



Registration of a Charge

Company name: **AVANTI COMMUNICATIONS GROUP PLC**

Company number: **06133927**



X94E14QQ

Received for Electronic Filing: **05/05/2020**

Details of Charge

Date of creation: **29/04/2020**

Charge code: **0613 3927 0020**

Persons entitled: **THE BANK OF NEW YORK MELLON, LONDON BRANCH (AS SECURITY TRUSTEE FOR ITSELF AND THE SHARED COLLATERAL CREDITORS)**

Brief description:

Contains fixed charge(s).

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: **MILBANK LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 6133927

Charge code: 0613 3927 0020

The Registrar of Companies for England and Wales hereby certifies that a charge dated 29th April 2020 and created by AVANTI COMMUNICATIONS GROUP PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 5th May 2020 .

Given at Companies House, Cardiff on 6th May 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**

DATED: 29 April 2020

AVANTI COMMUNICATIONS GROUP PLC

as Grantor

and

THE BANK OF NEW YORK MELLON, LONDON BRANCH

as Primary Security Agent and secured party

SECOND SUPPLEMENTAL SECURITY INTEREST AGREEMENT

in relation to the capital of Avanti Communications Jersey Limited

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THIS AGREEMENT is made the 29 day of April 2020

BETWEEN:

- (1) **AVANTI COMMUNICATIONS GROUP PLC** a limited liability company incorporated in England and Wales with registration number 06133927, with its registered office at Cobham House, 20 Black Friars Lane, London EC4V 6EB (the "**Grantor**"); and
- (2) **THE BANK OF NEW YORK MELLON, LONDON BRANCH**, as security trustee for each of the Shared Collateral Creditors (in such capacity, the "**Primary Security Agent**").

WHEREAS:

- (A) The Grantor and the Primary Security Agent entered into the Existing Security Interest Agreements, which created security interests over the Collateral under the Law, in connection with the 1.5 Lien Credit Agreement and the Super Senior Facility Agreement (both as defined below).
- (B) The Grantor and the Primary Security Agent enter into this Agreement in connection with the Amended and Restated Credit Agreement (as defined below), for the purposes of creating supplemental security interests over the Collateral under the Law, and intend this Agreement to be a security agreement for the purposes of the Law.

IT IS HEREBY AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, unless the context otherwise requires:

"1.5 Lien Credit Agreement"	means the New York law governed 1.5 lien credit agreement between, among others, the Grantor (as borrower) and the Primary Security Agent (as primary security agent) dated 24 May 2019;
"advance"	has the meaning given to that word in Article 33(4) of the Law;
"Affected Securities"	means the Securities which from time to time comprise or are included in the Collateral;
"after-acquired property"	has the meaning given to that expression in the Law and includes future collateral as referred to in Article 18(2)(c) and (d) of the Law;
"this Agreement"	extends to every separate and independent stipulation contained herein and includes the Recitals and Schedule and any amendment, variation, supplement, replacement, restatement or

novation which is for the time being in effect;

"Amended and Restated Credit Agreement" means the amended and restated credit agreement dated on or about the date of this agreement between, amongst others, the Grantor, the Company (as borrower) and the Lenders (as defined therein) pursuant to which the 1.5 Lien Credit Agreement is amended and restated;

"Amended Intercreditor Agreement" means the Intercreditor Agreement as amended on 24 May 2019 and made between, among others, the same parties to the Existing Intercreditor Agreement;

"Bankrupt" and "Bankruptcy" include the meanings given to those words by Article 8 of the Interpretation (Jersey) Law, 1954 as well as any other state of bankruptcy, insolvent winding up, administration, receivership, administrative receivership or similar status under the laws of any relevant jurisdiction;

"Borrower" means the Company as borrower under the terms of the Credit Agreement;

"Collateral" means:

- (a) 8 Ordinary Shares of USD 1.00 each in the capital of the Company;
- (b) any other Securities in the Company that may from time to time be legally and/or beneficially owned by the Grantor;
- (c) all Derivative Assets;
- (d) (where the context allows) any proceeds (that are not Derivative Assets) of all such Securities and the Derivative Assets; and
- (e) all the Grantor's right, title and interest from time to time to and in all such Securities and the Derivative Assets and proceeds,

including any after-acquired property falling within any of the above paragraphs of this definition;

"Company" means Avanti Communications Jersey Limited a company

incorporated in Jersey with registered number 129036;

"Competing Rights"

means any security or other right of the Grantor (whether by way of set-off, counterclaim, subrogation, indemnity, contract, proof in liquidation, contribution or otherwise) exercisable against any person with a view to:

- (a) the Grantor reducing any of the Grantor's liabilities under or in connection with this Agreement;
- (b) the Grantor obtaining reimbursement in respect of any of the Grantor's liabilities under or in connection with this Agreement; or
- (c) the Grantor having the benefit of, sharing in or enforcing any security for the reduction or reimbursement of any such liabilities;

"Confirmation"

means the confirmation to be given to the Primary Security Agent by the Company substantially in the form set out in the Schedule;

"Control"

means "control" as that word is defined in Article 3(5) of the Law;

"Credit Agreements"

means together:

- (a) the Amended and Restated Credit Agreement; and
- (b) the Super Senior Facility Agreement,

and **"Credit Agreement"** means either of them;

"Data Protection Laws"

means any privacy and/or data protection law applicable from time to time to any party to this Agreement which may include, without limitation, the Data Protection (Jersey) Law 2018, the Data Protection Authority (Jersey) Law 2018 and the EU General Data Protection Regulation (Regulation EU 2016/679);

"Derivative Assets"

means all Securities, dividends, distributions, interest or other property (whether of a capital or income nature) accruing, deriving, offered or issued at any time (including after-acquired property) by way of dividend, bonus, redemption, exchange, substitution, conversion, consolidation, sub-division, preference, option or otherwise that are attributable to any Affected

Securities or any Derivative Assets previously described and all rights from time to time thereto but not including voting rights as separate from the Affected Securities;

"Encumbrance" includes any security interest, mortgage, charge, pledge, assignment, title retention, lien, hypothec, trust arrangement, option or other third party interest or arrangement whatsoever which has the effect of creating security or another adverse right or interest;

"Enforcement Event" means:

- (a) an Acceleration Event (as defined in the Amended 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;

"Exchange Rate" means a rate of exchange between one currency and another which is determined by the Primary Security Agent to be a reasonable market rate as at the time that the exchange is effected;

"Existing Intercreditor Agreement" means the intercreditor agreement dated 26 January 2017 and amended and restated on 3 July 2017 and made between the Parent, the Primary Security Agent, the Secondary Security Agent and others.

