

MR01  
Particulars of a charge



Companies House



Go online to file this information  
[www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)

A fee is be payable with this form  
Please see 'How to pay' on the last page.

☒ **What this form is for**  
You may use this form to register  
a charge created or evidenced by  
an instrument.

☒ **What this form is NOT for**  
You may not use this form to  
register a charge where there is no  
instrument. Use form MR08.

For further information, please  
refer to our guidance at:  
[www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)

This form **must be delivered to the Registrar for registration with  
21 days** beginning with the day after the date of creation of the charge.  
delivered outside of the 21 days it will be rejected unless it is accompanied by a  
court order extending the time for delivery.

☒ You must enclose a certified copy of the instrument with this form. This  
scanned and placed on the public record. **Do not send the original.**



A08 \*A79DTYZL\* #237  
03/07/2018  
COMPANIES HOUSE

For official use

**1 Company details**

Company number 0 7 7 8 0 9 2 4 ✓  
Company name in full Kingstill International Software Services Limited ✓

→ **Filling in this form**  
Please complete in typescript or in  
bold black capitals.

All fields are mandatory unless  
specified or indicated by \*

**2 Charge creation date**

Charge creation date d 2 d 1 m 0 m 6 y 2 y 0 y 1 y 8 ✓

**3 Names of persons, security agents or trustees entitled to the charge**

Please show the names of each of the persons, security agents or trustees  
entitled to the charge.

Name Satago Financial Solutions Limited ✓

Company Number 09998904 ✓

Name

Name


Name

If there are more than four names, please supply any four of these names then  
tick the statement below.

☐ I confirm that there are more than four persons, security agents or  
trustees entitled to the charge.

MR01

Particulars of a charge

<b>4</b>	<b>Brief description</b> Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument.  Brief description	Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument".  Please limit the description to the available space.
<b>5</b>	<b>Other charge or fixed security</b> Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box. <input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	
<b>6</b>	<b>Floating charge</b> Is the instrument expressed to contain a floating charge? Please tick the appropriate box. <input checked="" type="checkbox"/> <b>Yes</b> Continue <input type="checkbox"/> <b>No</b> Go to <b>Section 7</b> Is the floating charge expressed to cover all the property and undertaking of the company? <input type="checkbox"/> <b>Yes</b>	
<b>7</b>	<b>Negative Pledge</b> Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box. <input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	
<b>8</b>	<b>Trustee statement <sup>1</sup></b> You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge. <input type="checkbox"/>	<sup>1</sup> This statement may be filed after the registration of the charge (use form MR06).
<b>9</b>	<b>Signature</b> Please sign the form here.  Signature X  X  This form must be signed by a person with an interest in the charge.	

# MR01

## Particulars of a charge



### Presenter information

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name	Mathew Nyman
Company name	Satago Financial Solutions Limited
Address	4 Bentinck Street
Post town	London
County/Region	
Postcode	W 1 U 2 E F
Country	
DX	
Telephone	0203 743 1458



### Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



### Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- ☐ The company name and number match the information held on the public Register.
- ☐ You have included a certified copy of the instrument with this form.
- ☐ You have entered the date on which the charge was created.
- ☐ You have shown the names of persons entitled to the charge.
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8.
- ☐ You have given a description in Section 4, if appropriate.
- ☐ You have signed the form.
- ☐ You have enclosed the correct fee.
- ☐ Please do not send the original instrument; it must be a certified copy.



### Important information

Please note that all information on this form will appear on the public record.



### How to pay

A fee of £23 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House.'



### Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below:

**For companies registered in England and Wales:**

The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ.  
DX 33050 Cardiff.

**For companies registered in Scotland:**

The Registrar of Companies, Companies House,  
Fourth floor, Edinburgh Quay 2,  
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF.  
DX ED235 Edinburgh 1  
or LP - 4 Edinburgh 2 (Legal Post).

**For companies registered in Northern Ireland:**

The Registrar of Companies, Companies House,  
Second Floor, The Linenhall, 32-38 Linenhall Street,  
Belfast, Northern Ireland, BT2 8BG.  
DX 481 N.R. Belfast 1.



### Further information

For further information, please see the guidance notes on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

This form is available in an alternative format. Please visit the forms page on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)



FILE COPY

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

Company number: 7780924

Charge code: 0778 0924 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 21st June 2018 and created by KINGSTILL INTERNATIONAL SOFTWARE SERVICES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 3rd July 2018.

Given at Companies House, Cardiff on 10th July 2018



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

21st June 2018

Dated .....

- (1) **KINGSTILL INTERNATIONAL SOFTWARE SERVICES LIMITED** as Borrower
- (2) **SATAGO FINANCIAL SOLUTIONS LIMITED** as Lender

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**PLAYCAPITAL DEBENTURE**

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I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.8594 OF THE COMPANIES ACT 2006 THIS COPY INSTRUMENT IS A CORRECT AND TRUE COPY OF THE ORIGINAL INSTRUMENT.

Matthew Nyman, Solicitor  
4 Bentinck Street, W1  
1st July 2018

21st June 2018

This deed is dated .....

