



**Registration of a Charge**

Company name: **Mitel Europe Limited**

Company number: **09059484**



X46TYO2A

Received for Electronic Filing: **06/05/2015**

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**Details of Charge**

Date of creation: **29/04/2015**

Charge code: **0905 9484 0002**

Persons entitled: **BANK OF AMERICA N.A.**

Brief description: **N/A**

**Contains fixed charge(s).**

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

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT SAVE THE 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:

**COLIN HARLEY**



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

Company number: 9059484

Charge code: 0905 9484 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 29th April 2015 and created by Mitel Europe Limited was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 6th May 2015 .

Given at Companies House, Cardiff on 7th May 2015

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 2015**

# **Debenture**

between

**The Parties listed in Schedule 1**  
as Chargors

and

**Bank of America, N.A.**  
as Collateral Agent

White & Case LLP  
5 Old Broad Street  
London EC2N 1DW

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**This Debenture** is made on 29 April 2015

**Between:**

- (1) The Persons listed in Schedule 1 (*The Chargors*) (the “**Chargors**”); and
- (2) **Bank of America, N.A.**, as Collateral Agent and Security Trustee for the Secured Parties (the “**Collateral Agent**”).

**Introduction:**

- (A) Pursuant to a Credit Agreement, dated 29 April 2015, (as amended, supplemented, amended and restated or otherwise modified from time to time) (the “**Credit Agreement**”), between, amongst others, Mitel Networks Corporation and Mitel US Holdings, Inc. as Borrowers, various financial institutions and other Persons as Lenders, Bank of America, N.A. as the Administrative Agent and the Collateral Agent and Bank of America, N.A. (acting through its Canada Branch) as the Canadian Administrative Agent and the Canadian Collateral Agent, the Lenders and Issuers have agreed to provide various facilities to the Borrowers.
- (B) Each Chargor is required to enter into this Debenture under section 7.1.11 of the Credit Agreement.
- (C) This document is the Debenture of each Chargor, even if it has not been duly executed by the Collateral Agent or has been executed by the Collateral Agent but not as a deed.

**Operative Provisions**

**1. Definitions and Interpretation**

**1.1 Terms Defined in the Credit Agreement**

Terms defined in the Credit Agreement but not in this Debenture shall have the same meanings in this Debenture as in the Credit Agreement.

**1.2 Definitions**

In addition, in this Debenture:

“**Accounts**” means the Operating Accounts and all other current, deposit or other accounts with any bank or financial institutions in which a Chargor now or in the future have an interest in and (to the extent of its interest) all balances now or in the future standing to the credit of or accrued or accruing on those accounts.

“**Administrator**” means any administrator appointed under Schedule B1 of the IA to manage the affairs, business and assets of a Chargor under this Debenture.

“**Authorisation**” means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

“**Blocked Accounts**” means the accounts of each Chargor set out in Part 2 of Schedule 5 (*Bank Accounts*) as a Blocked Account or in part 5 of any schedule to any Deed of Accession by which a Chargor becomes a party to this Debenture or that may from time to time be identified in writing as a Blocked Account by a Chargor and the Collateral Agent, (and any renewal or redesignation of such accounts), together with the debt or debts represented thereby.

“**Business Day**” means a day (other than a Saturday or Sunday) on which banks are open for general business in London and New York.

**“Credit Agreement”** has the meaning given to it in Recital A.

**“Debts”** means any book or other debt, revenue or claim (and the proceeds of any debt, revenue or claim) and the benefit of any Security Interest, guarantee or other right of any nature in relation to any of them and in relation to a Chargor, **“its Debts”** means all Debts in which it has any rights.

**“Deed of Accession”** means a deed substantially in the form of Schedule 7 (*Form of Deed of Accession*).

**“Derivative Rights”** include:

- (a) all rights relating to Shares which are deposited with, or registered in the name of, any collateral agent, depositary, custodian, trustee, nominee, fiduciary, investment manager or clearing house or system or other similar person or its nominee, in each case whether or not on a fungible basis (including rights against such person); and
- (b) all other present and future rights or cash or other assets attaching or relating to or accruing or offered on or deriving from Shares or from such rights (whether by way of redemption, conversion, exercise of option rights, substitution, exchange, preference, bonus or otherwise).

**“Guarantee”** means the guarantee granted by each Chargor pursuant to section 2 (*Guaranty provisions*) of the Subsidiary Guaranty.

**“IA”** means the Insolvency Act 1986.

**“Insolvency”** of a person includes the dissolution, bankruptcy, insolvency, winding-up, liquidation, administration, examination, amalgamation, reconstruction, reorganisation, arrangement, adjustment, administrative or other receivership or dissolution of that person, the official management of all of its revenues or other assets or the seeking of protection or relief of debtors and any equivalent or analogous proceeding by whatever name known and in whatever jurisdiction.

**“Instrument”** means any document (which term includes any form of writing) under which any obligation is evidenced or undertaken or any Security Interest (or right in any Security Interest) is granted or perfected or purported to be granted or perfected.

**“Insurance”** means any policy or contract of insurance in relation to the Secured Assets and including, for the avoidance of doubt, any renewal of or replacement for any policy or contract of insurance and in relation to a Chargor, **“its Insurances”** means all Insurances in which it has any rights (including as loss payee or additional insured).

**“Insurance Proceeds”** means any monies which may from time to time be payable to or received by a Chargor (whether as an insured party, beneficiary or as loss payee) under any Insurance and the proceeds of all claims made by a Chargor under any Insurance.

**“Losses”** means losses (including loss of profit), claims, demands, actions, proceedings, causes of action, damages and other payments, costs, expenses including reasonable legal fees and disbursements and other liabilities of any kind.

**“LPA”** means the Law of Property Act 1925.

**“Notice of Assignment”** means a notice of assignment substantially in the form set out in Schedule 2 (*Notice of Assignment of Insurance*) or Schedule 3 (*Notice of Assignment of Material Contracts*), as appropriate, or in such other form as may be reasonably specified by the Secured Party.



**“Notice of Charge”** means a notice of charge substantially in the form set out in Schedule 4 (*Notice of Charge/Assignment of Bank Accounts*) or in such other form as may be reasonably specified by the Secured Party.

**“Operating Accounts”** means the accounts of each Chargor set out in Part 1 of Schedule 5 (*Bank Accounts*) of this Debenture or in part 5 of any schedule to any Deed of Accession by which a Chargor may become a party to this Debenture and such other accounts as agreed by the Parent and/or a Chargor and the Collateral Agent and, (on, or whilst there is, a Specified Default), such other accounts of a Chargor as the Collateral Agent shall specify, in each case, together with the debt or debts represented thereby.

**“Party”** means a party to this Debenture.

**“Receiver”** means any receiver, receiver and manager or administrative receiver appointed by the Collateral Agent over all or any of the Secured Assets under this Debenture whether solely, jointly, severally or jointly and severally with any other person and includes any substitute for any of them appointed from time to time.

**“Related Rights”** means, in relation to any asset:

- (a) the proceeds of sale of any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (c) all rights, powers, benefits, claims, contracts, warranties, negotiable instruments, remedies, Security, guarantees, indemnities or covenants for title in respect of that asset; and
- (d) any moneys, proceeds, dividends or other distributions paid or payable in respect of that asset.

**“Secured Assets”** means all assets from time to time the subject of any Security Interest purported to be created by or pursuant to the Security Documents and, where the context permits, the proceeds of sale of such assets, and **“Secured Asset”** means any of them and any reference to one or more of the Secured Assets includes all or any part of it or each of them.

**“Security Documents”** means this Debenture and any other English law governed document guaranteeing or creating security for, or supporting the obligations of any Obligor under any Loan Document.

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

**“Shares”** means any stocks, shares, bonds, gilts, debentures, certificates of deposit, interests in collective investment schemes and securities of any kind, negotiable instruments, warrants, options and other rights to subscribe or acquire any investment referred to above, including but not limited to the shares specified in Schedule 6 (*Shares*) or in Part 1 of the schedule to any Deed of Accession by which a Chargor becomes party to this Debenture, in each case whether held directly by a Chargor or by any third party on its behalf, and all Related Rights including all rights against such third party.

**“Specified Default”** means the occurrence and continuance of (a) an Event of Default; or (b) a Default under clauses (a) through (d) of section 8.1.9 of the Credit Agreement.

### 1.3 Construction

- (a) In this Debenture, unless the context requires otherwise, any reference to:
- (i) “**assets**” includes present and future properties, revenues, rights and other assets of every description;
  - (ii) this Debenture includes the Schedules, which form part of this Debenture for all purposes;
  - (iii) the provision of cash cover is the provision to the Collateral Agent of an amount in cash equal to the Collateral Agent’s estimate of the maximum possible aggregate amount which a Chargor may at any time become liable to pay to any Secured Party in respect of the relevant contingent liabilities;
  - (iv) a document is to that document as varied, supplemented or replaced from time to time;
  - (v) the masculine, feminine or neuter gender respectively includes the other genders, references to the singular include the plural (and vice versa);
  - (vi) “**including**” means “including without limitation” (with related words being construed accordingly), “**in particular**” means “in particular but without limitation” and other general words shall not be given a restrictive interpretation by reason of their being preceded or followed by words indicating a particular class of assets, matters or things;
  - (vii) “**indebtedness**” includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
  - (viii) a “**person**” includes any individual, firm, company or other corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or two or more of them and any reference to any Party includes its successors in title, permitted assignees and permitted transferees;
  - (ix) a “**provision of law**” is to that provision as amended, re-enacted or replaced from time to time and includes any subordinated legislation in force under it from time to time;
  - (x) a Recital is to a statement made under the heading “Background” above, any reference to a “**Clause**” or a “**Schedule**” is to a clause or a schedule to this Debenture;
  - (xi) a “**regulation**” includes any regulation, rule, official directive, notice, request, code of practice, guideline, demand or decision (in each case whether or not having the force of law but, if not having the force of law, with which compliance is customary) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
  - (xii) a right includes any title, estate, interest, claim, remedy, power, authority, discretion or other rights of any kind, both present and future;
  - (xiii) each Secured Party, each Chargor and the Collateral Agent respectively includes its successors in title and assigns and this Debenture shall be enforceable notwithstanding any change in the constitution of the Secured

Party, its absorption in or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person;

- (xiv) a statute or statutory provisions includes any consolidation, reenactment, modification or replacement of the same and any subordinate legislation in force under the same from time to time; and
- (xv) a Loan Document or any other agreement or document is to that Loan Document or other agreement or documents as supplemented, otherwise amended, replaced or novated from time to time (however, fundamental that amendment, novation or replacement may be, even if it involves increased, new, additional and/or replacement facilities or an increase in any other amount or rate).