"Existing Security Interest Agreements" means the security interest agreement dated 24 May 2019 and the supplemental security interest agreement dated 20 November 2019 made between the Grantor and the Primary Security Agent in relation to the Collateral and each shall be an **"Existing Security Interest Agreement"** for the purposes of this Agreement;

"Existing Security Interests" means the security interests created by and for which provision is made, in each of the Existing Security Interest Agreements;

"Further Advance" means "further advance" as that expression is defined in Article 33(4) of the Law, for the avoidance of doubt being of any amount or value, made for any purpose and whether or not contemplated by any party to this Agreement or any other

	Debtor when this Agreement is executed;
"Grantor"	includes the successors or (as the case may be) heirs of the person named as the Grantor above;
"Group"	in relation to a corporate body means that corporate body, its subsidiaries, its holding bodies and any other subsidiaries of its holding bodies (and the expressions " subsidiaries " and " holding bodies " having the same meanings as in the Companies (Jersey) Law 1991);
"Interest"	means interest at the rate from time to time chargeable by the Primary Security Agent in respect of an unauthorised overdraft denominated in the Required Currency (or, where there is more than one Required Currency, in a Required Currency determined by the Primary Security Agent) at a rate not exceeding the rate specified in clause 10.10 of the Credit Agreement;
"Law"	means the Security Interests (Jersey) Law 2012;
"Parent"	means Avanti Communications Group plc;
"Primary Security Agent"	includes the successors and assigns of the person named as the Primary Security Agent above;
"proceeds"	has in relation to the (other) Collateral the meaning given to that word in the Law;
"Required Currency"	means the currency or currencies in which the Secured Obligations are for the time being expressed;
"Secured Obligations"	means all the Liabilities and all other present and future liabilities and obligations at any time due, owing or incurred by the Grantor and/or 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, including for the avoidance of doubt any obligations and liabilities in respect of any Further Advances;
"Securities"	include without limitation any property within the definition of "investment security" under Article 1 (<i>Definitions</i>) of the Law;
"Security Interests"	means the security interest(s) created by or for which provision is

made in this Agreement; and

"Super Senior Facility Agreement" means the super senior facility agreement, as amended and restated from time to time, originally entered into on 15 June 2017 between, amongst others, the Parent as borrower, certain subsidiaries of the Parent as guarantors, Elavon Financial Services DAC, UK Branch as super senior facility agent and the Primary Security Agent.

1.2 In this Agreement, unless the context otherwise requires:

- 1.2.1 the singular includes the plural and the masculine includes the feminine and neuter genders and *vice versa*;
- 1.2.2 references to a "**Recital**", "**Clause**" or "**Schedule**" are to a recital, clause or schedule of or to this Agreement;
- 1.2.3 references to any other agreement, instrument or document shall be construed as references to such agreement, instrument or document in force for the time being and as amended, varied, supplemented, replaced, restated or novated from time to time in accordance with its terms or, as the case may be, with the agreement of the relevant parties and including any (however fundamental) variation, increase, extension or addition of or to: (a) any such agreement, instrument or document (including any Debt Document); and/or (b) any facility or amount or value made available thereunder; and/or (c) any purpose thereof, and whether or not contemplated by any party to this Agreement or any other Debtor when this Agreement is executed;
- 1.2.4 references to any statutory provision are to such statutory provision as modified or re-enacted for the time being in force and include any analogous provision or rule under any applicable law;
- 1.2.5 references to a "**person**" include 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);
- 1.2.6 words and expressions not otherwise defined in this Agreement shall be construed in accordance with the Credit Agreement or the Amended Intercreditor Agreement and words and expressions not otherwise defined in this Agreement or in the Credit Agreement or the Amended Intercreditor Agreement shall, if defined in the Law, be construed in accordance with the Law;
- 1.2.7 the Primary Security Agent is "**the secured party**", the Grantor is "**the grantor**", the Collateral is the "**collateral**" and this Agreement is a "**security agreement**", for the purposes of the Law;

- 1.2.8 the Recitals and Schedules form part of this Agreement and shall have the same force and effect as if they were expressly set out in the body of this Agreement;
 - 1.2.9 a reference in this Agreement to any assets includes, unless the context otherwise requires, present and future/after-acquired property; and
 - 1.2.10 to the extent that there is a conflict or inconsistency between the provisions of the Credit Agreement or the Amended Intercreditor Agreement and this Agreement, the provisions of the Credit Agreement or the Amended Intercreditor Agreement shall prevail, unless this would prejudice the security interests constituted or intended to be constituted by this Agreement, or be contrary to the requirements of the Law.
- 1.3 Clause headings are inserted for convenience only and shall not affect the construction of this Agreement.
- 1.4 Notwithstanding anything to the contrary in this Agreement, the parties to this Agreement agree that the entry into this Agreement by the Grantor and the performance by the Grantor of its obligations under this Agreement shall not cause any breach of or event of default under or in relation to the Existing Security Interest Agreements. The Existing Security Interest Agreements shall remain in full force and effect notwithstanding the entry by the parties hereto into this Agreement.
- 2. CREATION, ATTACHMENT AND PERFECTION OF SECURITY INTERESTS**
- 2.1 The Grantor and the Primary Security Agent hereby agree that, subject only to the Existing Security Interests, the Primary Security Agent shall have continuing first priority security interests in the Collateral as security for the Secured Obligations in accordance with the Law and that such security is hereby created.
- 2.2 To the intent that the Security Interests shall attach to the Collateral, the Grantor and the Primary Security Agent hereby agree that:
- 2.2.1 for the purposes of Article 18(1)(a) of the Law, value has been given;
 - 2.2.2 in the case of Affected Securities represented by a certificate or certificates the Primary Security Agent shall have Control of such Affected Securities for the purposes of Articles 3(5) and 18(1)(c)(i) of the Law by being (at the option of the Primary Security Agent) registered with the Company as the holder of the Affected Securities;
 - 2.2.3 to the extent that the Primary Security Agent shall not have Control of some or any of the Affected Securities represented by a certificate or certificates pursuant to Clause 2.2.2, the Primary Security Agent shall, subject to the Existing Security Interest Agreements, have Control of such Affected Securities for the purposes of Articles 3(5) and 18(1)(c)(i) of