## **PARTIES**

- A. **KINGSTILL INTERNATIONAL SOFTWARE SERVICES LIMITED**, a limited company incorporated in England and Wales (registered number 07780924), whose registered office is at Weirbank, Monkey Island Lane, Bray On Thames, Berkshire, SL6 2ED (**Borrower**)
- B. **SATAGO FINANCIAL SOLUTIONS LIMITED**, a limited company incorporated in England and Wales (registered number 09998904), whose registered office is at 4 Bentinck Street, London W1U 2EF (**Lender**)

## **BACKGROUND**

- A. The Lender has agreed, pursuant to the Facility Agreement (as defined below), to provide the Borrower with loan facilities on a secured basis.
- B. Under this deed, the Borrower provides security to the Lender for the loan facilities made available under the Facility Agreement.

## **AGREED TERMS**

### **1. DEFINITIONS AND INTERPRETATION**

#### **1.1 DEFINITIONS**

Terms defined in the Facility Agreement shall, unless otherwise defined in this deed, have the same meaning in this deed. In addition, the following definitions apply in this deed:

**Administrator:** an administrator appointed to manage the affairs, business and property of the Borrower pursuant to Clause 8.6

**Delegate:** any person appointed by the Lender or any Receiver pursuant to Clause 14 and any person appointed as attorney of the Lender, Receiver or Delegate.

**Designated Account:** any account of the Borrower nominated by the Lender as a designated account for the purposes of this deed.

**Facility Agreement:** the PlayCapital facility agreement dated on or about the date of this deed between the Borrower and the Lender for the provision of the loan facilities secured by this deed.

**Financial Collateral:** has the meaning given to that expression in the Financial Collateral Regulations.

**Financial Collateral Regulations:** the Financial Collateral Arrangements (No 2) Regulations 2003 (SI/2003/3226).

**Indebtedness:** any obligation to pay or repay money, present or future, whether actual or contingent, sole or joint and any guarantee or indemnity of any of those obligations.

**LPA 1925:** the Law of Property Act 1925.

**Permitted Security:** has the meaning given to that expression in the Facility Agreement.

**Receiver:** a receiver, receiver and manager or administrative receiver of any or all of the Secured Assets appointed by the Lender under Clause 12.

**Secured Assets:** all the assets, property and undertaking for the time being subject to the Security created by, or pursuant to, this deed (and references to the Secured Assets shall include references to any part of them).

**Secured Liabilities:** all present and future monies, obligations and liabilities of the Borrower to the Lender, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with the Facility Agreement or this deed together with all interest (including, without limitation, default interest) accruing in respect of those monies, obligations or liabilities.

**Security Financial Collateral Arrangement:** has the meaning given to that expression in the Financial Collateral Regulations.

**Security:** any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.

**Security Period:** the period starting on the date of this deed and ending on the date on which the Lender is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.

## 1.2 INTERPRETATION

The provisions of Clause 1.2 (Interpretation) of the Facility Agreement apply to this deed as if they were set out in full in this deed, except that each reference in that clause to the Facility Agreement shall be read as a reference to this deed.

## 1.3 CLAWBACK

If the Lender considers that an amount paid by the Borrower in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Borrower or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed.

## 1.4 LAW OF PROPERTY (MISCELLANEOUS PROVISIONS) ACT 1989

For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Facility Agreement and of any side letters between any parties in relation to the Facility Agreement are incorporated into this deed.

## 1.5 PERPETUITY PERIOD

If the rule against perpetuities applies to any trust created by this deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

## 1.6 SCHEDULES

The Schedules form part of this deed and shall have effect as if set out in full in the body of this deed. Any reference to this deed includes the Schedules.

## 2. COVENANT TO PAY

The Borrower covenants with the Lender that it shall, on demand by the Lender, pay and discharge all the Secured Liabilities when due, (together with all interest, fees, costs and expenses charged by or incurred by the Lender in connection with the Borrower's obligations to pay and discharge the Secured Liabilities).

## 3. GRANT OF SECURITY

### 3.1 FIXED CHARGES

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lender by way of first fixed charge:

- (a) all Funded Game Receivables;
- (b) all Funded Game Receivable Proceeds;
- (c) all present and future rights and interests relating to the assets described in the preceding provisions of this Clause 3; and
- (d) all its rights in respect of all agreements, instruments and rights relating to the assets described in the preceding provisions of this Clause 3, to the extent not effectively assigned under Clause 3.2.

### 3.2 ASSIGNMENT

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee assigns to the Lender absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities:

- (a) all its rights in Funded Game Receivables; and
- (b) the benefit of all agreements, instruments and rights relating to the Secured Assets.

### 3.3 FLOATING CHARGE

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lender, by way of first floating charge all the assets described in Clause 3.1 to the extent they are not otherwise effectively charged or assigned under Clause 3.1 and Clause 3.2.

### 3.4 QUALIFYING FLOATING CHARGE

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by Clause 3.3.

### 3.5 AUTOMATIC CRYSTALLISATION OF FLOATING CHARGE

The floating charge created by Clause 3.3 shall automatically and immediately (without notice) convert into a fixed charge over the assets subject to that floating charge if:

- (a) the Borrower:
  - (i) creates, or attempts to create, without the prior written consent of the Lender, Security or a trust in favour of another person over all or any part of the Secured Assets (except as expressly permitted by the terms of this deed or the Facility Agreement); or
  - (ii) disposes, or attempts to dispose of, all or any part of the Secured Assets (other than Secured Assets that are only subject to the floating charge while it remains uncrystallised);
- (b) any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Secured Assets; or
- (c) a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Borrower.

