him and for the payment of his remuneration. The Bank shall not be responsible for his misconduct, negligence or default.

9.7 Receiver's remuneration

Every Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Bank (or, failing such agreement, to be fixed by the Bank) appropriate to the work and responsibilities involved upon the basis of charging from time to time adopted in accordance with his current practice or the current practice of his firm and without being limited to the maximum rate specified in section 109(6) of the Act. The amount of such remuneration may be debited by the Bank to the Chargor, but shall in any event form part of the Secured Obligations.

9.8 Monies actually received

Only monies actually paid by the Receiver or administrator to the Bank in satisfaction or discharge of the Secured Obligations and unconditionally and irrevocably retained by the Bank shall be capable of being applied by the Bank in satisfaction of the Secured Obligations.

9.9 Receiver's indemnity

The Chargor agrees to indemnify and hold harmless the Receiver from and against all actions, claims, expenses, demands and liabilities (save where the same is due to gross negligence or wilful misconduct of the Receiver) whether arising out of contract or tort or in any other way incurred or which may at any time be incurred by him or by any manager, agent, servant or other employee for whose debt, default or miscarriage he may be answerable for anything done or omitted to be done in the exercise or purported exercise of his powers under the provisions of, or pursuant to, this Deed.

10. Other matters relating to enforcement

10.1 Consideration on disposal

- (a) In making any sale or other disposal of any of the Collateral in the exercise of their respective powers (including a disposal by the Receiver to any such subsidiary as is referred to in paragraph (d) of Clause 9.5 (*Powers of Receiver - Form subsidiaries*)) the Receiver or the Bank may accept, by way of consideration for such sale or other disposal, cash, shares, loan capital or other obligations, including without limitation consideration fluctuating according to or dependent upon profit or turnover and consideration the amount of which is to be determined by a third party.
- (b) Any such consideration may be receivable in a lump sum or by instalments and upon receipt by the Receiver shall automatically be and become charged with the payment of the Secured Obligations.
- (c) Any contract for any such sale or other disposal by the Receiver or the Bank may contain conditions excluding or restricting the personal liability of the Receiver or the Bank.

10.2 Application of proceeds

All monies received by the Bank or any Receiver or administrator appointed under this Deed shall (subject to the rights and claims of any person having a security ranking in priority to the

security created by or pursuant to this Deed, or as otherwise required by law) be applied in the following order:

- (a) in the payment of or provision for all costs, charges and expenses incurred and payments made by the Bank and in the payment of all costs, charges and expenses of and incidental to the Receiver's or (as the case may be) administrator's appointment and the payment of his remuneration;
- (b) in the payment and discharge of any liabilities incurred by the Receiver or administrator on the Chargor's behalf in the exercise of any of the powers of the Receiver or administrator;
- (c) in providing for the matters (other than the remuneration of the Receiver or administrator) specified in the first three paragraphs of section 109(8) of the Act;
- (d) in or towards payment of any debts or claims which are by statute payable in preference to the Secured Obligations but only to the extent to which such debts or claims have such preference;
- (e) in or towards the satisfaction of the Secured Obligations,

and any surplus shall be paid to the Chargor or other person entitled to it.

10.3 Section 109 of the Act

The provisions of Clause 10.2 (*Application of proceeds*) and of Clause 9.7 (*Receiver's remuneration*) shall take effect as and by way of variation and extension to the provisions of section 109 of the Act, which provisions as so varied and extended shall be deemed incorporated in this Deed.

10.4 Right of appropriation

To the extent that the Collateral constitutes "financial collateral" and this Deed and the obligations of the Chargor under it constitute a "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No.2) Regulations 2003 (SI 2003 No. 3226) or (where the context admits) equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial collateral arrangements), the Bank and each Receiver shall have the right at any time when the security created by this Deed is enforceable to appropriate all or any part of such financial collateral in or towards satisfaction of the Secured Obligations. For the purposes of this Clause 10.4 (*Right of appropriation*) the value of the financial collateral appropriated shall be such amount as the Bank or the Receiver determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.

11. No liability as mortgagee in possession

The Bank shall not, nor shall any Receiver, by reason of it or such Receiver entering into possession of the Collateral be liable to account as mortgagee in possession or be liable for any loss on realisation or for any default or omission which a mortgagee in possession might be liable except for its gross negligence or wilful misconduct.