- (b) The index and Clause, and Schedule headings are for ease of reference only.
- (c) If there is any inconsistency between the terms of this Debenture and those of the Credit Agreement, the terms of the Credit Agreement shall prevail.

#### 1.4 **Third Party Rights**

- (a) A person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the “**Third Parties Act**”) to enforce or enjoy the benefit of any term of this Debenture.
- (b) Any Receiver may, subject to this Clause 1.4 and the Third Parties Act, rely on any Clause of this Debenture which expressly confers rights on it.

#### 1.5 **Miscellaneous**

- (a) The terms of the documents under which the Obligations arise and of any side letters between a Chargor and any Secured Party relating to the Obligations are incorporated in this Debenture to the extent required for any purported disposition of the Secured Assets contained in this Debenture to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- (b) Notwithstanding any other provision of this Debenture, the obtaining of a moratorium under section 1A of the Insolvency Act 1986, or anything done with a view to obtaining such a moratorium (including any preliminary decision or investigation), shall not be an event causing any floating charge created by this Debenture to crystallise or causing restrictions which would not otherwise apply to be imposed on the disposal of property by a Chargor or a ground for the appointment of a Receiver.

## 2. **Payment of the Obligations**

### 2.1 **Covenant to Pay**

Each Chargor as primary obligor covenants with the Collateral Agent (for the benefit of itself and the other Secured Parties) that it shall on demand pay and discharge, or procure the payment or discharge to the Collateral Agent of, each of the Obligations when the same have become due in the manner provided in the Loan Documents for their payment or discharge.

### 2.2 **Interest**

If a Chargor fails to pay or procure the payment of any Obligations on its due date, interest shall accrue and be calculated from the due date to the date of payment (both before and after judgment) calculated and payable at the rates and on the terms set out in the Credit Agreement.

### 2.3 Proportionate Discharge

Each sum appropriated by the Collateral Agent in accordance with the Loan Documents towards payment of accrued default interest on any Obligations which have not been paid on their due date under the Loan Documents shall, to the extent of that appropriation, discharge that Chargor's obligation to pay such interest under Clause 2.2 (*Interest*).

## 3. Security

### 3.1 Fixed Charges

As continuing security for the payment and discharge of the Obligations, each Chargor with full title guarantee charges to the Collateral Agent by way of first fixed charge (which so far as it relates to land in England and Wales vested in each Chargor as at the date of this Debenture will be a charge by way of first legal mortgage):

- (a) **Chattels:** all of its rights title and interest now or subsequently in any plant, real property, machinery, vehicles, equipment, and other chattels and all Related Rights;
- (b) **Other Debts:** all of its rights title and interest now or subsequently in their Debts and all Related Rights;
- (c) **Goodwill:** all of its rights title and interest now or subsequently in their goodwill and uncalled capital from time to time and all their rights to future calls in respect of capital;
- (d) **Bank Accounts:** to the extent not assigned under Clause 3.2 (*Assignments*) or such Accounts have been assigned but such assignment has not been perfected by service of the appropriate notice, all of its rights title and interest now or subsequently in any credit balance on any Account in which each relevant Chargor now or in the future has an interest and the indebtedness represented by those Accounts and all Related Rights;
- (e) **Shares:** all of its rights title and interest now or subsequently in all Shares and all Related Rights;
- (f) **Intellectual Property Rights:** all of its rights title and interest, now or subsequently, in any intellectual property, including (without limitation) all present and future patents, patent applications, trade and service marks, trade names, registered designs, confidential information and copyrights (including those in computer software) and in any licences and ancillary and connected rights relating to intangible property and all Related Rights;
- (g) **Licences:** all licences, consents and authorisations (statutory or otherwise) held in connection with its business or the use of any Secured Assets and all rights of each Chargor in connection with them;
- (h) **Other Documents:** all of its rights in any agreements, reports and other documents from time to time relating to all or any part of the Secured Assets; and
- (i) **Insurance:** to the extent not assigned under Clause 3.2 (*Assignments*) or such Insurance has been assigned but such assignment has not been perfected by service of the appropriate notice, all of its rights in their Insurances and in any Insurance Proceeds and all Related Rights.

### 3.2 Assignments

As continuing security for the payment and discharge of the Obligations, each Chargor with full title guarantee assigns absolutely to the Collateral Agent all of its present and future right, title and interest in and to and the benefit of:

- (a) the Accounts;
- (b) its Insurances and any Insurance Proceeds; and
- (c) any Material Contract.

### 3.3 Floating Charge

- (a) As continuing security for the payment and discharge of the Obligations, each Chargor with full title guarantee charges to the Collateral Agent by way of first floating charge the whole of its undertaking, inventory and all of its other assets both present and future (other than assets validly and effectively charged or assigned (whether at law or in equity) pursuant to Clauses 3.1 (*Fixed Charges*) and 3.2 (*Assignments*) by way of fixed security or assignment).
- (b) The floating charge created by any Chargor pursuant to paragraph (a) above, is a “qualifying floating charge” for the purposes of paragraph (a) of schedule B1 of the IA.
- (c) Paragraph 14 of schedule B1 of the IA shall apply to the floating charge contained in this Debenture and the Collateral Agent may at any time after a Specified Default appoint an administrator of a Chargor pursuant to that paragraph.

### 3.4 CFC Subsidiaries

Notwithstanding any other provision of this Debenture or any other Loan Document, (i) no CFC Subsidiary is or shall be deemed to be guaranteeing or indemnifying nor shall any CFC Subsidiary be required to deliver any guarantee or indemnity, directly or indirectly, relating to, any Obligation of any Obligor that is a U.S. Person, and (ii) no provision of any Loan Document shall be effective to cause (and shall be void *ab initio*) any of the assets of a CFC Subsidiary to serve as security, directly or indirectly, for the Obligations of any U.S. Person.

## 4. Crystallisation of Floating Charge

### 4.1 Crystallisation by Notice

The Collateral Agent may at any time by notice in writing to a Chargor convert the floating charge created by that Chargor in Clause 3.3 (*Floating Charge*) into a fixed charge with immediate effect as regards any Secured Asset specified in the notice if:

- (a) there is a Specified Default;
- (b) the Collateral Agent considers that any Secured Asset may be in danger of being seized or sold pursuant to any form of distress, attachment, extension or other legal process or otherwise be in jeopardy; or
- (c) the Collateral Agent considers that it is desirable to protect the priority of this Security.

### 4.2 No waiver

Any notice given by, or on behalf of the Collateral Agent under Clause 4.1 (*Crystallisation by Notice*) above in relation to a Secured Asset shall not be construed as a waiver or

abandonment of the Collateral Agent's right to give any other notice in respect of any other Secured Asset or of any other right of a Secured Party under this Debenture or any other Loan Document.

#### **4.3 Automatic Crystallisation**

- (a) The floating charge created by each Chargor in Clause 3.3 (*Floating Charge*) shall automatically (in addition to the circumstances in which the same will occur under general law) be converted into a fixed charge with immediate effect (without notice to a Chargor) as regards all assets subject to the floating charge if:
  - (i) a Chargor creates a Security Interest over any Secured Asset or attempts to do so or any Secured Asset is disposed of contrary to Clause 6.2 (*No Disposals*) or is otherwise in jeopardy;
  - (ii) any person levies or attempts to levy any distress, execution, sequestration or other process against any Secured Asset;
  - (iii) upon the convening of a meeting of the members of a Chargor to consider a resolution to wind up that Chargor; or
  - (iv) the Collateral Agent receives notice of a proposal or intention to wind up, or appoint an administrator of, a Chargor or if a resolution is passed or an order made or a petition presented for the winding-up, administration, dissolution or reorganisation of a Chargor or a Chargor is wound up or has an Administrator or Receiver appointed or a resolution for a creditors' voluntary winding-up is passed or a creditors' voluntary winding-up is commenced.
- (b) Nothing in this Clause 4 shall affect the crystallisation of the floating charge created by each Chargor under applicable law and regulation.
- (c) The floating charge created under this Debenture may not be converted into a fixed charge solely by reason of:
  - (i) the obtaining of a moratorium; or
  - (ii) anything done with a view to obtaining a moratorium,under section 1A of schedule A1 of the IA.

### **5. Perfection of Security and Further Assurance**

#### **5.1 Notice of Assignment**

- (a) Each Chargor shall:
  - (i) promptly deliver (with a copy to the Collateral Agent) a Notice of Assignment, duly completed, to any insurer liable on any Insurance of the Chargor and to any other party to a Material Contract; and
  - (ii) use reasonable endeavours to procure that each addressee of a Notice of Assignment acknowledges that Notice of Assignment substantially in the form attached to that Notice of Assignment (or in such other form as the Collateral Agent may approve (acting reasonably)).
- (b) The execution of this Debenture by each Chargor and the Collateral Agent shall constitute notice to the Collateral Agent of the above assignment of Insurance and Material Contracts.

## 5.2 Notice of Charge

Each Chargor shall:

- (a) promptly deliver (with a copy to the Collateral Agent) a Notice of Charge, duly completed, to any bank, being a bank with which any of its bank accounts are opened or maintained; and
- (b) use reasonable endeavours to procure that each addressee of a Notice of Charge acknowledges that Notice of Charge substantially in the form attached to that Notice of Charge (or in such other form as the Collateral Agent may approve (acting reasonably)).

## 5.3 Title Documents

- (a) Each Chargor will promptly deposit with the Collateral Agent (or as it shall direct):
  - (i) all stocks and share certificates and other documents of title relating to the Shares together with stock transfer forms executed in blank and left undated on the basis that the Collateral Agent shall be able to hold such documents of title and stock transfer forms until the Termination Date (or if earlier, the time at which the Collateral Agent's Security Interest in the Secured Assets represented by such certificates, documents of title and stock transfer forms are released in accordance with Clause 17.1 (*Release of Security*)) and shall be entitled, on, or whilst there is, a Specified Default to complete, under its power of attorney given in this Debenture, the stock transfer forms on behalf of a Chargor in favour of itself or such other person as it shall select;
  - (ii) all Insurance policies; and
  - (iii) on, or whilst there is, a Specified Default, all other documents relating to the Secured Assets which the Collateral Agent may from time to time reasonably require.
- (b) The Collateral Agent may retain any document delivered to it under this Clause 5.3 or otherwise until the security created under this Debenture is released and, if for any reason it ceases to hold any such document before that time, it may by notice to a Chargor require that the document be redelivered to it and that Chargor shall promptly comply (or, if such document is not in its possession, use reasonable endeavours to procure compliance) with that notice.
- (c) Any document required to be delivered to the Collateral Agent under this Clause 5.3 which is for any reason not so delivered or which is released by the Collateral Agent to a Chargor shall be held on trust by that Chargor for the Collateral Agent.