### 3.6 CRYSTALLISATION OF FLOATING CHARGE BY NOTICE

The Lender may, in its sole discretion, at any time and by written notice to the Borrower, convert the floating charge created under this deed into a fixed charge as regards any part of the Secured Assets specified by the Lender in that notice.



**3.7 ASSETS ACQUIRED AFTER ANY FLOATING CHARGE HAS CRYSTALLISED**

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

**4. LIABILITY OF THE BORROWER**

**4.1 LIABILITY NOT DISCHARGED**

The Borrower's liability under this deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by:

- (a) any security, guarantee, indemnity, remedy or other right held by, or available to, the Lender that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
- (b) the Lender renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or
- (c) any other act or omission that, but for this Clause 4.1, might have discharged, or otherwise prejudiced or affected, the liability of the Borrower.

**4.2 IMMEDIATE RECOURSE**

The Borrower waives any right it may have to require the Lender to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this deed against the Borrower.

**5. REPRESENTATIONS AND WARRANTIES**

**5.1 REPRESENTATIONS AND WARRANTIES**

The Borrower makes the representations and warranties set out in this Clause 5 to the Lender.

**5.2 OWNERSHIP OF SECURED ASSETS**

The Borrower is the sole legal and beneficial owner of the Secured Assets.

**5.3 NO SECURITY**

The Secured Assets are free from any Security other than Permitted Security and the Security created by this deed.

**5.4 NO ADVERSE CLAIMS**

The Borrower has not received, or acknowledged notice of, any adverse claim by any person in respect of the Secured Assets or any interest in them.

**5.5 NO ADVERSE COVENANTS**

There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatsoever that materially and adversely affect the Secured Assets.

**5.6 NO BREACH OF LAWS**

There is no breach of any law or regulation that materially and adversely affects the Secured Assets.

**5.7 NO INTERFERENCE IN ENJOYMENT**

No facility necessary for the enjoyment and use of the Secured Assets is subject to terms entitling any person to terminate or curtail its use.

**5.8 NO OVERRIDING INTERESTS**

Nothing has arisen, has been created or is subsisting, that would be an overriding interest in any Property.

**5.9 NO AVOIDANCE OF SECURITY**

No Security expressed to be created under this deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Borrower or otherwise.

**5.10 NO PROHIBITIONS OR BREACHES**

There is no prohibition on assignment in any Insurance Policy and the entry into this deed by the Borrower does not, and will not, constitute a breach of any Insurance Policy or any other agreement or instrument binding on the Borrower or its assets.

**5.11 ENVIRONMENTAL COMPLIANCE**

The Borrower has, at all times, complied in all material respects with all applicable Environmental Law.

**5.12 ENFORCEABLE SECURITY**

This deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Borrower, and is, and will continue to be, effective security over all and every part of the Secured Assets in accordance with its terms.

**5.13 TIMES FOR MAKING REPRESENTATIONS AND WARRANTIES**

The representations and warranties set out in Clause 5.2 to Clause 5.12 are made by the Borrower on the date of this deed and are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

**6. GENERAL COVENANTS**

**6.1 NEGATIVE PLEDGE AND DISPOSAL RESTRICTIONS**

The Borrower shall not at any time, except with the prior written consent of the Lender:

- (a) create, purport to create or permit to subsist any Security on, or in relation to, any Secured Asset other than any Security created by this deed or any Permitted Security;
- (b) sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Secured Assets (except, in the ordinary course of business, Secured Assets that are only subject to an uncrystallised floating charge); or
- (c) create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party.

**6.2 PRESERVATION OF SECURED ASSETS**

The Borrower shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Lender, or materially diminish the value of any of the Secured Assets or the effectiveness of the security created by this deed.

**6.3 COMPLIANCE WITH LAWS AND REGULATIONS**

- (a) The Borrower shall not, without the Lender's prior written consent, use or permit the Secured Assets to be used in any way contrary to law.

- (b) The Borrower shall:
  - (i) comply with the requirements of any law and regulation relating to or affecting the Secured Assets or the use of it or any part of them; and
  - (ii) obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Secured Assets or their use or that are necessary to preserve, maintain or renew any Secured Asset.

#### 6.4 ENFORCEMENT OF RIGHTS

The Borrower shall use its best endeavours to:

- (a) procure the prompt observance and performance of the covenants and other obligations imposed on the Borrower's counterparties in respect of the Secured Assets; and
- (b) enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets that the Lender may require from time to time.

#### 6.5 NOTICE OF MISREPRESENTATION AND BREACHES

The Borrower shall, promptly on becoming aware of any of the same, notify the Lender in writing of:

- (c) any representation or warranty set out in which is incorrect or misleading in any material respect when made or deemed to be repeated; and
- (d) any breach of any covenant set out in this deed.

#### 6.6 TITLE DOCUMENTS

The Borrower shall, as so required by the Lender, deposit with the Lender and the Lender shall, for the duration of this deed be entitled to hold all deeds and documents of title relating to the Secured Assets that are in the possession or control of the Borrower (and if these are not within the possession or control of the Borrower, the Borrower undertakes to obtain possession of all these deeds and documents of title).