12. Expenses**12.1 Expenses of preservation and enforcement**

All costs, charges and expenses incurred and all payments made by the Bank or any Receiver or administrator appointed under this Deed in the preservation of any rights under this Deed or in the lawful exercise of the rights or powers conferred by this Deed or by law or in the enforcement of any guarantee in respect of the Secured Obligations, whether or not occasioned by any act, neglect or default of the Chargor, shall carry interest (both before and after judgment) at the Default Rate from the date incurred until the date the same are unconditionally and irrevocably paid and discharged in full.

12.2 Interest

The amount of such costs, charges, expenses and payments and interest referred to in Clause 12.1 (*Expenses of preservation and enforcement*) and all remuneration payable under this Deed shall be payable by the Chargor on demand. All such costs, charges, expenses and payments shall be paid and charged as between the Bank and the Chargor on the basis of a full indemnity and not on the basis of party and party or any other kind of taxation.

12.3 Indemnity

The Bank and every Receiver, administrator, attorney, manager, agent or other person appointed by the Bank under this Deed shall be entitled to be indemnified out of the Collateral in respect of all liabilities and expenses properly incurred by them in the execution or purported execution of any of the powers, authorities or discretions vested in them pursuant to this Deed and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the Collateral and the Bank and any such Receiver or administrator may retain and pay all sums in respect of the same out of any monies received under the powers conferred by this Deed.

12.4 Stamp duties

The Chargor shall pay and, immediately on demand, indemnify the Bank against any liability it incurs in respect of any stamp, registration and similar tax or duty which is or becomes payable in connection with the entry into, performance or enforcement of this Deed.

13. Power of Attorney**13.1 Appointment and powers**

The Chargor, by way of security, irrevocably appoints:

- (a) the Bank;
- (b) each and every person whom the Bank shall from time to time nominate in writing under the hand of any officer of the Bank;
- (c) each and any Receiver for the time being holding office as such; and
- (d) each and any administrator appointed by the Bank and for the time being holding office as such,

jointly and also severally its attorney and attorneys for it and in the name of the Chargor and otherwise on its behalf and as its act and deed to sign, seal, execute, deliver, perfect and do all

deeds, instruments, acts and things which may be reasonably required (or which the Bank or any such Receiver or administrator shall reasonably consider requisite) for carrying out any obligation imposed on the Chargor by or pursuant to this Deed or the Loan Agreement (including but not limited to the obligations of the Chargor under Clause 5.1 (*Further assurance*) and the statutory covenant referred to in such Clause), for carrying any sale, lease or other dealing by the Bank or such Receiver or administrator into effect, for conveying or transferring any legal estate or other interest in land or other property or asset, for getting in the Collateral, to endorse the Chargor's name on cheques and other forms of payment or security, to sign the Chargor's name on any invoice or bill of lading or draft and generally for enabling the Bank and the Receiver or administrator to exercise the respective powers conferred on them by or pursuant to this Deed or by law provided that the power conferred by this Clause 13.1 (*Appointment and powers*) shall be immediately exercisable at any time when the security constituted by this Deed is enforceable and not otherwise.

13.2 Delegation

The Bank shall have full power to delegate the power conferred on it by Clause 13.1 (*Appointment and powers*), but no such delegation shall preclude the subsequent exercise of such power by the Bank itself or preclude the Bank from making a subsequent delegation to some other person; and any such delegation may be revoked by the Bank at any time.

13.3 Ratification

The Chargor shall ratify and confirm all transactions entered into by the Bank or such Receiver or administrator or delegate of the Bank in the exercise or purported exercise of their respective powers and all transactions entered into, documents executed and things done by any of them by virtue of the power of attorney given by Clause 13.1 (*Appointment and powers*).

13.4 Expenses

All money properly and reasonably expended by any such attorney shall be deemed to be expenses incurred by the Bank under this Deed.

14. Protection of purchasers

No purchaser or other person dealing with the Bank or its delegate or any Receiver or administrator appointed under this Deed shall be bound to see or inquire whether the right of the Bank or such Receiver or administrator to exercise any of its or his powers has arisen or become exercisable or be concerned with notice to the contrary, or be concerned to see whether any such delegation by the Bank shall have lapsed for any reason or been revoked.

15. Subsequent charges

If the Bank receives, or is deemed to be affected by, notice, whether actual or constructive, of any subsequent security or other interest affecting any Collateral and/or the proceeds of sale of any Collateral, the Bank may open a new account for the Chargor. If the Bank does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice. As from that time all payments made to the Bank will be credited or be treated as having been credited to the new account and will not operate to reduce any amount for which this Deed is security.