the Law by being in possession of all certificates representing all such Affected Securities;
and

2.2.4 in the case of Collateral that is not Affected Securities to which Security Interests have attached pursuant to Clauses 2.2.2 or 2.2.3, the Security Interests shall hereby attach to such Collateral for the purposes of Article 18(1)(c)(ii) of the Law.

2.3 In accordance with Clause 2.2, and in order to facilitate the exercise of the Primary Security Agent's rights under this Agreement, the Grantor has delivered either together with this Agreement or together with an Existing Security Interest Agreement and shall ensure that in the future there shall promptly be delivered to the Primary Security Agent or to its order:

2.3.1 the certificates representing all Affected Securities represented by a certificate or certificates;

2.3.2 instruments of transfer in respect of all Affected Securities represented by a certificate or certificates and in respect of which Security Interests are attached under Clause 2.2.3, duly executed by the holder but otherwise completed or partially completed in such manner as the Primary Security Agent directs;

2.3.3 a copy (certified true and correct by a director or the secretary of the Company) of the register of members of the Company showing:

(a) in the case of Affected Securities in respect of which Security Interests are attached under Clause 2.2.2, the Primary Security Agent; and

(b) in the case of Affected Securities in respect of which Security Interests are attached under Clause 2.2.3, the Grantor,

as the registered holder of all Affected Securities represented by a certificate or certificates and in either case noting the interest of the Primary Security Agent pursuant to this Agreement and the Existing Security Interest Agreements; and

2.3.4 the Confirmation, signed by a director or other duly authorised signatory of the Company.

2.4 In accordance with Articles 18 (*Attachment: general rule*) and 19 (*After-acquired property*) of the Law, the Primary Security Agent and the Grantor hereby agree that the Security Interests shall attach:

2.4.1 to the extent that the Collateral does not constitute after-acquired property, to such Collateral immediately upon execution of this Agreement; and

2.4.2 to the extent that the Collateral constitutes after-acquired property, to such Collateral immediately on the acquisition of rights in such Collateral by the Grantor without the need for any specific appropriation of the property by the Grantor.

- 2.5 To the intent that the Security Interests shall be perfected in accordance with the Law the Primary Security Agent and the Grantor hereby agree that:
- 2.5.1 the Security Interests in the Affected Securities represented by a certificate or certificates shall be perfected by the Primary Security Agent having Control of such Collateral pursuant to Clause 2.2.2 or 2.2.3 and/or (at the option of the Primary Security Agent) by registration of a financing statement in accordance with Article 22(4) of the Law;
 - 2.5.2 the Security Interests in any Affected Securities not represented by a certificate or certificates shall be perfected by registration of a financing statement in accordance with Article 22(4) of the Law;
 - 2.5.3 the Security Interests in Derivative Assets that are not Affected Securities represented by a certificate or certificates shall be perfected by registration of a financing statement in accordance with Article 22(4) of the Law; and
 - 2.5.4 the Security Interests in proceeds shall, without prejudice to the operation of Article 26 (*Temporary perfection of security interests in proceeds*) of the Law, be perfected by registration of a financing statement in accordance with Article 25 (*Continuous perfection of security interests in proceeds*) of the Law.
- 2.6 The Primary Security Agent may, subject only to the Law, at any time (without exercising the power of enforcement) cause or require any person on its behalf other than the Grantor to become the registered holder of any part of the Collateral and/or to have possession of the certificates representing the Affected Securities.
- 2.7 The Primary Security Agent may complete a blank or partially completed instrument of transfer in such manner as for the time being appears appropriate to the Primary Security Agent for the purpose of becoming registered under Clause 2.2.2 or otherwise facilitating the exercise of any of its rights under this Agreement.
- 2.8 The Grantor hereby agrees that the Primary Security Agent may at any time and from time to time without the consent of the Grantor take any such further action as the Primary Security Agent may deem necessary or desirable in order to give the Primary Security Agent, subject only to the Existing Security Interests, a continuing first priority security interest or interests in the Collateral under the Law that satisfies the requirements of the Law as to attachment and perfection.
- 2.9 The Grantor covenants to pay, discharge and perform the Secured Obligations when they become due for payment, discharge or performance and shall perform all other obligations of the Grantor under the Debt Documents to which it is a party, at the times and in the manner specified therein.
- 2.10 The Primary Security Agent hereby agrees that notwithstanding Clauses 2.2.2, 2.6 and 2.7, it (or its nominee) shall not become registered as holder of the Affected Securities in the register of members of the Company unless and until an Enforcement Event has occurred.

3. FURTHER ASSURANCE AND POWER OF ATTORNEY

3.1 The Grantor shall from time to time, at its own expense, do and perform such acts and things and execute and deliver such further documents to establish, maintain and protect the rights and remedies of the Shared Collateral Creditors and to carry out the intent and purpose of the Debt Documents including taking such actions and executing such additional documentation as the Primary Security Agent may require:

3.1.1 with a view to perfecting, maintaining, establishing, protecting or giving effect to, or ensuring the priority of, the Security Interests created or intended to be created by this Agreement and the rights of the Primary Security Agent hereunder, or for facilitating the exercise, or the proposed exercise, of any of the Primary Security Agent's powers under this Agreement;

3.1.2 (without prejudice to the generality of 3.1.1 above), to ensure that the rights, title and interest of:

(a) the Shared Collateral Creditors in and to the Security Interests created or intended to be created by this Agreement;

(b) subject to the rights of the Shared Collateral Creditors under this Agreement and the other Debt Documents;

have been established, perfected and protected under all relevant laws; and

3.1.3 following an Enforcement Event, to facilitate the realisation of the Collateral.