#### 6.7 INFORMATION The Borrower shall:

- (a) give the Lender such information concerning the location, condition, use and operation of the Secured Assets as the Lender may require;
- (b) permit any persons designated by the Lender and any Receiver to enter on its premises and inspect and examine any Secured Asset, and the records relating to that Secured Asset, at all reasonable times and on reasonable prior notice; and
- (c) promptly notify the Lender in writing of any action, claim, notice or demand made by or against it in connection with all or any part of a Secured Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, the Borrower's proposals for settling, liquidating, compounding or contesting any such action, claim, notice or demand and shall, subject to the Lender's prior approval, implement those proposals at its own expense.

#### 6.8 PAYMENT OF OUTGOINGS

The Borrower shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Secured Assets and, on demand, produce evidence of payment to the Lender.

**6.9 APPOINTMENT OF ACCOUNTANTS**

- (a) The Borrower shall:
- (i) at its own cost, if at any time so required by the Lender, appoint an accountant or firm of accountants nominated by the Lender to investigate the financial affairs of the Borrower and those of its subsidiaries and report to the Lender; and
  - (ii) co-operate fully with any accountants so appointed and immediately provide those accountants with all information requested.
- (b) The Borrower authorises the Lender to make an appointment as it shall think fit at any time, without further authority from the Borrower. In every case, the Borrower shall pay, or reimburse the Lender for, the fees and expenses of those accountants.

**7. AGREEMENT COVENANTS**

- (a) The Borrower shall, unless the Lender agrees otherwise in writing, comply with the terms of any document, agreement or arrangement comprising the Secured Assets (other than the Insurance Policies).
- (b) The Borrower shall not, unless the Lender agrees otherwise in writing:
- (i) amend or vary or agree to any change in, or waive any requirement of;
  - (ii) settle, compromise, terminate, rescind or discharge (except by performance); or
  - (iii) abandon, waive, dismiss, release or discharge any action, claim or proceedings against any counterparty or other person in connection with,
- any document, agreement or arrangement comprising the Secured Assets (other than the Insurance Policies).

**8. POWERS OF THE LENDER**

**8.1 POWER TO REMEDY**

- (a) The Lender shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Borrower of any of its obligations contained in this deed.
- (b) The Borrower irrevocably authorises the Lender and its agents to do all things that are necessary
- (c) Any monies expended by the Lender in remedying a breach by the Borrower of its obligations contained in this deed shall be reimbursed by the Borrower to the Lender on a full indemnity basis and shall carry interest in accordance with Clause 16.1.

**8.2 EXERCISE OF RIGHTS**

- (a) The rights of the Lender under Clause 8.1 are without prejudice to any other rights of the Lender under this deed.
- (b) The exercise of any rights of the Lender under this deed shall not make the Lender liable to account as a mortgagee in possession.

**8.3 LENDER HAS RECEIVER'S POWERS**

To the extent permitted by law, any right, power or discretion conferred by this deed on a Receiver may, after the security constituted by this deed has become enforceable, be exercised by the Lender in relation to any of the Secured Assets whether or not it has taken possession of any Secured Assets and without

first appointing a Receiver or notwithstanding the appointment of a Receiver.

#### **8.4 CONVERSION OF CURRENCY**

- (a) For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Lender may convert any monies received, recovered or realised by it under this deed (including the proceeds of any previous conversion under this Clause 8.4) from their existing currencies of denomination into any other currencies of denomination that the Lender may think fit.
- (b) Any such conversion shall be effected at the Lender's bankers' then prevailing spot selling rate of exchange for such other currency against the existing currency.
- (c) Each reference in this Clause 8.4 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

#### **8.5 INDULGENCE**

The Lender may, at its discretion, grant time or other indulgence, or make any other arrangement, variation or release with any person not being a party to this deed (whether or not any such person is jointly liable with the Borrower) in respect of any of the Secured Liabilities, or of any other security for them without prejudice either to this deed or to the liability of the Borrower for the Secured Liabilities.

#### **8.6 APPOINTMENT OF AN ADMINISTRATOR**

- (a) The Lender may, without notice to the Borrower, appoint any one or more persons to be an Administrator of the Borrower pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the security constituted by this deed becomes enforceable.
- (b) Any appointment under this Clause 8.6 shall:
  - (i) be in writing signed by a duly authorised signatory of the Lender; and
  - (ii) take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986.
- (c) The Lender may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this Clause 8.6 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified.

### **9. WHEN SECURITY BECOMES ENFORCEABLE**

#### **9.1 SECURITY BECOMES ENFORCEABLE ON EVENT OF DEFAULT**

The security constituted by this deed shall become immediately enforceable if an Event of Default occurs.

#### **9.2 DISCRETION**

After the security constituted by this deed has become enforceable, the Lender may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Secured Assets.

### **10. EVENTS OF DEFAULT**

Each of the events or circumstances set out in Clauses 10.1 to 10.9 is an Event of Default.

#### **10.1 NON-PAYMENT**

The Borrower fails to pay any sum payable by it under the Facility Agreement when due.

## 10.2 NON-COMPLIANCE

The Borrower fails to comply with any provision of the Facility Agreement and (if the Lender considers, acting reasonably, that the default is capable of remedy) such default is not remedied within 14 days of the earlier of:

- (a) the Lender notifying the Borrower of the default and the remedy required; and
- (b) the Borrower becoming aware of the default.

