



**Registration of a Charge**

Company name: **THE EDUCATION NETWORK (BIRMINGHAM) LIMITED**  
Company number: **09724530**

Received for Electronic Filing: **28/12/2018**



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**Details of Charge**

Date of creation: **28/12/2018**  
Charge code: **0972 4530 0001**  
Persons entitled: **NETWORK VENTURES LIMITED**  
Brief description:

**Contains fixed charge(s).**

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

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION**

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL  
INSTRUMENT.**

Certified by:

**HARRISON CLARK RICKERBYS LIMITED**



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

Company number: 9724530

Charge code: 0972 4530 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 28th December 2018 and created by THE EDUCATION NETWORK (BIRMINGHAM) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 28th December 2018 .

Given at Companies House, Cardiff on 2nd January 2019

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

28 December

2018

(1) THE EDUCATION NETWORK (BIRMINGHAM) LIMITED

- and -

(2) NETWORK VENTURES LIMITED

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DEBENTURE

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S O L I C I T O R S

BUSINESS SERVICES DEPARTMENT

## TABLE OF CONTENTS

1	Definitions and Interpretation.....	3
2	Covenant to Pay.....	5
3	Charging Provisions .....	6
4	Restrictions .....	7
5	General Covenants .....	7
6	Further Assurance and Power of Attorney .....	11
7	Enforcement.....	11
8	Appointment of a Receiver .....	12
9	Powers on Enforcement .....	12
10	NVL's Powers and Protections .....	13
11	Application of Monies .....	13
12	Protection of Third Parties .....	14
13	Continuing and Additional Security .....	14
14	Expenses and Indemnities .....	14
15	Payments .....	15
16	Discharge.....	15
17	Transfers And Disclosures .....	15
18	Miscellaneous .....	16
19	Service of Notices and Process.....	16
20	Governing Law .....	16
	The Schedule - Registered Land.....	18

THIS DEBENTURE is made on

28 December

2018

**BETWEEN:**

- (1) **THE EDUCATION NETWORK (BIRMINGHAM) LIMITED** a company incorporated in England (company number 09724530) whose registered office is at Meriden Hall, Main Road, Meriden, Coventry, West Midlands CV7 7PT (the "**Company**"); and
- (2) **NETWORK VENTURES LIMITED** a company incorporated in England (company number 04881694) whose registered office is at Meriden Hall, Main Road, Meriden, Coventry, West Midlands CV7 7PT ("**NVL**").

**1. Definitions and Interpretation**

- 1.1 In this Debenture the following words and expressions shall have the following meanings:

<b>"Administrator"</b>	any person appointed under the Insolvency Act to manage the Company's business and assets;
<b>"Bank"</b>	Lloyds Bank plc or such other bank as may be specified by NVL from time to time;
<b>"Book Debts"</b>	all book debts, revenues and claims whether actually or contingently owing to the Company both present and future and including all choses in action which may give rise to a debt, revenue or claim and any security held by the Company for such debt, revenue or claim and any other rights relating thereto, such as reservation of title or an unpaid vendor's lien;
<b>"Business Day"</b>	any day (other than a Saturday, Sunday or public holiday) on which banks in the City of London are generally open for business;
<b>"Charged Assets"</b>	the subject matter of the mortgages and charges created by this Debenture and set out at Clause 3;
<b>"Default"</b>	any of the following events: <ol style="list-style-type: none"><li>(i) NVL makes demand for the payment or discharge of all or any part of the Secured Liabilities;</li><li>(ii) the Company requests NVL to appoint an Administrator or a Receiver or to take possession; or</li><li>(iii) the Company breaches (or is found to have breached) any of the covenants or warranties given by it to NVL in this Debenture;</li></ol>
<b>"Dispose" or "Disposal"</b>	includes sale, transfer, lease, licence, parting with possession or granting any interest in;
<b>"Equipment"</b>	any plant, machinery and/or other equipment charged to NVL by this Debenture;