3.2 The Grantor, by way of security for its obligations under this Agreement, hereby irrevocably appoints the Primary Security Agent to be its attorney in its name and on its behalf:

3.2.1 to execute, complete and deliver all such documents and do such acts and things which the Primary Security Agent may require for perfecting the title of the Primary Security Agent to the Collateral or for vesting the same in the Primary Security Agent, its nominee or any purchaser;

3.2.2 to execute, complete and deliver any document and do such acts and things referred to in Clause 3.1.

3.2.3 to do anything which the Grantor has authorised the Primary Security Agent or any other Shared Collateral Creditor to do under the Debt Documents or is itself required to do under the Debt Documents but has failed to do; and

3.2.4 generally to execute and complete all documents and to do all acts and things which may be deemed expedient by the Primary Security Agent for the full exercise of any of the powers conferred on the Primary Security Agent under this Agreement or which may be

deemed expedient by the Primary Security Agent in connection with any disposition, realisation or getting in by the Primary Security Agent of the Collateral or any part thereof or in connection with any other exercise of any power under this Agreement.

3.3 The exercise by the Primary Security Agent of the power of attorney referred to in Clause 3.2 shall be conclusive evidence of its right to exercise the same.

3.4 The Grantor covenants with and undertakes to the Primary Security Agent to ratify and confirm any lawful exercise or purported exercise of the power of attorney constituted in Clause 3.2.

4. **REPRESENTATIONS AND WARRANTIES**

4.1 The Grantor represents and warrants to the Primary Security Agent:

4.1.1 that for the purposes of Article 18(1)(b) of the Law and subject to the Existing Security Interest Agreements, the Grantor has rights in all of the Collateral and the power to grant rights in the Collateral to the Primary Security Agent;

4.1.2 that, subject only to the Security Interests and the Existing Security Interests, the Collateral is the Grantor's sole and absolute property free from any Encumbrance and that the Grantor's title to the Collateral is not liable to be challenged on any grounds;

4.1.3 that all Affected Securities have been duly issued and are fully paid (including any premium thereon) and that none is or will be subject to any options to purchase or sell or any similar rights or obligations;

4.1.4 that, except as may be created by this Agreement, there are and will be no restrictions or prohibitions on the transferability of or on the exercise of voting rights attached to any of the Affected Securities;

4.1.5 that the Grantor has not granted any power of attorney or similar right in respect of any rights or powers relating to the Collateral other than to the Primary Security Agent under this Agreement and the Existing Security Interest Agreements;

4.1.6 that the Grantor:

(a) has disclosed all of its previous names (if any) to the Primary Security Agent; and

(b) is not in the process of changing its name; and

4.1.7 that the Affected Securities comprise the whole of the issued share capital of the Company.

4.2 The Grantor acknowledges that the Primary Security Agent has entered into this Agreement in reliance on the representations and warranties set out in this Clause 4.

5. **COVENANTS AND UNDERTAKINGS**

- 5.1 The Grantor acknowledges its obligations with respect to, inter alia, the Collateral pursuant to Amended Intercreditor Agreement, and agrees to comply with the same, and all of its obligations under the Debt Documents.

6. **VOTING RIGHTS**

- 6.1 Subject to Clause 6.4, where the Primary Security Agent (or its nominee) is not the registered holder of Affected Securities, the Grantor hereby agrees to exercise or cause to be exercised all voting and other rights attaching thereto in such manner as the Primary Security Agent directs at its discretion, and in the absence of such direction only in such manner as may be reasonably anticipated to preserve or enhance the value of the Affected Securities.

- 6.2 Subject to Clause 6.4, where the Primary Security Agent (or its nominee) is the registered holder of the Affected Securities, the Primary Security Agent may (but without any obligation to do so or liability for failing to do so) exercise or cause to be exercised all voting and other rights attaching thereto in such manner as the Primary Security Agent in its absolute discretion thinks fit.

- 6.3 Clause 6.4 applies where the rights of the Primary Security Agent under Clause 6.1 or 6.2 are so extensive in relation to a body corporate which has issued Affected Securities (the "**Issuer**") that:

6.3.1 the Primary Security Agent (or its nominee) holds a majority of the voting rights of the Issuer; or

6.3.2 the Primary Security Agent (or its nominee) is a member of the Issuer and has the right to appoint or remove a majority of its board of directors; or

6.3.3 the Primary Security Agent (or its nominee) is a member of the Issuer and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights of the Issuer.

- 6.4 If as a result of the circumstances described in Clause 6.3 the Issuer would, but for this provision, be treated as a subsidiary of the Primary Security Agent for the purposes of the Companies (Jersey) Law 1991, the Primary Security Agent shall exercise such rights and cause them to be exercised only:

6.4.1 for the purpose of preserving the value of or realising any Affected Securities; or

6.4.2 if the Primary Security Agent deems fit, in accordance with the instructions of the Grantor or (where the Grantor is a body corporate) those of another body corporate in the same Group as the Grantor; or

6.4.3 where the Affected Securities are held in connection with the granting of a loan as part of normal business activity, in a manner which is in the interests of the Grantor or (if the

Grantor is a body corporate) those of another body corporate in the same Group as the Grantor.

7. DIVIDENDS AND OTHER DERIVATIVE ASSETS

7.1 The Primary Security Agent shall not have (and nor shall any nominee of the Primary Security Agent have) any duty to take up any Derivative Assets or to ensure that any such Derivative Assets are duly and punctually paid, received or collected as and when due and payable or to ensure that the correct amounts are paid, received or collected.