## 5.4 Further Assurance

Each Chargor shall at the request of the Collateral Agent or a Receiver and at its own expense promptly execute (in such form as the Collateral Agent may require) any Instruments or other documents and otherwise do any acts and things which the Collateral Agent or a Receiver may require to:

- (a) create, perfect, protect or preserve the Security Interests created or intended to be created under this Debenture (including without limitation, the re-execution of this Debenture, the execution of any mortgage, charge, assignment or other Security Interest created or intended to be created under this Debenture) over all or any of the assets which are, or are intended to be, the subject of the Security) and the giving of any notice, order or direction and the making of any filing or registration, or for the

exercise of any rights, powers and remedies of the Collateral Agent or any Receiver or any Secured Party provided by or pursuant to the Loan Documents or by law; or

- (b) if the Security Interest created by this Debenture has become enforceable, facilitate the realisation of the assets which are, or are intended to be, the subject of the Security Interest created or intended to be created under this Debenture.

## **6. Negative Pledge and Disposals**

### **6.1 Negative Pledge**

Except as permitted under the Credit Agreement, each Chargor undertakes that it will not, at any time prior to the Termination Date, create or permit to subsist any Security Interest over any Secured Asset.

### **6.2 No Disposals**

Except as permitted under the Credit Agreement, each Chargor undertakes that it will not, at any time prior to the Termination Date, dispose of (or agree to dispose of) all or any part of any Secured Asset (other than in respect of assets charged under Clause 3.3 (*Floating Charge*) on arm's length terms in the ordinary course of trading as permitted under the Credit Agreement) or the equity of redemption therein or permit any person to do any such thing.

## **7. Other Covenants of General Application**

### **7.1 Information and Access**

- (a) Each Chargor shall as soon as reasonably practicable deliver to the Collateral Agent from time to time on request such information about its business, the Secured Assets and its compliance with the terms of this Debenture as the Collateral Agent may reasonably require.
- (b) Each Chargor shall permit the Collateral Agent, any Receiver and/or any representatives, agents or contractors of any of them free access, at all reasonable times and on giving reasonable notice, to the Secured Assets and any books, accounts and records relating to them (including allowing free unrestricted access to any freehold or leasehold property in which any of the Secured Assets and any books, accounts and records relating to them are located from time to time) to examine the state and condition of those assets, to inspect and take copies and extracts from those books, accounts and records, to comply with or object to any direction or notice or other matter served on them or to carry out any repairs or take any other action (including the payment of money and any action taken in relation to the enforcement of this Security) which the Collateral Agent considers necessary or desirable to remedy any failure to comply with any obligation of any Chargor under the Loan Documents.

### **7.2 Covenants, Legal Obligations and Payments**

Each Chargor shall:

- (a) observe, perform and otherwise comply in all material respects with all covenants and other obligations and matters from time to time affecting any of the Secured Assets or their use or enjoyment and (if required by the Collateral Agent) produce evidence to satisfy the Collateral Agent that they are complying with this obligation;



- (b) comply in all material respects with all (and not permit any breach of any) by-laws, other laws and regulations (whether relating to planning, building or any other matter) affecting any of the Secured Assets; and
- (c) pay (or use reasonable endeavours to procure the payment of) all rents, rates, taxes, charges, assessments, impositions and other outgoings of any kind which are from time to time payable (whether by the owner or the occupier) in respect of any of the Secured Assets except to the extent that the same are being contested in good faith.

### **7.3 Enforcement of Rights**

Each Chargor shall (at its own cost) use its best endeavours to enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets which the Collateral Agent may from time to time require.

### **7.4 Management of Secured Assets**

Each Chargor shall manage their Secured Assets in a proper and efficient manner and in particular shall:

- (a) keep its Secured Assets in good and substantial repair and working order (allowing for fair wear and tear);
- (b) not without the prior written consent of the Collateral Agent make, permit or allow any alterations or additions of a material nature to any of their Secured Assets or carry out any works of demolition on them; and
- (c) not do, permit or allow to be done anything which might in any way depreciate, jeopardise or otherwise prejudice the Security Interests constituted by this Debenture and held by the Collateral Agent or the value of any of the Secured Assets and shall immediately inform the Collateral Agent of anything which occurs which might have that effect.

### **7.5 Maintenance of Insurance**

Each Chargor shall, at all times until the Termination Date:

- (a) in accordance with the terms of the Credit Agreement, insure and keep insured, with reputable and responsible insurers approved by the Collateral Agent (such approval not to be unreasonably withheld or delayed), those of the Secured Assets which are of an insurable nature, either in the name of the Chargor with the interest of the Collateral Agent noted on the Insurances, or, at the option of the Collateral Agent, in the joint names of the Chargor and the Collateral Agent, against risks usually insured against by prudent companies carrying on businesses similar to those of the Chargor and on such terms as the Collateral Agent may from time to time reasonably require;
- (b) comply with the conditions and other terms of its Insurances and not do or permit to be done anything which may make its Insurances void or voidable;
- (c) duly and promptly pay all premiums and other monies necessary to effect and maintain its Insurances and produce to the Collateral Agent upon request a copy or sufficient extract of each policy together with evidence of the payment of those monies; and
- (d) if required by the Collateral Agent, subject to the provisions of any lease of the Secured Assets, deliver to the Collateral Agent all policies of insurance relating to the Secured Assets or produce those policies to the Collateral Agent and/or its representatives or agents for inspection.

## **7.6 Default in Relation to Insurance**

If any Chargor fails to comply with any of its obligations as to insurance, the Collateral Agent may, but shall not be required to, take out, renew or maintain the relevant insurance on the terms, in the name(s) and in the amount(s) which it considers appropriate provided that nothing in this Clause 7.6 shall be interpreted as excusing any Chargor from the performance of or imposing any obligation on the Collateral Agent to cure or perform any such obligations.

## **7.7 Application of Insurance Proceeds**

Clause 14.2 (*Insurance Proceeds*) provides for the application of any Insurance Proceeds.

## **7.8 Covenants for Title**

The obligations of each Chargor under this Debenture and any document entered into pursuant to this Debenture shall be in addition to the covenants for title deemed to be included in this Debenture or such other document by virtue of Part 1 Law of Property (Miscellaneous Provisions) Act 1994.

# **8. Debts and Accounts**

## **8.1 No Dealings with Debts**

Save as permitted by the Credit Agreement, each Chargor shall not create a Security Interest, dispose, release, set-off, compound or otherwise deal over, of or with its Debts otherwise than by getting in and realising them in the ordinary and proper course of its business (and for this purpose the realisation of Debts by means of block discounting, factoring or the like shall not be regarded as dealing in the ordinary and proper course of its business).

## **8.2 Payments of Debts**

- (a) Each Chargor shall promptly pay, or procure the prompt payment of, all monies received by it or on its behalf in respect of any of their Debts into one of its bank accounts with its principal bankers. Until that payment, it will hold, or procure that the recipient holds, those moneys on trust for the Collateral Agent.
- (b) On, or whilst there is, a Specified Default, no Chargor shall be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account, except with the prior written consent of the Collateral Agent.

# **9. Shares**

## **9.1 Voting Rights and Distributions**

- (a) Until there is a Specified Default, each Chargor shall be entitled to:
  - (i) receive and retain all dividends, distributions and other amounts paid on or derived from the Shares; and
  - (ii) exercise or direct the exercise of the voting rights and other rights and powers attached to its Shares in any manner as it sees fit other than in a manner which:
    - (A) is in breach of any Loan Document or which may adversely affect the validity or enforceability of the Security Interests constituted by this Debenture or the value of such Shares; or

- (B) would cause the Collateral Agent or its nominee to incur any cost or expense or render itself subject to any liability for which it has not previously been indemnified to its satisfaction or would otherwise prejudice the Collateral Agent.
- (b) On, or whilst there is, a Specified Default:
  - (i) the Collateral Agent or any applicable Receiver may at its discretion (in the name of the Chargors or otherwise and without any further consent or authority from the Chargors) but shall not be obliged to:
    - (A) exercise the rights of a legal owner of the Shares, including the right to concur or participate in:
      - (1) the reconstruction, amalgamation, sale or other disposal of the relevant company or any of its assets or undertaking (including the exchange, conversion or reissue of any shares or securities as a consequence thereof);
      - (2) the realisation, modification or variation of any rights or liabilities attaching to such shares or securities; and
      - (3) the exercise, renunciation or assignment or any right to subscribe for any shares or securities;
    - (B) transfer the Shares on behalf of the Chargors to such nominee as the Collateral Agent shall select;
    - (C) receive and retain all dividends, distributions and other moneys paid on the Shares and apply the same in accordance with Clause 14.1 (*Order of Priority*); and
    - (D) exercise any voting rights and any other rights and powers attached to any Shares in such manner as it considers fit as if it were the sole beneficial owner of the Shares (including all powers given to trustees under part II of the Trustee Act 2000);
  - (ii) each Chargor shall comply, or procure the compliance, with any directions of the Collateral Agent or any Receiver in respect of the exercise of any rights and powers exercisable in relation to such Shares and shall promptly execute and/or deliver to the Collateral Agent or any Receiver such forms of proxy as it or he requires with a view to enabling such person as it or he selects to exercise those rights; and
- (c) any Derivative Rights shall, if received by a Chargor or its nominee, be held on trust for and forthwith paid or transferred to the Collateral Agent or the Receiver.

## 9.2 Calls

- (a) Each Chargor shall promptly pay all calls or other payments which may at any time become due in respect of any of the Shares.
- (b) If any Chargor fails to comply with paragraph (a) above within five Business Days (or such longer period as is specified for payment), the Collateral Agent may, if it thinks fit, pay such calls or other payments on behalf of that Chargor. The Chargors shall promptly on request from the Collateral Agent reimburse the Collateral Agent for any such payment plus interest from the date of payment by the Collateral Agent until the date of reimbursement at the rate and in accordance with Clause 2.2 (*Interest*).

### 9.3 Offers

If any Shares are offered for subscription or purchase by way of rights in respect of any of the Shares:

- (a) if those Shares are vested in any Chargor or its nominee, that Chargor shall forthwith notify the Collateral Agent of the offer and if the Collateral Agent so requires by notice to the Chargor, the Chargor shall accept or procure the acceptance of the offer and make any payments required in connection with such acceptance; or
- (b) if those Shares are vested in the Collateral Agent or its nominee and if the Collateral Agent so requires by notice to the Chargor, the Chargor shall immediately put the Collateral Agent in funds to enable it or its nominee to accept the offer and make any payments required in connection with such acceptance.

### 9.4 Representations Regarding Shares

Each Chargor represents and warrants to the Collateral Agent that:

- (a) it is the sole legal and beneficial owner of the Shares;
- (b) such Shares are free from all Security, options and other third party rights (except as created by this Debenture);
- (c) such Shares are fully paid; and
- (d) the constitution of a relevant company to which the Shares relate does not restrict or otherwise limit the Chargors' right to transfer or charge the Secured Assets.