## 10.3 MISREPRESENTATION

Any representation, warranty or statement made, repeated or deemed made by the Borrower in, or pursuant to, the Facility Agreement is (or proves to have been) incomplete, untrue, incorrect or misleading when made, repeated or deemed made.

## 10.4 CESSATION OF BUSINESS

The Borrower suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business.

## 10.5 INSOLVENCY

- (a) The Borrower stops or suspends payment of any of its debts or is unable to, or admits its inability to, pay its debts as they fall due.
- (b) The Borrower commences negotiations, or enters into any composition, compromise, assignment or arrangement, with one or more of its creditors (excluding the Lender) with a view to rescheduling any of its Indebtedness (because of actual or anticipated financial difficulties).
- (c) A moratorium is declared in respect of any Indebtedness of the Borrower.
- (d) Any action, proceedings, procedure or step is taken in relation to:
  - (i) the suspension of payments, a moratorium of any Indebtedness, winding up, dissolution, administration or reorganisation (using a voluntary arrangement, scheme of arrangement or otherwise) of the Borrower; or
  - (ii) a composition, compromise, assignment or arrangement with any creditor of the Borrower; or
  - (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Borrower or any of its assets.
- (e) The value of the Borrower's assets is less than its liabilities (taking into account contingent and prospective liabilities).
- (f) Any event occurs in relation to the Borrower that is analogous to those set out in Clauses 1.1(a) to 1.1(e) (inclusive) in any jurisdiction.
- (g) Clause 1.1(d) shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 14 days of commencement or, if earlier, the date on which it is advertised. The ending of any moratorium referred to in Clause 1.1(c) shall not remedy any Event of Default caused by that moratorium.

## 10.6 CREDITORS' PROCESS

A distress, attachment, execution, expropriation, sequestration or other analogous legal process is levied, enforced or sued out on, or against, the Borrower's assets having an aggregate value of £1,000 (one thousand pounds Sterling) (or its equivalent in other currencies) and is not discharged or stayed within 21

days.

**10.7 ENFORCEMENT OF SECURITY**

Any Security on or over the assets of the Borrower becomes enforceable.

**10.8 ILLEGALITY**

All or any part of this deed or the Facility Agreement becomes invalid, unlawful, unenforceable, terminated, disputed or ceases to be effective or to have full force and effect.

**10.9 REPUDIATION**

The Borrower repudiates or evidences an intention to repudiate this deed or the Facility Agreement.

**11. ENFORCEMENT OF SECURITY**

**11.1 ENFORCEMENT POWERS**

- (a) For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this deed.
- (b) The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall be immediately exercisable at any time after the security constituted by this deed has become enforceable under Clause 9.1.
- (c) Section 103 of the LPA 1925 does not apply to the security constituted by this deed.

**11.2 ACCESS ON ENFORCEMENT**

- (a) At any time after the Lender has demanded payment of the Secured Liabilities or if the Borrower defaults in the performance of its obligations under this deed or the Facility Agreement, the Borrower will allow the Lender or its Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Secured Asset and for that purpose to enter on any premises where a Secured Asset is situated (or where the Lender or a Receiver reasonably believes a Secured Asset to be situated) without incurring any liability to the Borrower for, or by any reason of, that entry.
- (b) At all times, the Borrower must use its best endeavours to allow the Lender or its Receiver access to any premises for the purpose of Clause 1.1(a) (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.

**11.3 PRIOR SECURITY**

- (a) At any time after the security constituted by this deed has become enforceable, or after any powers conferred by any Security having priority to this deed shall have become exercisable, the Lender may:
  - (i) redeem that or any other prior Security;
  - (ii) procure the transfer of that Security to it; and
  - (iii) settle and pass any account of the holder of any prior Security.
- (b) The settlement and passing of any such account passed shall, in the absence of any manifest error, be conclusive and binding on the Borrower. All monies paid by the Lender to an encumbrancer in settlement of any of those accounts shall, as from its payment by the Lender, be due from the Borrower to the Lender on current account and shall bear interest at the default rate of interest specified in the Facility Agreement and be secured as part of the Secured Liabilities.

#### 11.4 PROTECTION OF THIRD PARTIES

No purchaser, mortgagee or other person dealing with the Lender, any Receiver or Delegate shall be concerned to enquire:

- (c) whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;
- (d) whether any power the Lender, a Receiver or Delegate is purporting to exercise has become exercisable or is properly exercisable; or
- (e) how any money paid to the Lender, any Receiver or any Delegate is to be applied.

#### 11.5 PRIVILEGES

Each Receiver and the Lender is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers.

#### 11.6 NO LIABILITY AS MORTGAGEE IN POSSESSION

Neither the Lender, any Receiver, any Delegate nor any Administrator shall be liable, by reason of entering into possession of a Security Asset or for any other reason, to account as mortgagee in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any act, neglect or default of any nature in connection with, all or any of the Secured Assets for which a mortgagee in possession might be liable as such.

#### 11.7 CONCLUSIVE DISCHARGE TO PURCHASERS

The receipt of the Lender, or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Secured Assets or in making any acquisition in the exercise of their respective powers, the Lender, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit.