7.2 Subject to Clause 7.3, if any Derivative Assets are offered to, distributed to or received by the Grantor (or its nominee) in respect of the Collateral the Grantor shall immediately notify the Primary Security Agent and such Derivative Assets shall immediately be paid, delivered and transferred (as appropriate) to the Primary Security Agent (or its nominee) and pending such payment, delivery or transfer such Derivative Assets:

7.2.1 shall be held by the Grantor (or its nominee) in trust for the Primary Security Agent; and

7.2.2 shall be segregated from other property and funds of the Grantor (or such nominee).

7.3 In the case of dividends, interest and other Derivative Assets of an income nature the Primary Security Agent may at its discretion:

7.3.1 apply all or any part of such Derivative Assets in or towards the discharge of the Secured Obligations; and/or

7.3.2 agree with the Grantor that the Grantor may retain all or any part of such Derivative Assets free of the Security Interests created under this Agreement.

7.4 Until such application or agreement, dividends, interest and other Derivative Assets of an income nature shall remain part of the Collateral.

7.5 For the avoidance of doubt, a security interest in Affected Securities shall itself encompass all Derivative Assets which are considered as a matter of law to be a composite part of such Affected Securities.

8. ENFORCEMENT BY THE PRIMARY SECURITY AGENT

8.1 The Primary Security Agent's power of enforcement over the Collateral shall become exercisable immediately upon the occurrence of an Enforcement Event, provided that the Primary Security Agent has served on the Grantor written notice specifying the Enforcement Event.

8.2 Subject only to the Law, the Primary Security Agent may (acting on the instructions of the Instructing Group in accordance with the Amended Intercreditor Agreement) exercise the power of

enforcement in respect of the Security Interests in any manner permitted by or not in conflict with the Law, including, without limitation, by the Primary Security Agent or some person on its behalf:

- 8.2.1 appropriating all or some of the Collateral (whether in one or a number of transactions and whether simultaneously or in series);
- 8.2.2 selling all or some of the Collateral (whether in one or a number of transactions and whether simultaneously or in series);
- 8.2.3 by taking any one or more of the following ancillary actions:
 - (a) taking control or possession of all or any of the Collateral;
 - (b) exercising any rights of the Grantor in relation to all or any of the Collateral; and
 - (c) instructing any person who has an obligation in relation to all or any of the Collateral to carry out that obligation for the benefit of the Primary Security Agent (or to its order); and
- 8.2.4 exercising or applying any remedy set out in this Clause 8.2.4 (such remedies being exercisable pursuant to the power of enforcement) to the extent that such remedy is not in conflict with the Law:
 - (a) directing from time to time the Grantor as to how it shall exercise or cause to be exercised all or any voting and other rights attaching to all or any Affected Securities;
 - (b) directing the Grantor as to the disposal of all or any of the Collateral, including where appropriate specifying the person(s) who are to acquire such Collateral, the terms upon and manner in which such disposal(s) shall take place, including the price or other *cause* or consideration (whether payable immediately, by instalments or otherwise deferred); and directing the mode of application of the proceeds of such disposal(s) in such manner as the Primary Security Agent shall in its absolute discretion determine, including by way of sale to a third party, to the Primary Security Agent or to an associate or nominee of the Primary Security Agent.
- 8.3 (Subject only to the Law) for the purposes of this Agreement, references to the exercise of a "**power of enforcement**" shall include any method or process by which value is given, allowed or credited by the Primary Security Agent for the Collateral against the Secured Obligations.
- 8.4 Where the power of appropriation or sale is exercised in relation to any non-monetary obligation, the "monetary value" (as referred to in Article 51 (*When does a surplus exist?*) of the Law) of such obligation shall be the loss or losses suffered by the Shared Collateral Creditors or by any other person by reason of non-performance of such obligation (including as such obligation is owed, or

also owed, to any other person), including, without limitation, any such loss(es) as calculated and set out in a certificate submitted to the Grantor by the Primary Security Agent.

- 8.5 The Primary Security Agent may at any time and from time to time exercise one or more than one of the powers set out in Clause 8.2, in whatever order and combination as the Primary Security Agent thinks fit.
- 8.6 In accordance with Article 44(4) of the Law, the Primary Security Agent and the Grantor hereby agree that notice need not be given under Article 44 (*Notice of appropriation or sale of collateral*) of the Law to the Grantor.
- 8.7 Subject only to the Law, the Primary Security Agent may at its discretion:
- 8.7.1 exercise its power of enforcement in respect of the Security Interests over any part of the Collateral without reference to the time, manner, *cause*, consideration or Exchange Rate that may be/has been applicable to such exercise in respect of any other part of the Collateral; and
 - 8.7.2 refrain from exercising its power of enforcement in respect of the Security Interests over any one part of the Collateral notwithstanding that it shall have exercised such power over any other part of the Collateral.
- 8.8 No person dealing with the Primary Security Agent shall be concerned to enquire as to the propriety of exercise of any power of enforcement in respect of the Security Interests (including, without limitation, whether any Security Interest has become enforceable, whether any of the Secured Obligations remain due, as to the necessity or expediency of any conditions to which a sale or other disposition is made subject or generally as to the application of any monies representing the proceeds of enforcement of the Security Interests in respect of the Collateral). Each such dealing shall be deemed in favour of such person to be valid, binding and effectual.
- 8.9 To the fullest extent permitted by law, the Primary Security Agent shall be under no liability to the Grantor for any failure to apply and distribute any monies representing the proceeds of enforcement of the Security Interests in respect of the Collateral in accordance with the Law if the Primary Security Agent applies and distributes such monies in good faith without further enquiry and in accordance with the information expressly known to it at the time of application and distribution.
- 8.10 In accordance with Article 54(5)(a) of the Law, the Primary Security Agent and the Grantor hereby agree that the Grantor shall not have any right of reinstatement pursuant to Article 54(4) of the Law or otherwise.
- 8.11 The Primary Security Agent is not obliged to marshal, enforce, apply, appropriate, recover or exercise any security, guarantee or other right held by it, or any moneys or property that it holds or is entitled to receive, before the power of enforcement is exercised.