<b>"Expenses"</b>	those fees, cost, charges and expenses covenanted to be paid by the Company in Clause 14.1;
<b>"Indemnified Events"</b>	the matters and events in respect of which the Company is liable to indemnify or reimburse NVL, including those referred to in Clauses 5.3 and 14;
<b>"Insolvency Act"</b>	the Insolvency Act 1986;
<b>"Intellectual Property"</b>	all patents (including applications, improvements, extensions and rights to apply for any patents), design rights, trade marks and service marks (whether registered or unregistered) and applications for the same, copyright, trade, brand, domain and business names, know how, confidential information, trade secrets, databases and computer software programs and systems and all other intellectual or intangible property (including the benefit of any licences or consents relating to any of the above) and all fees, royalties or other rights derived therefrom or incidental thereto in any part of the world;
<b>"LPA"</b>	the Law of Property Act 1925;
<b>"Nominated Account"</b>	any account opened pursuant to Clause 5.1.37;
<b>"Permitted Security Interest"</b>	any lien arising by operation of law in the ordinary course of trading over property other than land;
<b>"Property"</b>	any freehold or leasehold property owned or occupied by the Company;
<b>"Receiver"</b>	any receiver or receiver and manager who is not an administrative receiver (within the meaning of section 29(2) of the Insolvency Act) appointed under this Debenture;
<b>"Remittances"</b>	cash, cheques, bills of exchange, negotiable and non-negotiable instruments, letters of credit, orders, drafts, promissory notes, electronic payments and any other instruments, methods or forms of payment or engagement;
<b>"Secured Liabilities"</b>	all monies, obligations and liabilities covenanted to be paid by the Company in Clause 2;
<b>"Securities"</b>	all stock, shares, bonds and securities (including warrants and options to acquire or subscribe for any of the same) whether marketable or not, held by the Company now or at any time in the future and all rights and benefits at any time accruing, offered or arising in respect of the same and all money or property accruing or offered at any time by way of dividend, distribution, conversion, redemption, bonus, preference, option, interest or otherwise in respect of them; and

**“Security Interest”**

any mortgage, charge, pledge, trust, assignment by way of security, hypothecation, lien, or any other arrangement for the purpose of or having a similar effect to creating security or any title retention rights or any set off rights created by agreement.

**1.2 In this Debenture:**

- 1.2.1 unless the context requires otherwise, the singular includes the plural and vice versa and any reference to a gender includes any other gender;
- 1.2.2 the table of contents and headings to Clauses are for ease of reference only and shall not affect the construction or interpretation of this Debenture;
- 1.2.3 references to Clauses and to the Schedule are to the Clauses of and the Schedule to this Debenture;
- 1.2.4 references to a “person” include individuals, firms, partnerships, corporations, unincorporated bodies and government entities;
- 1.2.5 references to any Act of Parliament include that Act as amended, modified or re-enacted from time to time and all rules, regulations, orders and subordinate legislation made pursuant to it; any provision of this Debenture which refers to an Act which is amended may itself be amended in such manner as NVL may determine to preserve the intended effect of this Debenture;
- 1.2.6 references to this “Debenture” or any other document are to this Debenture or that document as from time to time amended, supplemented, restated, novated or replaced, however fundamentally;
- 1.2.7 references to the “Charged Assets” are to the whole or any part of such property or assets, as the context requires;
- 1.2.8 whenever the Company is obliged to do something if required or requested by NVL, it shall do that thing promptly; and
- 1.2.9 the meaning of general words introduced by the word “other” (or followed by the word “including”) shall not be limited by reference to any preceding (or following) word or enumeration indicating a particular class of acts, matters or things.

1.3 It is intended that this Debenture takes effect as a deed even though NVL may only execute it under hand.

1.4 This Debenture may be executed in counterparts.

1.5 Any term or phrase defined in the Companies Act 2006 (whether capitalised or not) bears the same meaning in this Debenture.