#### 11.8 RIGHT OF APPROPRIATION

- (a) To the extent that:

- (i) the Secured Assets constitute Financial Collateral; and
- (ii) this deed and the obligations of the Borrower under it constitute a Security Financial Collateral Arrangement,

the Lender shall have the right, at any time after the security constituted by this deed has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment or discharge of the Secured Liabilities in any order that the Lender may, in its absolute discretion, determine.

- (b) The value of any Secured Assets appropriated in accordance with this clause shall be:

- (i) in the case of cash, the amount standing to the credit of each of the Borrower's accounts with any bank, financial institution or other person, together with all interest accrued but unposted, at the time the right of appropriation is exercised; and
- (ii) in the case of Investments, the price of those Investments at the time the right of appropriation is exercised as listed on any recognised market index or determined by any other method that the Lender may select (including independent valuation).

- (c) The Borrower agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations.



## **12. RECEIVER**

### **12.1 APPOINTMENT**

At any time after the security constituted by this deed has become enforceable, or at the request of the Borrower, the Lender may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Secured Assets.

### **12.2 REMOVAL**

The Lender may, without further notice (subject to section 45 of the Insolvency Act 1986 in the case of an administrative receiver), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

### **12.3 REMUNERATION**

The Lender may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925, and the remuneration of the Receiver shall be a debt secured by this deed, to the extent not otherwise discharged.

### **12.4 POWER OF APPOINTMENT ADDITIONAL TO STATUTORY POWERS**

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Lender under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise.

### **12.5 POWER OF APPOINTMENT EXERCISABLE DESPITE PRIOR APPOINTMENTS**

The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by the Lender despite any prior appointment in respect of all or any part of the Secured Assets.

### **12.6 AGENT OF THE BORROWER**

Any Receiver appointed by the Lender under this deed shall be the agent of the Borrower and the Borrower shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Borrower goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Lender.

## **13. POWERS OF RECEIVER**

### **13.1 GENERAL**

- (a) Any Receiver appointed by the Lender under this deed shall, in addition to the powers conferred on it by statute, have the powers set out in Clause 13.2 to Clause 13.16.
- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing it states otherwise) exercise all of the powers conferred on a Receiver under this deed individually and to the exclusion of any other Receiver.
- (c) Any exercise by a Receiver of any of the powers given by this Clause 13 may be on behalf of the Borrower, the directors of the Borrower or itself.

### **13.2 EMPLOY PERSONNEL AND ADVISERS**

A Receiver may provide services and employ or engage any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that it thinks fit. A Receiver may discharge any such person or any such person appointed by the Borrower.

**13.3 MAKE VAT ELECTIONS**

A Receiver may make, exercise or revoke any value added tax option to tax as it thinks fit.

**13.4 REMUNERATION**

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by it) that the Lender may prescribe or agree with it.

**13.5 REALISE SECURED ASSETS**

A Receiver may collect and get in the Secured Assets or any part of them in respect of which it is appointed, and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Secured Assets with like rights.

**13.6 DISPOSE OF SECURED ASSETS**

Receiver may sell, exchange, convert into money and realise all or any of the Secured Assets in respect of which it is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as it thinks fit. Any sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold.

**13.7 VALID RECEIPTS**

A Receiver may give valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Secured Assets.

**13.8 MAKE SETTLEMENTS**

A Receiver may make any arrangement, settlement or compromise between the Borrower and any other person that it may think expedient.

**13.9 BRING PROCEEDINGS**

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as it thinks fit.

**13.10 MAKE CALLS ON BORROWER MEMBERS**

A Receiver may make calls conditionally or unconditionally on the members of the Borrower in respect of uncalled capital with (for that purpose and for the purpose of enforcing payments of any calls so made) the same powers as are conferred by the articles of association of the Borrower on its directors in respect of calls authorised to be made by them.

**13.11 POWERS UNDER THE LPA 1925**

A Receiver may exercise all powers provided for in the LPA 1925 in the same way as if it had been duly appointed under the LPA 1925, and exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency Act 1986.

**13.12 BORROW**

A Receiver may, for any of the purposes authorised by this Clause 13, raise money by borrowing from the Lender (or from any other person) either unsecured or on the security of all or any of the Secured Assets in respect of which it is appointed on any terms that it thinks fit (including, if the Lender consents, terms under which that security ranks in priority to this deed).

**13.13 REDEEM PRIOR SECURITY**

A Receiver may redeem any prior Security and settle and pass the accounts to which the Security relates. Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Borrower, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

**13.14 DELEGATION**

A Receiver may delegate his powers in accordance with this deed.

**13.15 ABSOLUTE BENEFICIAL OWNER**

A Receiver may, in relation to any of the Secured Assets, exercise all powers, authorisations and rights it would be capable of exercising, and do all those acts and things, as an absolute beneficial owner could exercise or do in the ownership and management of the Secured Assets or any part of the Secured Assets.

**13.16 INCIDENTAL POWERS**

A Receiver may do any other acts and things that it:

- (a) may consider desirable or necessary for realising any of the Secured Assets;
- (b) may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this deed or law; or
- (c) lawfully may or can do as agent for the Borrower.

**14. DELEGATION**

**14.1 DELEGATION**

The Lender or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this deed (including the power of attorney granted under Clause 18.1).

**14.2 TERMS**

The Lender and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit.