16. Redemption of prior mortgages

The Bank may, at any time when the security created by this Deed is enforceable, redeem any prior security against the Collateral or procure the transfer of such prior security to itself and may settle and pass the accounts of the prior security holder. Any accounts so settled and passed shall be conclusive and binding on the Chargor. All principal monies, interest, costs, charges and expenses of, and incidental to, such redemption and transfer shall be paid by the Chargor to the Bank on demand.

17. Set-off**17.1 Consolidation of accounts**

In addition to any general lien or similar right which it may be entitled to exercise at any time under any contract or arrangement with the Chargor or by operation of law, the Bank shall have the right at any time when the security created by this Deed is enforceable without notice to the Chargor to combine or consolidate all or any of the Chargor's then existing accounts opened pursuant to this Deed or otherwise with the Bank with any liabilities of the Chargor to the Bank and to set off or transfer any sum or sums standing to the credit of any one or more of such accounts in or towards satisfaction of any of the liabilities of the Chargor to the Bank on any other such account or in any other respect. The liabilities referred to in this Clause 17.1 (*Consolidation of accounts*) may be actual, contingent, primary, collateral, several or joint liabilities, and the accounts, sums and liabilities referred to in this Clause may be denominated in any currency.

17.2 Set-off

In addition to any right which it may be entitled to exercise at any time under any contract or arrangement with the Chargor or by operation of law, at any time when this Deed is enforceable the Bank may set off any Secured Obligations due and payable by the Chargor against any obligation (whether or not matured) owed by the Bank to the Chargor regardless of the place of payment or currency of either obligation. If the obligations are in different currencies, the Bank may convert any obligation in the manner provided in Clause 19 (*Currency*).

18. Payments**18.1 Manner of payment**

All payments to be made by the Chargor under this Deed shall be made in the same currency in which the relevant Secured Obligations are expressed to be payable.

18.2 Appropriation of payments

The Bank shall have an absolute and unfettered right to appropriate any payments received from the Chargor to such indebtedness of the Chargor under the Loan Documents as the Bank may determine, to the exclusion of any right on the part of the Chargor to make an appropriation in respect of such payments.

19. Currency**19.1 Currency indemnity**

If any sum due from the Chargor under this Deed (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:

- (a) making or filing a claim or proof against the Chargor; or
- (b) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Chargor shall as an independent obligation, within three Business Days of demand, indemnify the Bank against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (i) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (ii) the rate or rates of exchange available to the Bank at the time of its receipt of that Sum.

19.2 Waiver

The Chargor waives any right it may have in any jurisdiction to pay any amount under this Deed in a currency other than that in which it is expressed to be payable.

20. Suspense account

For so long as any of Secured Obligations is outstanding, all monies received, recovered or realised by the Bank under this Deed (including the proceeds of any conversion of currency) may in the discretion of the Bank be credited to an interest bearing suspense or impersonal account and may be held in such account for so long as the Bank may think fit.

21. The Bank's remedies**21.1 Effect of release**

Any receipt, release or discharge of the security provided by, or of any liability arising under, this Deed shall not release or discharge the Chargor from any liability to the Bank for the same or any other liability which may exist independently of this Deed.

21.2 Arrangements with third parties

The Bank may in its discretion grant time or other indulgence, or make any other arrangement, variation or release with, any person or persons not party to this Deed (whether or not such person or persons are jointly liable with the Chargor) in respect of any of the Secured Obligations or of any other security for, or guarantee in respect of, the Secured Obligations, without prejudice either to the security created by or pursuant to this Deed or to the liability of the Chargor for the Secured Obligations or the exercise by the Bank of any rights, remedies and privileges conferred upon it by this Deed.

21.3 Rights cumulative

The rights, powers and remedies provided in this Deed are cumulative and are not, nor are they to be construed as, exclusive of any rights, powers or remedies provided by law, or under any other document or agreement.

21.4 Waiver

No failure by the Bank to exercise, or delay in exercising, any right or remedy provided by this Deed or by law, shall operate as a waiver of such right or remedy, nor shall any single or partial waiver of any right or remedy preclude any further or other exercise of that right or remedy or the exercise of any other such right or remedy.

21.5 Costs

All the costs, charges and expenses (in the case of legal fees, subject to any agreed cap) of the Bank properly incurred in relation to the negotiation, preparation, printing, execution, registration and perfection of this Deed shall be reimbursed by the Chargor to the Bank within five Business Days of demand on a full indemnity basis and unless so paid shall carry interest from the date incurred to the date of reimbursement at the Default Rate.