## 10. Enforcement – General Provisions

### 10.1 Enforcement

On, or whilst there is, a Specified Default:

- (a) each Chargor shall on demand provide cash cover for all of its contingent Obligations to the Collateral Agent and for all notes or bills accepted, endorsed or discounted and all guarantees or other Instruments entered into by the Collateral Agent for or at the request of any Chargor; and
- (b) the Security Interests constituted by this Debenture shall become immediately enforceable and the Collateral Agent may enforce all or any of its rights under this Debenture as it thinks fit. In particular, it may without further notice exercise in relation to the Secured Assets:
  - (i) the power of sale and all other powers conferred on mortgagees by the LPA (or otherwise by law) or on an administrative receiver by the IA, in either case as extended or otherwise amended by this Debenture;
  - (ii) to the extent that Clause 11 (*Right of Appropriation*) applies, the power to appropriate the Secured Assets in or towards the payment and discharge of the Obligations in accordance with Clause 11.2 (*Exercise of Right of Appropriation*); and
  - (iii) (without first appointing a Receiver) any or all of the rights which are conferred by this Debenture (whether expressly or by implication) on a Receiver.

## 10.2 Registration of Shares

The Collateral Agent shall be entitled at any time after the Security Interests have become enforceable to complete any stock transfer forms then held by the Collateral Agent pursuant to this Debenture in the name of the Collateral Agent and the Chargor shall do whatever the Collateral Agent requires in order to procure the prompt registration of such transfer and the prompt issue of a new certificate or certificates for the relevant Secured Assets in the name of the Collateral Agent.

## 10.3 LPA provisions

- (a) The Obligations shall be deemed for the purposes of all powers implied by statute to have become due and payable within the meaning of section 101 of the LPA immediately on the execution of this Debenture.
- (b) Section 93(1) of the LPA (restriction on the consolidation of mortgages), section 103 of the LPA (restricting the power of sale) and section 109 of the LPA (restricting the power to appoint a receiver) shall not apply to this Security.
- (c) The power of sale or other disposal and other powers conferred on the Collateral Agent and any Receiver by this Debenture shall operate as a variation and extension of the statutory power of sale and other powers conferred on mortgagees under section 101 of the LPA and such powers shall arise on the date of this Debenture free from the restrictions imposed by section 103 of the LPA.

## 10.4 Protection of Third Parties

- (a) No purchaser, mortgagee or other person dealing with a Receiver or the Collateral Agent shall be bound to enquire whether its right to exercise any of its rights has arisen or become exercisable, or be concerned as to the application of any money paid, raised or borrowed or as to the propriety or regularity of any sale by or other dealing with that Receiver or the Collateral Agent.
- (b) All of the protection to purchasers contained in sections 104 and 107 of the LPA and section 42(3) of the IA shall apply to any person purchasing from or dealing with a Receiver or the Collateral Agent as if the Obligations had become due and the statutory powers of sale and of appointing a Receiver in relation to the Secured Assets had arisen on the date of this Debenture.

## 10.5 Delegation

- (a) The Collateral Agent or a Receiver may delegate to any person or persons all or any of the rights which are exercisable by it under this Debenture. A delegation under this Clause 10.4 may be made in any manner (including by power of attorney) and on any terms (including power to sub-delegate) which the Collateral Agent or any Receiver may think fit.
- (b) A delegation under Clause 10.4(a) shall not preclude the subsequent exercise of those rights by the Collateral Agent or Receiver itself nor preclude the Collateral Agent or Receiver from making a subsequent delegation of them to another person or from revoking that delegation.
- (c) Neither the Collateral Agent nor any Receiver shall be liable or responsible to any Chargor for any loss or damage arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate unless such loss or damage was directly caused by the Collateral Agent or Receiver's gross negligence or wilful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment).

## 10.6 No Liability

None of the Collateral Agent, any Receiver or any Administrator shall be liable as a mortgagee in possession or otherwise to account in relation to all or any part of the Secured Assets for any loss on realisation or for any other action, default or omission for which it or he might be liable.

## 11. Right of Appropriation

### 11.1 Application of Right of Appropriation

This Clause 11 applies to the extent any of the Secured Assets constitute “financial collateral” and this Debenture constitutes a “security financial collateral arrangement” (within the meaning of the Financial Collateral Arrangements (No. 2) Regulations 2003) (the “Regulations”).

### 11.2 Exercise of Right of Appropriation

If and to the extent that this Clause 11 applies, the Collateral Agent may appropriate all or any of the Secured Assets. If the Collateral Agent exercises its right of appropriation then it shall for these purposes value:

- (a) in the case of cash, the amount standing to the credit of any bank account together with any accrued interest not credited to the account, at the time of the appropriation; and
- (b) any other relevant Secured Asset by reference to an independent valuation or other procedure determined by the Collateral Agent, acting reasonably, at the time of the appropriation.

In each case the parties agree that the method of valuation provided for in this Debenture shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

## 12. Appointment of Receiver

### 12.1 Appointment of Receiver

- (a) Without prejudice to any statutory or other powers of appointment of the Collateral Agent under the LPA as extended by this Debenture, the Security Trust Deed or otherwise, at any time:
  - (i) after this Security Interest has become enforceable; or
  - (ii) if any Chargor so requests in writing at any time,

the Collateral Agent may without further notice to any Chargor do any of the following:

- (iii) appoint by deed or otherwise (acting through a duly authorised officer) any one or more persons qualified to act as a Receiver to be a Receiver of all or any part of the Secured Assets;
- (iv) either at the time of appointment or any time after that appointment fix his or their remuneration (without being limited by the maximum rate specified in section 109(6) LPA); and
- (v) (except as otherwise required by statute) remove any Receiver and appoint another or others in his or their place.

- (b) Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including an appointment under section 109(1) of the LPA) does not apply to this Debenture. If the Collateral Agent appoints more than one person as Receiver, the Collateral Agent may give those persons power to act either jointly or severally.
- (c) The Collateral Agent shall not be entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under section 1A to the IA.
- (d) The Collateral Agent may not appoint an administrative receiver (as defined in section 29(2) of the IA) over the Security Assets if the Collateral Agent is prohibited from so doing by section 72A of the IA.

## 12.2 Powers of Receiver

- (a) Any Receiver appointed pursuant to this Debenture shall (subject to any restrictions in the instrument appointing him) have in relation to the Secured Assets (and any other assets which when acquired would be Secured Assets) in relation to which he is appointed:
  - (i) all the powers conferred on an administrative receiver or receiver under the IA;
  - (ii) all the powers conferred by the LPA or any other applicable law on mortgagees, mortgagees in possession and on receivers; and
  - (iii) all the powers and rights of an absolute owner and power to do or omit to do anything which each Chargor itself could do or omit to do.
- (b) Every Receiver shall have in relation to the Secured Assets (every reference in this Clause 12.2 to “Secured Assets” being a reference only to all or any part of the Secured Assets in respect of which that Receiver was appointed) the powers granted by the LPA to any receiver appointed under it or to any mortgagor or mortgagee in possession and (whether or not the Receiver is an administrative receiver) the powers granted by the IA to any administrative receiver, all as varied and extended by this Debenture. In addition, but without limiting the preceding sentence, every Receiver shall have power to do the following:
  - (i) **Collection:** enter on, take possession of, collect and get in the Secured Assets and collect and get in all rents and other income whether accrued before or after the date of his appointment and for those purposes make any demands and take any actions or other proceedings which may seem to him expedient;
  - (ii) **Compliance with Debenture:** comply with and perform all or any of the acts, matters, omissions or things undertaken to be done or omitted by any Chargor under this Debenture;
  - (iii) **Management of Business:** carry on, manage, develop, reconstruct, amalgamate or diversify the business of each Chargor or any part of it in such manner as he shall in his discretion think fit;
  - (iv) **Dealing with Secured Assets:** sell or otherwise dispose of the Secured Assets, grant easements, rights or options over or in respect of them and surrender, accept the surrender or vary any agreement or arrangement relating to them. This power may be exercised without the need to comply with sections 99 and 100 of the LPA. Any disposal or other dealing under this

Clause 12.2(b)(iv) may be effected in the manner and on the terms which he thinks fit, for consideration consisting of cash, debentures or other obligations, shares or other valuable consideration and this consideration may be payable in a lump sum or by instalments spread over a period as he may think fit;

- (v) **Severance of Assets:** sever from the premises to which they are annexed and sell separately (in accordance with Clause 12.2(b)(iv)) any plant, machinery or fixtures;
- (vi) **Upkeep of Secured Assets:** repair, decorate, furnish, maintain, alter, improve, replace, renew or add to the Secured Assets as he shall think fit and effect, maintain, renew or increase indemnity insurance and other insurances and obtain bonds;
- (vii) **Dealing with Third Parties:** appoint or dismiss officers, employees, contractors or other agents and employ professional advisers and others on such terms (as to remuneration and otherwise) as he may think fit;
- (viii) **Agreements:** perform, repudiate, terminate, amend or enter into any arrangement or compromise any contracts or agreements which he may consider expedient;
- (ix) **Proceedings:** settle, arrange, compromise or submit to arbitration any accounts, claims, questions or disputes which may arise in connection with the business of a Chargor or the Secured Assets and bring, prosecute, defend, enforce, compromise, submit to and discontinue any actions, suits, arbitrations or other proceedings;
- (x) **Uncalled Capital:** make calls on the shareholders of a Chargor in respect of any of its uncalled capital;
- (xi) **Rights in Connection with Secured Assets:** exercise or permit a Chargor or any nominee of a Chargor to exercise any rights incidental to the ownership of the Secured Assets in such manner as he may think fit;
- (xii) **Subsidiaries:** form a subsidiary or subsidiaries of a Chargor and transfer, lease or license to it or them or any other person the Secured Assets on such terms as he may think fit;
- (xiii) **Assets and Rights:** purchase, lease, hire or otherwise acquire any assets or rights of any description which he shall consider necessary or desirable for the carrying on, improvement or realisation of the Secured Assets or the business of a Chargor or otherwise for the benefit of the Secured Assets;
- (xiv) **Landlord and Tenant Powers:** exercise any rights conferred on a landlord or a tenant by any applicable law or regulation in relation to the Secured Assets;
- (xv) **Raising Money:** in the exercise of any of the rights conferred on him by this Debenture or for any other purpose to raise and borrow money either unsecured or secured and either in priority to, *pari passu* with or subsequent to this Security Interest and generally on such terms as he may think fit;
- (xvi) **Receipts and Discharges:** give valid receipts for all monies and execute all discharges, assurances and other documents which may be proper or desirable for realising the Secured Assets and redeem, discharge or



compromise any Security Interest whether or not having priority to the Security Interests or any part of it;

- (xvii) **All other Acts:** execute and do all such other acts, things and documents as he may consider necessary or desirable for the realisation or preservation of the Secured Assets or incidental or conducive to any of the rights conferred on or vested in him under or by virtue of this Debenture or otherwise and exercise and do in relation to the Secured Assets, and at the cost of the Chargors, all the rights and things which he would be capable of exercising or doing if he were the absolute beneficial owner of the same; and
- (xviii) **Name of Chargors:** use the name of a Chargor or his own name to exercise all or any of the rights conferred by this Debenture.