**14.3 LIABILITY**

Neither the Lender nor any Receiver shall be in any way liable or responsible to the Borrower for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

**15. APPLICATION OF PROCEEDS**

**15.1 ORDER OF APPLICATION OF PROCEEDS**

All monies received by the Lender, a Receiver or a Delegate pursuant to this deed, after the security constituted by this deed has become enforceable, shall (subject to the claims of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority:

- (a) in or towards payment of or provision for all costs, charges and expenses incurred by or on behalf of the Lender (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this deed, and of all remuneration due to any Receiver under or in connection with this deed;
- (b) in or towards payment of or provision for the Secured Liabilities in any order and manner that the Lender determines; and
- (c) in payment of the surplus (if any) to the Borrower or other person entitled to it.

**15.2 APPROPRIATION**

Neither the Lender, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of

the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

**15.3 SUSPENSE ACCOUNT**

All monies received by the Lender, a Receiver or a Delegate under this deed:

- (a) may, at the discretion of the Lender, Receiver or Delegate, be credited to any suspense or securities realised account;
- (b) shall bear interest, if any, at the rate agreed in writing between the Lender and the Borrower; and
- (c) may be held in that account for so long as the Lender, Receiver or Delegate thinks fit.

**16. COSTS AND INDEMNITY**

**16.1 COSTS**

The Borrower shall, promptly on demand, pay to, or reimburse, the Lender and any Receiver, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by the Lender, any Receiver or any Delegate in connection with:

- (a) this deed or the Secured Assets;
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Lender's, a Receiver's or a Delegate's rights under this deed; or
- (c) taking proceedings for, or recovering, any of the Secured Liabilities,

together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost or expense arose until full discharge of that cost or expense (whether before or after judgment, liquidation, winding up or administration of the Borrower) at the rate and in the manner specified in the Facility Agreement.

**16.2 INDEMNITY**

The Borrower shall indemnify the Lender, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with:

- (a) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Secured Assets;
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this deed; or
- (c) any default or delay by the Borrower in performing any of its obligations under this deed.

Any past or present employee or agent may enforce the terms of this Clause 16.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

**17. FURTHER ASSURANCE**

The Borrower shall, at its own expense, take whatever action the Lender or any Receiver may reasonably require for:

- (a) creating, perfecting or protecting the security intended to be created by this deed;
- (b) facilitating the realisation of any Secured Asset; or
- (c) facilitating the exercise of any right, power, authority or discretion exercisable by the Lender or any Receiver in respect of any Secured Asset,

including, without limitation (if the Lender or Receiver thinks it expedient) the execution of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Secured Assets (whether to the Lender or to its nominee) and the giving of any notice, order or direction and the making of any registration.

## **18. POWER OF ATTORNEY**

### **18.1 APPOINTMENT OF ATTORNEYS**

By way of security, the Borrower irrevocably appoints the Lender, every Receiver and every Delegate separately to be the attorney of the Borrower and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that:

- (a) the Borrower is required to execute and do under this deed; or
- (b) any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on the Lender, any Receiver or any Delegate.

### **18.2 RATIFICATION OF ACTS OF ATTORNEYS**

The Borrower ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in Clause 18.1.

## **19. RELEASE**

Subject to Clause 26.3, on the expiry of the Security Period (but not otherwise), the Lender shall, at the request and cost of the Borrower, take whatever action is necessary to:

- (a) release the Secured Assets from the security constituted by this deed; and
- (b) reassign the Secured Assets to the Borrower.

## **20. ASSIGNMENT AND TRANSFER**

### **20.1 ASSIGNMENT BY LENDER**

- (a) At any time, without the consent of the Borrower, the Lender may assign or transfer any or all of its rights and obligations under this deed.
- (b) The Lender may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Borrower, the Secured Assets and this deed that the Lender considers appropriate.

### **20.2 ASSIGNMENT BY BORROWER**

The Borrower may not assign any of its rights, or transfer any of its rights or obligations, under this deed.

## **21. SET-OFF**

### **21.1 LENDER'S RIGHT OF SET-OFF**

The Lender may at any time set off any liability of the Borrower to the Lender against any liability of the Lender to the Borrower, whether either liability is present or future, liquidated or unliquidated and whether or not either liability arises under this deed or another agreement. If the liabilities to be set off are expressed in different currencies, the Lender may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Lender of its rights under this Clause 21 shall not limit or affect any other rights or remedies available to it under this deed or otherwise.

### **21.2 NO OBLIGATION TO SET OFF**

The Lender is not obliged to exercise its rights under Clause 21.1. If, however, it does exercise those rights it must promptly notify the Borrower of the set-off that has been made.

### **21.3 EXCLUSION OF BORROWER'S RIGHT OF SET-OFF**

All payments made by the Borrower to the Lender under this deed shall be made in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

## **22. AMENDMENTS, WAIVERS AND CONSENTS**

### **22.1 AMENDMENTS**

No amendment of this deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

### **22.2 WAIVERS AND CONSENTS**

- (a) A waiver of any right or remedy under this deed or by law, or any consent given under this deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.
- (b) A failure to exercise, or a delay in exercising, any right or remedy provided under this deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this deed. No single or partial exercise of any right or remedy provided under this deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this deed by the Lender shall be effective unless it is in writing.

### **22.3 RIGHTS AND REMEDIES**

The rights and remedies provided under this deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

## **23. SEVERANCE**

If any provision (or part of a provision) of this deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this deed.