21.6 Insolvency relation back

- (a) Any settlement or discharge between the Bank and the Chargor shall be conditional upon no security of, or payment to, the Bank (whether by the Chargor or otherwise) being avoided or reduced or required to be paid away by virtue of any requirement (whether or not having the force of law) or enactment, whether relating to bankruptcy, insolvency, liquidation, administration or otherwise, at any time in force or by virtue of any obligation to give effect to any preference or priority and the Bank shall be entitled to recover the value or amount of any such security or payment from the Chargor as if such settlement or discharge had not occurred.
- (b) If the Bank reasonably considers that an amount paid by the Chargor (or any other person) to the Bank under any contract or agreement giving rise to, concerning or securing the Secured Obligations is capable of being avoided or set aside on the winding-up or administration of the Chargor or such other person or otherwise then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.

22. Provisions severable

Every provision contained in this Deed shall be severable and distinct from every other provision and if at any time any one or more of such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining such provisions shall not in any way be affected.

23. The Bank's discretion

Subject to any provision expressly to the contrary and subject to any duty imposed by general law, any power which may be exercised or any determination which may be made under this Deed by the Bank may be exercised or made in the absolute and unfettered discretion of the Bank.

24. Certificates

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

25. Assignment

- (a) The Bank shall be entitled at any time to assign all or any of its rights and benefits under this Deed to any person to whom the rights and benefits of the Bank under the Loan Agreement are assigned or transferred in accordance with its terms and this Deed shall remain in full force and effect after, and shall continue to secure the Secured Obligations after and resulting from, any such assignment or transfer.
- (b) The Chargor shall enter into any documents specified by the Bank to be necessary to give effect to any assignment or transfer contemplated by paragraph (a) of this Clause 25 (*Assignment*).
- (c) The Bank may disclose such information about the Chargor and the assets as the Bank thinks fit to a potential assignee or transferee of all or any part of its rights under this Deed, or to any person who may otherwise enter into contractual relations with the Bank in relation to any of the Secured Obligations, or to any person to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation, or to any person at any time when the security created by this Deed is enforceable or the disclosure is in connection with the protection or enforcement of the Bank's rights under this Deed.
- (d) The Chargor may not assign or transfer all or any part of its rights and/or obligations under this Deed.

26. Release

Upon the expiry of the Security Period (but not otherwise), the Bank will, at the request and cost of the Chargor, take whatever action is necessary to release the Collateral from the security created by this Deed.

27. Third party rights

Unless expressly provided to the contrary in this Deed, a person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed. Notwithstanding any provision of this Deed, the consent of any person who is not a party to this Deed is not required to rescind or vary this Deed at any time.

28. Counterparts

This Deed may be executed in any number of counterparts and by the different parties on separate counterparts and this will have the same effect as if the signatures on the counterparts were on a single copy of this Deed and each such counterpart shall be treated as an original.

29. Notices

Any notice or other communication to be made under or in connection with this Deed or by applicable law shall be made as provided in the Loan Agreement.

30. Governing law and jurisdiction**30.1 Governing law**

This Deed and any non-contractual obligations arising out of or in connection with it shall (save to the extent expressly stated to the contrary) be governed by English law..




30.2 Jurisdiction

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a "**Dispute**").
- (b) The parties to this Deed agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.
- (c) This Clause 30.2 (*Jurisdiction*) is for the benefit of the Bank only. As a result, the Bank shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Bank may take concurrent proceedings in any number of jurisdictions.

EXECUTED as a **DEED** and delivered on the date stated at the beginning of this document.

Schedule 1

Details of Intellectual Property

Trade Mark	Trade Mark Number	Territory
LIBERIS	013166483	EU
LIBERIS	UK00003021416	UK
	UK00003253274	UK
	UK00003022740	UK
EASIPAYMENTS	UK00003287843	UK
	UK00003306571	UK
LIBERIS GROUP	UK00003380912	UK
LIBERIS GROUP	018033000	EU
LIBERIS	6038411	US
	UK00003416808	UK
	EU018099815	EU
	UK00003416804	UK
	EU018099814	EU

The Chargor

EXECUTED as a **DEED** by **LIBERIS LIMITED** acting by two directors:

.....

Signature of director

.....

Signature of director

The Bank

EXECUTED as a **DEED** on behalf of **SILICON VALLEY BANK** a **California corporation**, by..... **Michaela Brady**....., being a person who, in accordance with the laws of that territory, is acting under the authority of the corporation:

.....

..... Authorised signatory