8.12 The Primary Security Agent will be accountable (and the Grantor is entitled to be credited) only for actual value or proceeds realised by the Primary Security Agent arising from the appropriation, sale or other realisation of any Collateral by the Primary Security Agent.

8.13 If the value or proceeds of the appropriation, sale or other realisation of any Collateral is insufficient to discharge the Secured Obligations in full, the Grantor will remain liable to the Primary Security Agent for any shortfall.

9. INDEMNITIES AND INTEREST

9.1 The Primary Security Agent shall be entitled to all of the rights, protections, indemnities and immunities of the Primary Security Agent set forth in the Amended Intercreditor Agreement as if such rights, protections, indemnities and immunities were expressly set forth herein.

9.2 Any sum due by the Grantor under any provision of this Agreement (including Clause 9.1) shall be payable on demand with Interest from the date on which it is demanded and the Grantor's liability to pay such sum and Interest shall form part of the Secured Obligations. Interest shall be payable after as well as before judgment, shall accrue on a day-to-day basis, shall be calculated by the Primary Security Agent on the basis of the actual number of days elapsed and a 365 day year and shall be compounded as set out in the Credit Agreement or, if not there set out, in accordance with the usual practice of the Primary Security Agent.

10. ASSIGNMENT AND SUCCESSION

10.1 The Primary Security Agent may at any time assign or otherwise transfer all or any part of its rights under this Agreement to the extent permitted in, and in accordance with, the Debt Documents.

10.2 The Security Interests and other rights of the Primary Security Agent arising under this Agreement shall remain valid and binding notwithstanding any amalgamation, reorganisation, merger or redomiciliation by or involving the Primary Security Agent and shall inure for the benefit of the Primary Security Agent's successors.

10.3 The Grantor may not assign or transfer all or any part of its right, benefits and/or obligations under this Agreement.

11. APPLICATION OF PROCEEDS

Any Proceeds actually received by the Primary Security Agent shall (to the extent permitted by Law) be applied or held in accordance with the provisions of the Amended Intercreditor Agreement.

12. SET-OFF

12.1 The Primary Security Agent may, without notice to the Grantor and both before and after demand, apply any credit balance which is at any time held by any office or branch of the Primary Security

Agent for the account of the Grantor in or towards satisfaction of any sum then due and payable from the Grantor to the Primary Security Agent.

- 12.2 For the purposes of exercising any rights under this Clause 12, or any rights under the general law, the Primary Security Agent may convert or translate all or any part of such credit balance into another currency by applying the Exchange Rate.
- 12.3 The Primary Security Agent is not obliged to exercise any of its rights under this Clause 12 and such rights are without prejudice and in addition to any rights under the general law.
- 12.4 In this Clause 12 the expression "**rights under the general law**" means any rights of set-off, combination or consolidation of accounts, lien or similar rights to which the Primary Security Agent is entitled under any applicable law.

13. **SUSPENSE ACCOUNT**

- 13.1 The Primary Security Agent may, in its discretion, place to the credit of a suspense account or impersonal account for so long as the Primary Security Agent shall think fit, any monies received under or in connection with this Agreement in order to, amongst other things and as required by the Primary Security Agent, preserve the rights of the Primary Security Agent to prove for the full amount of all claims against the Grantor or any other person.
- 13.2 The Primary Security Agent may, at any time, apply any of the monies referred to in Clause 13.1 in or towards satisfaction of any of the Secured Obligations as the Primary Security Agent, in its absolute discretion, may from time to time conclusively determine.

14. **EXTINGUISHMENT OF SECURITY INTEREST(S)**

- 14.1 The Security Interests created by this Agreement shall be released subject to and in accordance with the Amended Intercreditor Agreement.

15. **MISCELLANEOUS**

- 15.1 The Primary Security Agent may (but shall not be obliged to) exchange or convert to the Required Currency any currency held or received at the Exchange Rate.
- 15.2 The Security Interests shall take effect as a security for the whole and every part of the payment or performance of the Secured Obligations.
- 15.3 Each Security Interest is independent of, and in addition to and will not merge with, be prejudicially affected by, or prejudicially affect, any other Security Interest or other Encumbrance or guarantee for any of the Secured Obligations now or subsequently held by the Primary Security Agent or any person on its behalf or any other Shared Collateral Creditor.

- 15.4 The rights and remedies of the Primary Security Agent under this Agreement may be exercised from time to time and as often as the Primary Security Agent deems expedient and are in addition to and shall neither prejudice nor be prejudiced by any other security or right or remedy which is at any time available to the Primary Security Agent or any other Shared Collateral Creditor (whether at law or pursuant to this Agreement, another agreement or the order of any court).
- 15.5 Any settlement or discharge between the Primary Security Agent and the Grantor in respect of the Secured Obligations shall be conditional upon no security provided, or payment made, to the Primary Security Agent or any other Shared Collateral Creditor by the Grantor or any other person being avoided or reduced by virtue of any provision of any enactment or law relating to Bankruptcy, winding-up or insolvency, including without limitation any such provision concerning "transactions at an undervalue", "fraudulent or voidable preferences", "preferences" or any provision similar or analogous thereto. If any such security or payment shall be so avoided or reduced, the Primary Security Agent shall be entitled to recover the value or amount thereof from the Grantor as if no such settlement or discharge had taken place.
- 15.6 No delay, omission, time or indulgence on the part of the Primary Security Agent (or any other Shared Collateral Creditor) in exercising any right or remedy under this Agreement shall impair that right or remedy or (in the absence of an express reservation to that effect) operate as or be taken to be a waiver of it; nor shall any single partial or defective exercise of any such right or remedy preclude any other or further exercise of that or any other right or remedy. Without prejudice to the generality of the foregoing, the Primary Security Agent may exercise or refrain from exercising any of its rights and remedies independently in respect of different parts of the Collateral.
- 15.7 Where the Grantor comprises more than one person the liability of each of them shall be joint and several and every agreement, covenant and undertaking contained in this Agreement shall be construed accordingly.
- 15.8 Save as otherwise expressly provided in this Agreement and subject always to the Law, any liberty or power which may be exercised or any determination which may be made by the Primary Security Agent may be exercised or made in the absolute and unfettered discretion of the Primary Security Agent which shall not be under any obligation to give reasons.
- 15.9 The Grantor acknowledges that the Primary Security Agent has no obligation to perform any of the obligations of the Grantor, including in respect of the Collateral, or to make any payments or to enquire as to the nature or sufficiency of any payments made by or on behalf of the Grantor or to take any other action to collect or enforce payment of amounts the Primary Security Agent is entitled to under or pursuant to this Agreement in respect of any Collateral.
- 15.10 If at any time one or more of the provisions of this Agreement becomes invalid, illegal or unenforceable in any respect, that provision shall be severed from the remainder and the validity, legality and enforceability of the remaining provisions of this Agreement shall not be affected or impaired in any way. In particular, without prejudice to the generality of the foregoing, no defect