### 12.3 Agent of the Chargors

Any Receiver appointed under this Debenture whether acting solely or jointly shall be deemed to be the agent of a Chargor (or acting as principal, after liquidation of any Chargor) and to be in the same position as a receiver appointed under the LPA and each Chargor shall be solely responsible for his acts, omissions, defaults, losses and misconduct and for his remuneration and the Collateral Agent shall not be in any way liable or responsible either to any Chargor or to any other person for any Receiver.

### 12.4 Joint Appointment

If at any time two or more persons have been appointed as Receivers of the same Secured Assets, each one of those Receivers shall be entitled to exercise individually all of the rights conferred on Receivers under this Debenture to the exclusion of the other or others in relation to any of the Secured Assets in respect of which he has been appointed unless the Collateral Agent shall state otherwise in the document appointing him.

## 13. Appointment of Administrator

### 13.1 Appointment of Administrator

- (a) The Collateral Agent may without notice appoint any one or more persons to be an administrator of a Chargor pursuant to paragraph 14, schedule B1, of the IA at any time after this Security Interest has become enforceable.
- (b) Clause 13.1(a) shall not apply to each Chargor if paragraph 14, schedule B1 of the IA does not permit an administrator of a Chargor to be appointed.
- (c) Any appointment under Clause 13.1(a) shall be in writing signed by a duly authorised officer of the Collateral Agent.

### 13.2 Replacement of an Administrator

The Collateral Agent may (subject to any necessary approval from the court) end the appointment of any Administrator by notice in writing signed by a duly authorised officer and appoint under Clause 13.1 (*Appointment of Administrator*) a replacement for any Administrator whose appointment ends for any reason.

## 14. Application of Proceeds

### 14.1 Order of Priority

Any monies received by the Collateral Agent or any Receiver under this Debenture or under the rights conferred by this Debenture shall, on, or whilst there is, a Specified Default and

payment of any claims having priority to this Security, be held by the Collateral Agent on trust to apply them as referred to in clause (b) of section 4.7 (*Payments, Computations; Proceeds of Collateral, etc.*) of the Credit Agreement.

#### **14.2 Insurance Proceeds**

- (a) All monies received by the Chargors by virtue of any Insurance on the Secured Assets, whether or not effected under this Debenture:
  - (i) shall be deemed part of the Secured Assets; and
  - (ii) shall, save with the prior written consent of the Collateral Agent, be paid to the Collateral Agent. This shall apply whether the event pursuant to which those monies became payable occurred before, on or after the date of this Debenture.
- (b) Subject to the rights of any lessee, any monies so paid to the Collateral Agent or otherwise received by the Collateral Agent by virtue of any insurance on the Secured Assets shall be applied at the discretion of the Collateral Agent either in reduction of the Obligations or in or towards making good the loss or damage in respect of which they became payable. Each Chargor waives any right it may have to require that those monies be applied in or towards making good the loss or damage in respect of which they became payable.
- (c) Any monies received by the Chargors by virtue of any Insurance on the Secured Assets shall be held on trust for the Collateral Agent until those monies are paid to the Collateral Agent in accordance with this Clause 14.2.

### **15. General Security Provisions**

- 15.1 All or any of the rights which are conferred by this Debenture (either expressly or impliedly) or by law upon a Receiver may be exercised after the Security Interests in respect of the Secured Assets become enforceable by the Collateral Agent or, to the extent permitted by law, an Administrator, irrespective of whether the Collateral Agent shall have taken possession or appointed a Receiver of the Secured Assets.

#### **15.2 Continuing Security**

This Debenture is a continuing security and will extend to the ultimate balance of the Obligations regardless of any intermediate payment or discharge in whole or in part to the Collateral Agent and shall be binding until the Termination Date.

#### **15.3 Additional Security**

- (a) This Debenture is in addition to and is not in any way prejudiced by any other guarantee or Security Interest now or subsequently held by or on behalf of the Collateral Agent.
- (b) No other security held by any Secured Party (in its capacity as such or otherwise) or right of set-off over any Secured Asset shall merge into or otherwise prejudice the Security Interests created by this Debenture or right of set-off contained herein.

#### **15.4 Immediate Recourse**

Each Chargor waives any right it may have of first requiring Collateral Agent (or any other Secured Party) to proceed against or enforce any Security Interests or other rights or claim payment from any other person or file any proof or claim in any insolvency, administration, winding-up or liquidation proceedings relative to any other Obligor before claiming from that

Chargor under this Debenture. This waiver applies irrespective of any applicable law and regulation or any provision of any Loan Documents to the contrary.

#### 15.5 **Discretion in Enforcement**

Until the Termination Date, the Collateral Agent or any Receiver may:

- (a) refrain from applying or enforcing any other monies, Security Interests or other rights held or received by it in respect of the Obligations or apply and enforce them in such manner and order as it sees fit (whether against the Obligations or otherwise) and the Chargors shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any monies received from a Chargor or on account of the Obligations.

#### 15.6 **Waiver of Defences**

The obligations of each Chargor under this Debenture shall not be affected by any act, omission or thing which, but for this provision, would reduce, release or prejudice any of its obligations under this Debenture (whether or not known to it or any Secured Party). This includes:

- (a) any time or waiver granted to, or composition with, any person;
- (b) any release of any person under the terms of any composition or arrangement;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any person;
- (d) any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (e) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any person;
- (f) any amendment of a Loan Document or any other document or security;
- (g) any unenforceability, illegality, invalidity or non-provability of any obligation of any person under any Loan Document or any other document or security or the failure by the Parent or any of its Subsidiaries to enter into or be bound by any Loan Document; or
- (h) any insolvency or similar proceedings.

#### 15.7 **Appropriations**

Until all amounts which may be or become payable by a Chargor under or in connection with the Loan Documents (other than Letters of Credit which have been cash collateralized in accordance with the terms of the Credit Agreement) have been irrevocably paid in full, each Secured Party (or any trustee or agent on its behalf) may without affecting the liability of any Chargor under this Debenture:

- (a)
  - (i) refrain from applying or enforcing any other monies, security or rights held or received by that Secured Party (or any trustee or agent on its behalf) against those amounts; or

- (ii) apply and enforce them in such manner and order as it sees fit (whether against those amounts or otherwise); and
- (b) hold in an interest bearing suspense account any moneys received from any Chargor or on account of that Chargor's liability under this Debenture.

## 15.8 **Non-Competition**

Unless:

- (a) the Collateral Agent is satisfied that all amounts which may be or become payable by the Obligors under or in connection with the Loan Documents have been irrevocably paid in full; or
- (b) the Collateral Agent otherwise directs,

no Chargor will, upon the occurrence of a Specified Default or by virtue of any payment or performance by it under this Debenture:

- (i) be subrogated to any rights, security or monies held, received or receivable by any Secured Party (or any trustee or agent on its behalf);
- (ii) be entitled to any right of contribution or indemnity in respect of any payment made or monies received on account of that Chargor's liability under this Debenture;
- (iii) claim, rank, prove or vote as a creditor of any Obligor or its estate in competition with any Secured Party (or any trustee or agent on its behalf); or
- (iv) receive, claim or have the benefit of any payment, distribution or security from or on account of any Obligor, or exercise any right of set off as against any Obligor.

Each Chargor shall hold in trust for and shall immediately pay or transfer to the Collateral Agent for the Secured Party any payment or distribution or benefit of security received by it contrary to this Clause or in accordance with any directions given by the Collateral Agent under this Clause.

## 15.9 **Security Assets**

The fact that no or incomplete details of any Security Asset are inserted in any Schedule to this Debenture or in the schedule of any Deed of Accession (if any) by which any Chargor became a party to this Debenture does not affect the validity or enforceability of the Security Interests created by this Debenture.

## 15.10 **Subsequent Security Interests**

At any time following:

- (a) the Collateral Agent's receipt of notice (either actual or constructive) of any subsequent Security Interest affecting the Secured Assets;
- (b) the Insolvency of a Chargor; or
- (c) any disposal of all or any of the Secured Assets in breach of Clause 6.2 (*No Disposals*),

the Collateral Agent may open a new account or accounts in the name of a Chargor (whether or not it permits any existing account to continue). If the Collateral Agent does not open such a new account, it shall nevertheless be treated as if it had done so at the time when the notice

was received or was deemed to have been received or, as the case may be, the Insolvency commenced or the assignment or transfer occurred and from that time all payments made by a Chargor to, the Collateral Agent or received by the Collateral Agent for the account of a Chargor shall be credited or treated as having been credited to the new account and shall not operate to reduce the amount secured by this Debenture at the time when the Collateral Agent received or was deemed to have received that notice or, as the case may be, the Insolvency commenced or the assignment or transfer occurred.

## **16. Power of Attorney**

### **16.1 Appointment**

Each Chargor irrevocably and by way of security appoints the Collateral Agent and any Receiver and every delegate referred to in Clause 10.4 (*Delegation*) and each of them jointly and also severally to be their attorney (with full powers of substitution and delegation) and in its name or otherwise and on its behalf and as its act and deed to execute, deliver and perfect all Instruments and other documents and do any other acts and things which may be required or which the attorney may consider desirable:

- (a) to carry out any obligation imposed on it by this Debenture;
- (b) if the Security Interests constituted by this Debenture have become enforceable, to carry into effect any disposal or other dealing by the Collateral Agent or any Receiver;
- (c) if the Security Interests constituted by this Debenture have become enforceable, to convey or transfer any right in land or any other asset;
- (d) if the Security Interests constituted by this Debenture have become enforceable, to get in the Secured Assets; and
- (e) generally to enable the Collateral Agent and any Receiver to exercise the respective rights conferred on them by this Debenture or by applicable law and regulation,

and each Chargor undertakes to ratify and confirm all acts and things done by an attorney in the exercise or purported exercise of its powers and all monies spent by an attorney shall be deemed to be expenses incurred by the Collateral Agent under this Debenture.

### **16.2 Irrevocable Power**

Each Chargor acknowledges that each power of attorney granted by Clause 16.1 (*Appointment*) is granted irrevocably and for value as part of this Security Interest to secure a proprietary interest of, and the performance of obligations owed to, the donee within the meaning of Section 4 of the Powers of Attorney Act 1971.