## **24. COUNTERPARTS**

- (a) This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.
- (b) Transmission of an executed counterpart of this deed (but for the avoidance of doubt not just a signature page) or the executed signature page of a counterpart of this deed together with a copy of this deed by email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this deed. If either method of delivery is adopted, without prejudice to the validity of the deed thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.
- (c) This deed may be executed by electronic signature.

## **25. THIRD PARTY RIGHTS**

- (a) Except as expressly provided elsewhere in this deed, a person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.
- (b) The rights of the parties to rescind or agree any amendment or waiver under this deed are not subject to the consent of any other person.

## **26. FURTHER PROVISIONS**

### **26.1 INDEPENDENT SECURITY**

The security constituted by this deed shall be in addition to, and independent of, any other security or guarantee that the Lender may hold for any of the Secured Liabilities at any time. No prior security held by the Lender over the whole or any part of the Secured Assets shall merge in the security created by this deed.

### **26.2 CONTINUING SECURITY**

The security constituted by this deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Lender discharges this deed in writing.

### **26.3 DISCHARGE CONDITIONAL**

Any release, discharge or settlement between the Borrower and the Lender shall be deemed conditional on no payment or security received by the Lender in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement:

- (a) the Lender or its nominee may retain this deed and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Secured Assets, for any period that the Lender deems necessary to provide the Lender with security against any such avoidance, reduction or order for refund; and
- (b) the Lender may recover the value or amount of such security or payment from the Borrower subsequently as if the release, discharge or settlement had not occurred.

### **26.4 CERTIFICATES**

A certificate or determination by the Lender as to any amount for the time being due to it from the Borrower under this deed or the Facility Agreement shall be, in the absence of any manifest error, conclusive

evidence of the amount due.

**26.5 CONSOLIDATION**

The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this deed.

**26.6 SMALL COMPANY MORATORIUM**

Notwithstanding anything to the contrary in this deed, neither the obtaining of a moratorium by the Borrower under schedule A1 to the Insolvency Act 1986 nor the doing of anything by the Borrower with a view to obtaining such a moratorium (including any preliminary decision or investigation) shall be, or be construed as:

- (a) an event under this deed which causes any floating charge created by this deed to crystallise;
- (b) an event under this deed which causes any restriction which would not otherwise apply to be imposed on the disposal of any property by the Borrower; or
- (c) a ground under this deed for the appointment of a Receiver.

**27. NOTICES**

**27.1 DELIVERY**

Each notice or other communication required to be given to a party under or in connection with this deed shall be:

- (a) in writing;
- (b) delivered by hand, by pre-paid first-class post or other next working day delivery service or sent by email; and
- (c) sent to:
  - (i) the Borrower at:

Address: Weirbank, Monkey Island Lane, Bray On Thames, Berkshire,  
SL6 2ED

\_\_\_\_\_  
Attention: The Directors

- (ii) the Lender at:

Address: 4 Bentinck Street, London, W1U 2EF

\_\_\_\_\_  
Attention: The Directors

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

**27.2 RECEIPT BY BORROWER**

Any notice or other communication that the Lender gives to the Borrower shall be deemed to have been received:

- (a) if delivered by hand, at the time it is left at the relevant address;



- (b) if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting; and
- (c) if sent by email, one hour after the time it is sent provided no notification has been received within that time that the email cannot be delivered.

A notice or other communication given as described in Clause 27.2(a) or Clause 27.2(c) on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.

#### **27.3 RECEIPT BY LENDER**

Any notice or other communication given to the Lender shall be deemed to have been received only on actual receipt.

#### **27.4 SERVICE OF PROCEEDINGS**

This Clause 27 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

#### **27.5 NO NOTICE BY FAX**

A notice or other communication given under or in connection with this deed is not valid if sent by fax.

### **28. GOVERNING LAW AND JURISDICTION**

#### **28.1 GOVERNING LAW**

This deed and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

#### **28.2 JURISDICTION**

Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this deed or its subject matter or formation. Nothing in this clause shall limit the right of the Lender to take proceedings against the Borrower in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

#### **28.3 OTHER SERVICE**

The Borrower irrevocably consents to any process in any legal action or proceedings under Clause 28.2 being served on it in accordance with the provisions of this deed relating to service of notices. Nothing contained in this deed shall affect the right to serve process in any other manner permitted by law.

**This document has been executed as a deed by the parties below and is delivered and takes effect on the date stated at the beginning of it.**

**The Borrower**

SIGNED by Darryl Still ) )  
Director, duly authorised for and on behalf of ) )  
**KINGSTILL INTERNATIONAL SOFTWARE**  
**SERVICES LIMITED:**

SIGNED by Peter King ) )  
Director, duly authorised for and on behalf of ) )  
**KINGSTILL INTERNATIONAL SOFTWARE**  
**SERVICES LIMITED:**

**The Lender**

Sinead McHale  
SIGNED by \_\_\_\_\_ ) )  
Director, duly authorised for and on behalf of ) )  
**SATAGO FINANCIAL SOLUTIONS**  
**LIMITED:**

Robert Mills  
SIGNED by \_\_\_\_\_ ) )  
Director, duly authorised for and on behalf of ) )  
**SATAGO FINANCIAL SOLUTIONS**  
**LIMITED:**