in respect of a Security Interest created or intended to be created over any part of the Collateral shall affect the Security Interest created over any other part.

- 15.11 No variation or amendment of this Agreement shall be valid unless in writing and signed by or on behalf of the Grantor and the Primary Security Agent. Any waiver by the Primary Security Agent of any Enforcement Event or other breach of the terms of this Agreement, and any consent or approval given by the Primary Security Agent for the purposes of this Agreement, shall also be effective only if given in writing and then only for the purpose and upon the terms and conditions, if any, on which it is granted.
- 15.12 The Grantor may not direct the application by the Primary Security Agent of any sums received by the Primary Security Agent under, or pursuant to, any of the terms of this Agreement or in respect of the Secured Obligations.
- 15.13 The Primary Security Agent shall without prejudice to its other rights and powers under this Agreement be entitled (but not bound) at any time and as often as may be necessary to take any such action as it may in its discretion think fit for the purpose of protecting the Security Interests.
- 15.14 Any certificate submitted by the Primary Security Agent to the Grantor as to the amount of the Secured Obligations or any other amount referred to in or arising under this Agreement shall, in the absence of manifest error, be conclusive and binding on the Grantor.
- 15.15 Time shall be of the essence in respect of the performance of any obligation of the Grantor under this Agreement.
- 15.16 This Agreement may be executed in any number of counterparts each of which shall be an original but which shall together constitute one and the same instrument.
- 15.17 The Primary Security Agent shall at no time be deemed to authorise impliedly or otherwise any dealing in the Collateral for the purposes of Article 24 (*Continuation of security interests in proceeds*) of the Law.
- 15.18 In accordance with Article 65 (*Applicant to pass on verification statement*) of the Law, the Grantor hereby irrevocably waives the right to receive a copy of any verification statement relating to any financing statement or financing change statement registered in respect of any Security Interest.
- 15.19 In accordance with Article 78 (*No fee for compliance with demand*) of the Law and without prejudice to Clause 9 and any other obligation under the Amended Intercreditor Agreement, the Grantor shall pay to the Primary Security Agent on demand the Primary Security Agent's fees (calculated in accordance with its standard scale of fees and charges from time to time), costs and expenses including, but not limited to, legal fees and expenses on solicitor and own client basis, in connection with any demand for registration of a financing change statement relating to a Security Interest served or purported to be served by any person at any time under or pursuant to Article 75 (*Demand for registration of financing change statement*) of the Law.

- 15.20 The Grantor waives any right it may have (whether by virtue of the *droit de discussion*, *droit de division* or otherwise) to require that:
- 15.20.1 the Primary Security Agent and/or any or all of the Shared Collateral Creditors, before enforcing this Agreement, takes any action, exercises any recourse or seeks a declaration of Bankruptcy against any other Debtor or any other person, makes any claim in a Bankruptcy, liquidation, administration or insolvency of any person or enforces or seeks to enforce any other right, claim, remedy or recourse against any other Debtor or any other person;
 - 15.20.2 the Primary Security Agent and/or any or all of the Shared Collateral Creditors, in order to preserve any of its rights against the Grantor, joins the Grantor as a party to any proceedings against any other Debtor any other person or any other Debtor or any other person as a party to any proceedings against the Grantor or takes any other procedural steps; or
 - 15.20.3 the Primary Security Agent and/or any or all of the Shared Collateral Creditors divide the liability of the Grantor under this Agreement with any other Debtor or any other person.
- 15.21 The Grantor warrants that, as at the date of this Agreement, it has not taken, received or exercised any Competing Rights and agrees that it will not in the future take, receive or exercise any Competing Rights until the Primary Security Agent has confirmed in writing to the Grantor that the Secured Obligations have been wholly discharged or until the Grantor is otherwise released by the Primary Security Agent from its obligations under this Agreement.
- 15.22 If, notwithstanding Clause 15.21, any Competing Rights are taken, exercised or received by the Grantor, such Competing Rights and all monies or other property or assets received or held in respect thereof shall be held by the Grantor on trust for the Primary Security Agent to be applied in or towards the discharge of the Grantor's liabilities under this Agreement and shall be transferred, assigned or, as the case may be, paid to the Primary Security Agent promptly following the Primary Security Agent's demand.
- 15.23 The Primary Security Agent's rights under Clauses 15.20 to 15.22 are in addition to and shall not in any way derogate from or be prejudiced by any security held by the Primary Security Agent from any person (including the Security Interests).
- 15.24 Each party to this Agreement shall comply in all respects with the Data Protection Laws as far as they may apply from time to time and each such party shall assist the other in bringing such fair processing and other notices as may be required by the other party and in the form required by the other party to the attention of data subjects.
- 15.25 The Primary Security Agent shall hold the benefit of this Agreement inclusive of, inter alia, the security interests, confirmations, representations and warranties and undertakings and covenants

given by the Grantor in and pursuant to this Agreement upon trust for the Shared Collateral Creditors on the terms and conditions of the Amended Intercreditor Agreement.