## **17. Retention of Security**

### **17.1 Release of Security**

Upon:

- (a) the Disposition of any Secured Asset permitted in accordance with the Credit Agreement; or
- (b) the occurrence of the Termination Date,

and subject to Clause 17.2 (*Reinstatement*), the Security Interests granted in this Debenture shall automatically terminate with respect to such Secured Asset (in the case of paragraph 16.1(a)) or all Secured Assets (in the case of paragraph 16.1(b)).

Upon any such Disposition or termination, the Collateral Agent will, at the sole expense of the Chargors, deliver to the Chargors, without any representations, warranties or recourse of any kind whatsoever, the Secured Assets that are the subject of the Disposition (in the case of paragraph (a) above) or all Secured Assets, (in the case of paragraph (b) above ) and execute and deliver to the Chargors such documents (in a form reasonably acceptable to the Collateral Agent) as the Chargors shall reasonably request to evidence such termination.

## **17.2 Reinstatement**

- (a) Any release, settlement, discharge, re-assignment or arrangement (in this Clause 17, a “**release**”) made by the Collateral Agent on the faith of any assurance, security or payment shall be conditional on that assurance, security or payment not being avoided, reduced, clawed back or ordered to be repaid under any law relating to Insolvency.
- (b) If any avoidance, reduction or clawback occurs or order is made as referred to in Clause 17.2(a), then the release given by the Collateral Agent shall have no effect and shall not prejudice the right of the Collateral Agent to enforce this Security Interest in respect of the Obligations. As between each Chargor and the Collateral Agent, this Security Interest shall (notwithstanding the release) be deemed to have remained at all times in effect and held by the Collateral Agent as a Security Interest for the Obligations.

## **18. Prior Security Interests**

### **18.1 Redemption**

The Collateral Agent may at any time:

- (a) redeem, or procure the transfer to itself of, any prior Security Interest over any Secured Assets; or
- (b) settle and pass the accounts of the holder of any prior Security Interest. Any accounts so settled and passed shall be conclusive and binding on each Chargor.

### **18.2 Costs of Redemption**

All principal monies, interest, costs, expenses and other amounts incurred in and incidental to any redemption or transfer under Clause 18.1 (*Redemption*) shall be paid by the Chargors to the Collateral Agent on demand, in each case together with interest calculated in the manner required by section 12.3 of the Credit Agreement (*Payment of Costs and Expenses*).

## **19. Costs**

### **19.1 Costs and Expenses**

Each Chargor shall promptly on demand pay on a full indemnity basis the amount of all costs and expenses (including legal fees and other out of pocket expenses and any value added tax thereon) properly incurred by any Secured Party, Receiver, attorney, manager, agent or other person appointed by the Collateral Agent under and in accordance with this Debenture in connection with:

- (a) the negotiation, preparation and execution of the Security Documents;

- (b) any actual or proposed amendment of or waiver or consent under or in connection with this Debenture requested by a Chargor;
- (c) any discharge or release of any Security Interest created by this Debenture;
- (d) the preservation or exercise (or attempted preservation or exercise) of any rights under or in connection with, and the enforcement (or attempted enforcement) of any of the Security Documents and the perfection or enforcement of any other Security Interest for or guarantee in respect of the Obligations;
- (e) the taking or holding of any Security Interest created by this Debenture or any proceedings in relation to it or to all or any of the Secured Assets; and
- (f) any advice obtained in relation to any other matter or question arising out of or in connection with any of the Security Documents,

together with interest from the date it is incurred or becomes payable up to the date of receipt by the Collateral Agent (both before and after judgement), accruing on a daily basis and in the manner set out in Clause 2.2 (*Interest*).

## 19.2 Taxes

Each Chargor shall pay all stamp, registration and other taxes to which this Debenture, or any judgment or order given in connection with this Debenture may at any time be subject and shall on demand indemnify the Collateral Agent against any Losses resulting from any failure to pay or delay in paying the same.

## 20. Indemnity

### 20.1 General Indemnity

- (a) Each Chargor shall on demand indemnify and keep indemnified the Collateral Agent and every Receiver, attorney, manager, agent or other person appointed by the Collateral Agent under this Debenture and their respective employees, officers, directors and agents (each an “**Indemnified Person**”) in respect of all Losses incurred or suffered by any of them in or directly or indirectly as a result of the exercise or purported exercise of any of the rights vested in them under this Debenture and against all Losses suffered or incurred by any of them in respect of any matter or thing done or omitted relating to the Secured Assets, together with interest from the earlier of the date of demand and the date of payment by that person up to the date of receipt by that person (both before and after judgement), accruing on a daily basis under the terms of the Credit Agreement and in accordance with Clause 2.2 (*Interest*); *provided, however, that* nothing in this Clause 20 shall require any Chargor to indemnify any person with respect to taxes which (but without prejudice to the provisions of the Credit Agreement) shall be governed exclusively by Clause 19.2 (*Taxes*) hereof or where a Loss arises as a result of the Indemnified Person’s gross negligence or wilful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment). The Collateral Agent and any Receiver may retain and pay all those sums out of any monies received by it or him under this Debenture. To the extent permitted by applicable law, each Chargor waives, any claim against any Indemnified Person on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Debenture or otherwise relating to the Secured Assets.
- (b) Each Receiver and Indemnified Person may rely on and enforce this indemnity.

## **20.2 Indemnity for Breach**

Each Chargor shall on demand indemnify and keep indemnified the Collateral Agent and each other Indemnified Person in respect of all Losses properly occasioned by any breach of any of their covenants or other obligations under this Debenture or otherwise relating to all or any part of the Secured Assets, together with interest from the earlier of the date of demand by the Collateral Agent and the date of payment up to the date of receipt by the Collateral Agent (both before and after judgement), accruing on a daily basis and in accordance with Clause 2.2 (*Interest*); *provided, however, that* nothing in this Clause 20.2 shall require each Chargor to indemnify any person with respect to taxes which (but without prejudice to the provisions of the Credit Agreement) shall be governed exclusively by Clause 19.2 (*Taxes*) hereof.

## **21. Transfers**

### **21.1 Collateral Agent**

The Collateral Agent may assign any or all of its rights and transfer any or all of its obligations under this Debenture without the consent of a Chargor being required.

### **21.2 Chargors**

No Chargor may assign any of its rights or transfer any of its rights or obligations under this Debenture.

### **21.3 Disclosure of Information**

The Collateral Agent may disclose any information about a Chargor which it shall consider appropriate to any affiliate, any of its professional advisers, any person to whom it is proposing to assign or transfer, or has assigned or transferred, any of its rights and obligations under this Debenture or to any person to whom information may be required to be disclosed by any applicable law and regulation.

## **22. Set-Off**

The Collateral Agent and each other Secured Party may set-off (without notice to a Chargor) any matured obligation due from a Chargor under this Debenture (to the extent beneficially owned by the Collateral Agent) against any matured obligation owed by the Collateral Agent or such Secured Party to a Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Collateral Agent may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

## **23. Communications**

### **23.1 Communications in Writing**

Any communication to be made or provided under or in connection with this Debenture (including any notices, waivers, consents or other documents) shall be made or provided in English and in writing and, unless otherwise stated, may be delivered by fax, post or personal delivery.



## **23.2 Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication to be made or delivered under or in connection with this Debenture is:

- (a) (subject to Clause 23.2(b)) that identified with its execution of this Debenture at the end of the Schedules or any substitute address, fax number or department or officer as the relevant Party may notify to the other party by not less than 15 Business Days' notice; or
- (b) may in the alternative in the case of any claim form, judgment or other notice of process of a Chargor be delivered or sent to their respective registered offices from time to time.

## **23.3 Delivery**

- (a) Any communication made or provided by one Party to another under or in connection with this Debenture will only be effectively made or provided:
  - (i) if delivered by fax, when received in legible form; or
  - (ii) if delivered by post or personal delivery, when it has been left at the relevant address or (subject to Clause 23.3(b)) ten Business Days after being deposited in the post postage prepaid in an envelope addressed to the recipient at that address.
- (b) Any communication to be made or provided to the Collateral Agent will be effectively made or provided only when actually received by the Collateral Agent and then only if it is expressly marked for the attention of the department or officer specified as part of its address details provided under Clause 23.2 (*Addresses*).

## **24. Calculations and Certificates**

### **24.1 Accounts**

In any litigation or other proceedings arising out of or in connection with this Debenture, the entries made in the accounts maintained by the Collateral Agent are prima facie evidence of the matters to which they relate.

### **24.2 Certificates or Determinations**

Any certificate or determination of the Collateral Agent as to any matter provided for in this Debenture is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

## **25. Partial Invalidity**

If, at any time, any provision of this Debenture is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of that provision under the law of any other jurisdiction will in any way be affected or impaired.

## **26. Remedies and Waivers**

No failure to exercise, nor any delay in exercising, on the part of the Collateral Agent, any remedy or other right under this Debenture shall operate as a waiver, nor shall any single or

partial exercise of any remedy or other right prevent any further or other exercise or the exercise of any other right. The remedies and other rights provided in this Debenture are cumulative and not exclusive of any remedies and other rights provided by law.

## **27. Amendments and Waivers**

Any term of this Debenture may be amended or waived, in accordance with the terms of the Credit Agreement and only with the written consent of the Collateral Agent and each Chargor and any such amendment or waiver will be binding on all Parties.

## **28. Counterparts**

This Debenture may be executed in any number of counterparts, and this has the same effect as if the signatures (and if applicable, seals) on the counterparts were on a single copy of this Debenture.

## **29. Governing Law**

This Debenture and any non-contractual obligations arising out of or in connection with it are governed by, and shall be construed in accordance with, English law.

## **30. Enforcement**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Debenture (including a dispute regarding the existence, validity or termination of this Debenture) (a “**Dispute**”).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly neither Party will argue to the contrary.
- (c) This Clause 30 is for the benefit of the Secured Parties only. As a result, the Secured Parties shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

## **Execution**

The parties have executed this Debenture on the date first mentioned above as evidence of their acceptance of its terms.

## Schedule 1

### The Chargors

Company	Company number	Registered Office
Mitel Europe Limited	09059484	Mitel Europe Limited 5 New Street Square London United Kingdom EC4A 3TW
Mitel Networks Holdings Limited	04186471	Mitel Networks Holdings Limited Castlegate Business Park Portskewett Monmouthshire NP26 5YR
Mitel Networks Limited	01309629	Mitel Networks Holdings Limited Castlegate Business Park Portskewett Monmouthshire NP26 5YR

## Schedule 2

### Notice of Assignment of Insurance

*[On Chargor's notepaper]*

To: [Name and address of insurer]

With a copy to: Bank of America, N.A., as Collateral Agent under the Debenture

[Date]

Dear Sirs

#### Policy number [●]

We give you notice that by a Debenture (the “**Debenture**”) dated [●] 20[●] and entered into by us, amongst others, in favour of Bank of America, N.A. (as Collateral Agent, as defined in the Debenture), we have assigned all our rights in the insurance policy, brief details of which are set out below (the “**Policy**”) and all monies which may be payable to or received by us under it.

Please note the following:

- (a) we irrevocably and unconditionally instruct and authorise you (despite any previous instructions which we may have given to the contrary) to pay all monies payable by you to us under the Policy, including the proceeds of all claims, to such bank account as the Collateral Agent may from time to time specify in writing;
- (b) all of the powers, discretions, remedies and other rights which would, but for the Debenture, be vested in us under and in respect of the Policy are exercisable by the Collateral Agent; and
- (c) we agree that:
  - (i) none of the instructions, authorisations and confirmations in this notice can be revoked or varied in any way except with the Collateral Agent's prior written consent; and
  - (ii) you are authorised to disclose any information in relation to the Policy to the Collateral Agent at the Collateral Agent's request.

Please acknowledge receipt of this notice, and confirm your agreement to it, by signing the acknowledgement on the enclosed copy letter and returning it to the Collateral Agent, at [●] marked for the attention of [●].

This letter is governed by, and shall be construed in accordance with, English law.

Yours faithfully

[●]

---

By: [Name of Signatory]

**Details of Policy**

Name of insured: [●]

Nature of policy: [●]

Policy number: [●]

Expiry date: [●]

[On copy letter only:]

To: ***Collateral Agent***

We acknowledge receipt of a notice dated [●] 20[●] addressed to us by [●] (the “Chargor”) regarding the Policy (as defined in that notice).

We confirm that:

- (a) we consent to the assignment of the Policy and will comply with the terms of that notice;
- (b) we have not, as at the date of this acknowledgement, received any notice that any third party has or will have any right in, or has made or will be making any claim or demand or taking any action in respect of, the rights of the Chargor under or in respect of the Policy;
- (c) if the Chargor is in breach of any of its obligations, express or implied, under the Policy or if any event occurs which would permit us to terminate, cancel or surrender the Policy we will:
  - (i) immediately on becoming aware of it, give you written notice of that breach; and
  - (ii) accept as an adequate remedy for that breach, performance by you of those obligations within 30 days of that notice;
- (d) we confirm that no waiver of any of the Chargor’s rights under and no amendment, novation, rescission or other termination by the Chargor of, the Policy shall be effective without the prior written consent of the Collateral Agent; and
- (e) we confirm that we shall not exercise any right of combination, consolidation or setoff which we may have in respect of any debt owed to us by the Chargor and we shall send you copies of all statements, orders and notices given by us relating to that debt.

[Name of Insurer]

\_\_\_\_\_  
By: [Name of Signatory]

Dated: [●]

### Schedule 3

#### Notice of Assignment of Material Contracts

*[On Chargors's notepaper]*

To: [Name and address of counterparty]

With a copy to: Bank of America, N.A., as Collateral Agent under the Debenture

Date: [\*\*\*]

Dear Sirs,

We give you notice that by a Debenture (the “**Debenture**”) dated [●] 20[●] and entered into by us, amongst others, in favour of Bank of America, N.A. (as Collateral Agent, as defined in the Debenture), we have assigned all our right, title and interest in and to [details of contract] (the “**Contract**”) including all monies which may be payable in respect of the Contract.

Following notice from the Collateral Agent that the security constituted by the Debenture has become enforceable:

1. all payments by you to us under or arising from the Contract should be made to the Collateral Agent or to its order as it may specify in writing from time to time;
2. all remedies provided for in the Contract or available at law or in equity are exercisable by the Collateral Agent;
3. all rights to compel performance of the Contract are exercisable by the Collateral Agent although the Company shall remain liable to perform all the obligations assumed by it under the Contract;
4. all rights, interests and benefits whatsoever accruing to or for the benefit of ourselves arising from the Contract belong to the Collateral Agent and no changes may be made to the terms of the Contract nor may the Contract be terminated without the Collateral Agent's consent; and
5. you are authorised and instructed, without requiring further approval from us, to provide the Collateral Agent with such information relating to the Contract as it may from time to time request and to send it copies of all notices issued by you under the Contract to the Collateral Agent as well as to us.

These instructions may not be revoked, nor may the terms of the Contract be amended, varied or waived without the prior written consent of the Collateral Agent.

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning it to the Collateral Agent at [\*\*\*] marked for the attention of [\*\*\*].

Yours faithfully,

[Company]  
for and on behalf of

[●]

[On copy only:]

To: ***Collateral Agent***

We acknowledge receipt of a notice dated [●] 20[●] addressed to us by [●] (the “**Chargor**”) regarding the Contract (as defined in that notice) and confirm that we will comply with the terms of that notice.

We further confirm that, following notice from the Collateral Agent that the security constituted by the Debenture has become enforceable:

- (a) no amendment, waiver or release of any of such rights, interests and benefits shall be effective without the prior written consent of the Collateral Agent;
- (b) no termination of such rights, interests or benefits shall be effective unless we have given the Collateral Agent thirty days written notice of the proposed termination, specifying the action necessary to avoid such termination; and
- (c) no breach or default on the part of the Chargor of any of the terms of the Contract shall be deemed to have occurred unless we have given notice of such breach to the Collateral Agent specifying how to make good such breach.

For and on behalf of [\*\*\*]

\_\_\_\_\_  
By:

Dated: [●]



## Schedule 4

### Notice of [Charge / Assignment] of Bank Accounts

*[On Chargor's notepaper]*

To: [Name and address of other bank]

With a copy to: Bank of America, N.A., as Collateral Agent under the Credit Agreement (as defined below)

[Date]

Dear Sirs

**Account numbers:** [●]

We refer to Account numbers: [●] (the "Accounts").

We refer to a credit agreement (the "**Credit Agreement**") between amongst others Mitel Networks Corporation and Mitel US Holdings, Inc. (as Borrowers), Bank of America, N.A. (as the Administrative Agent and Collateral Agent) and Bank of America, N.A. (acting through its Canada Branch (as the Canadian Administrative Agent and the Canadian Collateral Agent)).

We give you notice that by a Debenture (the "**Debenture**") dated [●] required to be given by us under the Credit Agreement in favour of Bank of America, N.A. (as Collateral Agent, as defined in the Debenture) we have [assigned] / [charged by way of first fixed charge] all our rights in any credit balances on the Accounts (the "**Balances**") and the indebtedness represented by the Accounts.

We irrevocably and unconditionally instruct and authorise you (despite any previous instructions which we may have given to the contrary):

- (a) to disclose to the Collateral Agent (without any reference to or further authority from us and without any enquiry by you as to the justification for the disclosure), any information relating to the Accounts which the Collateral Agent may, at any time and from time to time, request;
- (b) following notice from the Collateral Agent that the security constituted by the Debenture has become enforceable, at any time and from time to time on receipt by you of any written instruction from the Collateral Agent, to only release any amount of the Balances and to act solely in accordance with that instruction (without any reference to or further authority from us and without any enquiry by you as to the justification for the instruction or the validity of the same). For the avoidance of doubt until you receive such notice from the Collateral Agent you may continue to act on our instructions in respect of the Accounts; and
- (c) to comply with the terms of any written notice, statement or instruction in any way relating or purporting to relate to the Accounts, the Balances or the indebtedness represented by them which you may receive at any time and from time to time from the Collateral Agent (without any reference to or further authority from us and without any enquiry by you as to the justification for the notice, statement or instruction or the validity of it).

We agree that:

- (i) none of the instructions, authorisations and confirmations in this notice can be revoked or varied in any way except with the Collateral Agent's prior written consent; and
- (ii) you are authorised to disclose any information in relation to the Accounts to the Collateral Agent at the Collateral Agent's request.

Please acknowledge receipt of this notice, and confirm your agreement to it, by signing the acknowledgement on the enclosed copy letter and returning it to the Collateral Agent at [●], marked for the attention of [●].

This letter is governed by, and shall be construed in accordance with, English law.

Yours faithfully

[●]

---

By: [Name of Signatory]

[On copy letter only:]

To: *Collateral Agent*

We acknowledge receipt of a notice (the “**Notice**”) dated [●] 20[●] addressed to us by [●] (the “**Chargor**”) regarding Account numbers: (the “**Accounts**”).

We note that until such time that you serve a written notice to the contrary on us and such receipt is acknowledged by us, the Chargor is at liberty to operate the Accounts in the ordinary way.

We acknowledge the instructions and authorisations contained in the Notice on the following basis:

1. Nothing in the Notice should prevent us operating the Accounts in the ordinary course of banking business including, without limitation, collecting cheques and other payment orders by any medium, electronic or otherwise when accepting monies for the credit of the Account(s), honour any payment or other instructions, notices or directions regarding the Account(s), and allowing the Chargor to draw cheques and make other payments and generally to withdraw funds from the Accounts on instructions of the Chargor and without reference or authority from you, until such time as we have received a notice stating otherwise in writing from you.
2. It is understood that we are authorised to act upon instructions from any authorised signatory of the Chargor in accordance with the current mandate held by us in respect of the Accounts immediately prior to the Notice; *provided that* the Collateral Agent has not provided us with any contrary instructions or with any notice that the security constituted by the Debenture referenced in the Notice has become enforceable (in which case, we shall no longer be authorized to act on any further instructions from the Chargor and shall act only on instructions from the Collateral Agent).
3. The Accounts shall be operated on the basis of our standard terms and conditions as varied from time to time.
4. All expenses for the maintenance of the Accounts and all expenses arising under this arrangement shall be the responsibility of the Chargor and in the event that these are not otherwise met by the Chargor such expenses shall be debited directly by us to the Accounts.
5. You agree that we may rely on any notice, instruction, direction, communication or other document or information believed by us to be genuine and correct which have been signed or communicated by the person by whom it purports to be signed and communicated and we shall not be liable for the consequences such as we have no obligation whatsoever to verify the facts or matters stated therein as true and correct, including whether the terms of any agreement between the Chargor and yourself has been complied with or the making of any enquiry as to whether a security interest has become enforceable.
6. To the extent that an instruction for withdrawal from the Accounts is given which would in our opinion cause the Accounts to be overdrawn we shall only transfer the outstanding cleared credit balance in the Accounts.