- 15.26 The Primary Security Agent as trustee under this Agreement shall have the duties of a trustee set out or referred to in clause 19.1 of the Amended Intercreditor Agreement. All and any other duties and liabilities of a trustee that would otherwise attach to the Primary Security Agent as a trustee under or by reason of this Agreement are hereby excluded to the maximum extent permitted by law.
- 15.27 Notwithstanding any other provisions of this Agreement, the Grantor understands and agrees that this Agreement 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.
- 15.28 The Grantor acknowledges and agrees that the Primary Security Agent has been appointed pursuant to the Amended Intercreditor Agreement and in taking or refraining from taking any action under this Agreement the Primary Security Agent: (i) will act on instructions in accordance with the Amended Intercreditor Agreement and (ii) has the benefit of the protective provisions set out in the Amended Intercreditor Agreement as if set out in full herein.
- 15.29 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 Agreement.
- 15.30 The provisions of Clauses 15.27 to 15.29 shall survive the termination of this Agreement. The provisions set out in the Amended Intercreditor Agreement shall govern the rights, duties and obligations of the Primary Security Agent under this Agreement.

16. COMMUNICATIONS

- 16.1 All communications and notices hereunder should be delivered in accordance with Clause 26 (*Notices*) of the Amended Intercreditor Agreement (it being understood and agreed that references in such Clause to "herein", "hereunder" and other similar terms shall be deemed to be references to this Agreement).
- 16.2 The Grantor may by notice in writing to the Primary Security Agent from time to time alter its postal, email or facsimile details for the purposes of this Clause 16.

17. GOVERNING LAW AND JURISDICTION

- 17.1 This Agreement shall be governed by and construed in accordance with the laws of the Island of Jersey and the parties hereby irrevocably agree for the exclusive benefit of the Primary Security Agent that the courts of the Island of Jersey are to have exclusive jurisdiction (without prejudice to Clauses 17.2 to 17.4) to settle any disputes which arise out of or in connection with this Agreement

and that accordingly any suit, action or proceeding arising out of or in connection with this Agreement ("**Proceedings**") shall be brought in such court.

- 17.2 Nothing contained in this Agreement shall limit the right of the Primary Security Agent to take Proceedings, serve process or seek the recognition or enforcement of a judgment or any similar or related matter against the Grantor in any convenient, suitable or competent jurisdiction nor shall the taking of any action in one or more jurisdiction preclude the taking of action in any other jurisdiction, whether concurrently or not.
- 17.3 The Grantor irrevocably waives (and hereby irrevocably agrees not to raise) any objection which it may have now or hereafter to laying of the venue of any Proceedings in any such court as referred to in this Clause, any claim that any such Proceedings have been brought in an inconvenient forum and any right it may have to claim for itself or its assets immunity from suit, execution, attachment or other legal process.
- 17.4 The Grantor further hereby irrevocably agrees that a judgment in any Proceedings brought in any such court as is referred to in this Clause shall be conclusive and binding upon the Grantor and may be enforced in the court of any other jurisdiction.

18. **AGENT FOR SERVICE**

The Grantor irrevocably appoints the Company to act as its agent to receive and accept on its behalf any process or other document relating to Proceedings brought in the courts of the Island of Jersey.

THE SCHEDULE

CONFIRMATION

To: The Bank of New York Mellon, London Branch

One Canada Square

London

E14 5AL

United Kingdom

Dear Sirs

In this Confirmation:

"Derivative Assets"

means all securities, dividends, distributions, interest or other property (whether of a capital or income nature) accruing, deriving, offered or issued at any time by way of dividend, bonus, redemption, exchange, substitution, conversion, consolidation, sub-division, preference, option or otherwise that are attributable to any Securities or to assets previously described and all rights from time to time thereto and including any after-acquired property falling within any of the foregoing;

"Existing Security Interest Agreement"

means the security interest agreement dated 24 May 2019 and the supplemental security interest agreement dated 20 November 2019 made between the Grantor and the Primary Security Agent in relation to the Collateral;

"Grantor"

means Avanti Communications Group plc;

"Securities"

means the securities specified below; and

"Security Agreement"

means the security interest agreement between the Grantor and you dated on or about the date of this Confirmation in relation to, amongst other things, the Securities and the Derivative Assets.

We confirm that:

1. as at the date of this Confirmation we have not had notice of any security interest (other than under the Security Agreement and the Existing Security Interest Agreements), mortgage, charge,

pledge, assignment, title retention, lien, hypothec, trust arrangement, option or other third party interest or arrangement whatsoever which has the effect of creating security or another adverse right or interest affecting the Securities or the Derivative Assets;

2. we shall promptly notify you if we receive notice of any such matter in the future;
3. to the extent that it may prejudice or compete with the priority of any security granted to you by the Grantor we will not seek to enforce any lien or right of set off or other right that we may from time to time have over the Securities, the Derivative Assets or any proceeds (that are not Derivative Assets) of the Securities and Derivative Assets; and
4. if you wish your own name, or the name of such other person as you shall nominate, to be entered in the register of members of the Company as holder of any Securities, we shall immediately effect this.

This confirmation is given for *cause* and shall be governed by and construed in accordance with the laws of Jersey.

Yours faithfully

.....

duly authorised

for and on behalf of

AVANTI COMMUNICATIONS JERSEY LIMITED

Date: [•] 2020

THE SECURITIES

8 Ordinary Shares of USD 1.00 each in the capital of Avanti Communications Jersey Limited (the "**Company**") and any other shares in the Company that may from time to time be legally and/or beneficially owned by the Grantor, all such securities being subject to the Security Agreement.

IN WITNESS whereof the parties have duly executed this Agreement the day and year first above written

SIGNED

for and on behalf of

AVANTI COMMUNICATIONS GROUP PLC

By:

A large black rectangular redaction box covering the signature area.

.....

SIGNED

For and on behalf of

THE BANK OF NEW YORK MELLON, LONDON BRANCH

acting by: **Michael Lee**
Vice President