We confirm that subject to what we have said above:

- (a) we consent to the charge of the Accounts and will comply with the terms of the Notice;
- (b) there does not exist in our favour, and we undertake not to, save with your prior written consent, create, assert, claim or exercise, any mortgage, fixed or floating charge, assignment or other security interest of any kind or any agreement or arrangement having substantially the same economic or financial effect as any of the above (including any rights of counter-claim, rights of set-off or combination of

accounts over or with respect to all or any part of the Accounts and/or the Balances (as defined in that Notice) except with respect to returned or charged back items or our charges, fees, and expense with respect to the Accounts or the request of the Chargor or yourself hereunder;

- (c) we have not, as at the date of this acknowledgement, received any notice that any third party has or will have any right in, or has made or will be making any claim or demand or taking any action in respect of, the rights of the Chargor under or in respect of the Accounts or the Balances;
- (d) we undertake that, on our becoming aware at any time that any person other than the Collateral Agent has or will have any right in, or has made or will be making any claim or demand or taking any action in respect of the Accounts or the Balances, we will immediately give written notice of that to the Collateral Agent; and
- (e) we will act in accordance with instructions given by the authorised signatories acting on your behalf.

The Bank shall have no responsibility for the correctness of any payments or withdrawals from the Accounts *provided that* we comply with the Notice and the Bank shall not be deemed to be a trustee or fiduciary of the Accounts and the relationship of us to the Chargor shall be that of banker and accountholder only.

This Acknowledgement is governed by and shall be construed in accordance with English law and the English Courts shall have exclusive jurisdiction.

**[Name of Bank]**  
for and on behalf of

\_\_\_\_\_  
By: [Name of Signatory]

Dated: [●]

## Schedule 5

### Bank Accounts

#### Part 1

#### Operating Accounts

Account Holder	Bank	Account Number	Sort Code
Mitel Networks Limited	Barclays Bank PLC (UK)		
Mitel Networks Limited	Barclays Bank PLC (UK)		
Mitel Networks Limited	Barclays Bank PLC (UK)		
Mitel Networks Limited	Barclays Bank PLC (UK)		
Mitel Networks Limited	Barclays Bank PLC (UK)		
Mitel Networks Limited	HSBC Bank PLC (UK)		
Mitel Networks Limited	HSBC Bank PLC (UK)		
Mitel Networks Limited	HSBC Bank PLC (UK)		
Mitel Networks Limited	HSBC Bank PLC (UK)		
Mitel Networks Limited	HSBC Bank PLC (UK)		
Mitel Networks Limited	HSBC Bank PLC (UK)		
Mitel Networks Limited	HSBC Bank Australia Limited		
Mitel Networks Limited	HSBC New Zealand		
Mitel Europe Limited	HSBC Bank PLC (UK)		
Mitel Europe Limited	HSBC Bank PLC (UK)		
Mitel Europe Limited	HSBC Bank PLC (UK)		

**Part 2**  
**Blocked Accounts**

<b>Account Holder</b>	<b>Bank</b>	<b>Account Number</b>	<b>Sort Code</b>

## Schedule 6 Shares

<b>Chargors</b>	<b>Name of company in which shares are held</b>	<b>Class of shares held</b>	<b>Number of shares held</b>
Mitel Networks Holdings Limited	Mitel Networks Limited	Ordinary	73,816,467
Mitel Europe Limited	Mitel Networks Holdings Limited	Ordinary	31,746,012

## Schedule 7 Form of Deed of Accession

This Deed is dated [●]

### Between:

- (1) [●] (registered number [●]) with its registered office at [●] (the “**Additional Chargor**”); and
- (3) **Bank of America, N.A.**, as collateral agent for the Secured Parties under and as defined in the Credit Agreement referred to below (the “**Collateral Agent**”).

### Background:

- (A) The Additional Chargor is a wholly-owned Subsidiary of the Parent.
- (B) A debenture dated [●] (the “**Debenture**”) was entered into between Mitel Europe Limited, Mitel Networks Holdings Limited, Mitel Networks Limited and the Collateral Agent.
- (C) The Additional Chargor has agreed to enter into this Deed and to become a Chargor under the Deed. The Additional Chargor will also, by execution of a separate instrument, become a party to the Subsidiary Guaranty as an Obligor.
- (D) It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.

It is agreed as follows:

#### 1. Interpretation

Terms defined in the Debenture have the same meaning in this Deed unless given a different meaning in this Deed. This Deed is a Loan Document as defined in the Credit Agreement.

#### 2. Accession

With effect from the date of this Deed the Additional Chargor:

- (a) will become a party to the Debenture as a Chargor; and
- (b) will be bound by all the terms of the Debenture which are expressed to be binding on a Chargor.

#### 3. Security

Paragraphs (a) to (f) below apply without prejudice to the generality of Clause 2 (*Accession*) of this Deed.

- (a) All the Security Interests created by this Deed:
  - (i) is created in favour of the Collateral Agent;
  - (ii) is security for the payment, discharge and performance of all the Obligations; and
  - (iii) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.
- (b) If the Additional Chargor assigns an agreement under this Deed and the assignment or charge breaches a term of that agreement because a third party’s consent has not been obtained:
  - (i) the Additional Chargor must notify the Collateral Agent immediately;



- (ii) the assignment or charge will not take effect until that consent is obtained;
  - (iii) unless the Collateral Agent otherwise requires, the Additional Chargor must, and each other Additional Chargor must ensure that the Additional Chargor will, use all reasonable endeavours to obtain the consent as soon as practicable; and
  - (iv) the Additional Chargor must promptly supply to the Collateral Agent a copy of the consent obtained by it.
- (c) The Collateral Agent holds the benefit of this Deed on trust for the Secured Parties.
- (d) The fact that no or incomplete details of any Secured Asset are inserted in the schedule to this Deed does not affect the validity or enforceability of the Security created by this Deed.
- (e) The Additional Chargor charges and/or assigns each of its assets pursuant to and in accordance with clause 3 of the Debenture including those assets more specifically referred to in paragraph (f) below.
- (f) The Additional Chargor:
- (i) charges by way of a first legal mortgage all Shares owned by it and specified in Part 1 of the schedule to this Deed;
  - (ii) charges by way of a first fixed charge all plant, machinery, computers, office equipment or vehicles specified in Part 2 of the schedule to this Deed;
  - (iii) assigns absolutely, subject to a proviso for reassignment on redemption, all of its rights in respect of the agreements specified in Part 3 of the schedule to this Deed; and
  - (iv) charges by way of a first fixed charge all of its rights in respect of any intellectual property rights specified in Part 4 of the schedule to this Deed and any future intellectual property rights acquired by the Additional charger at any time after the date of this Deed.
  - (v) charges by way of first fixed charge/assigns absolutely, subject to a proviso for reassignment on redemption all its present and future right, title and interest in and to the Accounts and the Blocked Accounts specified in Part 5 of the schedule to this Deed.

#### **4. Miscellaneous**

With effect from the date of this Deed:

- (a) the Debenture will be read and construed for all purposes as if the Additional Chargor had been an original party in the capacity of Chargor (but so that the Security Interest created on this accession will be created on the date of this Deed); and
- (b) any reference in the Debenture to this Deed and similar phrases will include this Deed and all references in the Debenture to Schedule 5 or Schedule 6 (or any part of it) will include a reference to the Schedule to this Deed (or relevant part of it).

#### **5. Law**

This Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

**This Deed** has been executed and delivered as a deed on the date stated at the beginning of this Deed.

## **Schedule (to Deed of Accession)**

### **Part 1**

#### **Shares**

<b>Name of company in which shares are held</b>	<b>Name of nominee (if any) by whom shares are held</b>	<b>Class of shares held</b>	<b>Number of shares held</b>
[●]	[●]	[●]	[●]
[●]	[●]	[●]	[●]

### **Part 2**

#### **Specific Plant and Machinery**

**Description [●]**

### **Part 3**

#### **Material Contracts**

**Description [●]**

### **Part 4**

#### **Registered Intellectual Property Rights**

**Description [●]**

### **Part 5**

#### **Accounts**

Operating Accounts

Blocked Accounts

## Signatories (to Deed of Accession)

### The Additional Chargor

EXECUTED as a deed by [THE COMPANY]  
acting by [NAME OF FIRST DIRECTOR], a director  
and [NAME OF SECOND DIRECTOR/SECRETARY],  
a [director/secretary]

} .....  
Director  
.....  
[Director]/[Secretary]

Address: [•]

Facsimile no: [•]

Electronic mail address: [•]

For the attention of: [•]

### The Collateral Agent

Bank of America, N.A.,  
as Collateral Agent


} .....  
By:

**Execution of the Debenture:**


**The Chargors**

EXECUTED as a deed by **MITEL EUROPE LIMITED**  
acting by James Evans, a director, in the presence of a  
witness:

}   
James Evans

Witness's Signature ..... 

Name: ..... J M EVANS

Address: 

**NOTICES**

**Address:** C/O Mitel Networks Corporation  
350 Legget Drive  
Kanata, Ontario  
K2K 2W7 Canada

**Facsimile no:** (613) 592-4784

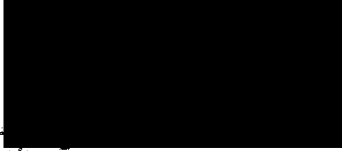
**Electronic mail address:** greg.hiscock@mitel.com or douglas.mccarthy@mitel.com

**For the attention of:** "Treasurer"


**Copy to:** Legal Department on (facsimile) (613) 592-7802

EXECUTED as a deed by MITEL NETWORKS  
LIMITED acting by Gregory Hiscock, a director, in the  
presence of a witness:

}   
Gregory Hiscock  


Witness's Signature  ...

Name: .. *Adam Kozis*

Address: 

#### NOTICES

Address: C/O Mitel Networks Corporation  
350 Legget Drive  
Kanata, Ontario  
K2K 2W7 Canada



Facsimile no: (613) 592-4784


Electronic mail address: greg.hiscock@mitel.com or douglas.mccarthy@mitel.com

For the attention of: "Treasurer"

Copy to: Legal Department on (facsimile) (613) 592-7802

EXECUTED as a deed by MITEL NETWORKS  
HOLDINGS LIMITED acting by Gregory Hiscock, a  
director, in the presence of a witness:

}   
.....  
Gregory Hiscock  


Witness's Signature  .....

Name: ... *Adam Kozak*

Address: 

#### NOTICES

Address: C/O Mitel Networks Corporation  
350 Legget Drive  
Kanata, Ontario  
K2K 2W7 Canada

Facsimile no: (613) 592-4784

Electronic mail address: greg.hiscock@mitel.com or douglas.mccarthy@mitel.com

For the attention of: "Treasurer"

Copy to: Legal Department on (facsimile) (613) 592-7802

**The Collateral Agent**

**Signed by**

duly authorised for and on behalf

of Bank of America, N.A.



**Mailcode:** IL4-135-09-61

**Address:** Bank of America, N.A.  
135 S. LaSalle St.  
Chicago, IL  
60603 United States

**Facsimile no:** (877) 206-8409

**Telephone:** (312) 828-3882

**Electronic mail address:** angela.larkin@baml.com

**For the attention of:** Ms Angela Larkin