**2. Covenant to Pay**

The Company agrees with NVL that it will pay and/or discharge when the same are due and payable:

- 2.1 all monies (in whatever currency), obligations and liabilities which are from time to time due, owing or incurred by the Company to NVL, whether actually or contingently, solely or jointly and whether as principal or surety, including interest (as



well after as before judgment), commission and other fees and charges at the rates and on the terms agreed between the Company and NVL from time to time;

2.2 Expenses and all amounts owing in respect of Indemnified Events; and

2.3 in each case, interest at the rate agreed between the Company and NVL (or if no such rate has been agreed, at a rate 2 per cent. per annum above the base lending rate of the Bank from time to time in force), from the date the same are incurred to the date of payment in full compounded monthly.

### 3. Charging Provisions

3.1 As continuing security for the payment and/or discharge of the Secured Liabilities, the Company with full title guarantee charges to NVL:

3.1.1 by way of **legal mortgage**, the property (if any) described in the Schedule;

3.1.2 by way of **fixed charge**, any freehold or leasehold property (excluding any property charged by Clause 3.1.1) now and in the future owned by the Company or in which the Company may have an interest;

3.1.3 by way of **fixed charge**, all buildings, fixtures and fittings (including trade fixtures and fittings) from time to time in, on or attached to any of the Company's freehold or leasehold property;

3.1.4 by way of **fixed charge**, any other plant, machinery, vehicles, computer equipment, furniture, tools and other equipment not disposed of in the ordinary course of the Company's business and all spare parts, replacements, modifications and additions for or to such Equipment and the benefit of all manuals, instructions, warranties and maintenance agreements relating to such Equipment;

3.1.5 by way of **fixed charge**, all Book Debts;

3.1.6 by way of **fixed charge**, all Book Debts required by NVL to be paid into a Nominated Account and all cash in respect of such Book Debts;

3.1.7 by way of **fixed charge**, any credit balance on any Nominated Account;

3.1.8 by way of **fixed charge**, all the Company's goodwill and uncalled capital present and future;

3.1.9 by way of **fixed charge**, all the Company's Intellectual Property from time to time not disposed of in the ordinary course of the Company's business;

3.1.10 by way of **fixed charge**, all Securities from time to time owned by the Company or in which it has an interest;

3.1.11 by way of **fixed charge**, all loan capital, indebtedness or liabilities on any account or in any manner owing to the Company from any subsidiary of the Company or a member of the Company's group;

3.1.12 by way of **fixed charge**, all the Company's rights and claims (including to the return of premiums) under all insurance policies in which the Company has an interest from time to time; and

3.1.13 by way of **floating charge**, all the Company's property, assets and rights from time to time not subject to a fixed charge under this Debenture (including any property or assets situated in Scotland).

- 3.2 The floating charge created by Clause 3.1.13 is a qualifying floating charge in accordance with paragraph 14 of Schedule B1 of the Insolvency Act.
- 3.3 The floating charge created by this Debenture will automatically without notice be converted into a fixed charge over those assets concerned:
- 3.3.1 if, without NVL's prior written consent, the Company creates or attempts to create any Security Interest (other than a Permitted Security Interest) over all or any of its assets charged by way of floating charge; or
  - 3.3.2 if any person levies or attempts to levy any distress, execution or other process against such assets; or
  - 3.3.3 if any person presents a petition to wind-up the Company or applies for an administration order; or
  - 3.3.4 upon the enforcement of this Debenture.
- 3.4 NVL may by notice to the Company at any time convert the floating charge created by Clause 3.1.13 to a fixed charge as regards any of the assets specified in the notice.

#### **4. Restrictions**

- 4.1 The Company agrees with NVL that it will not, without NVL's prior written consent:
- 4.1.1 create or permit to subsist, in favour of any person other than NVL, any Security Interest on the Charged Assets, except for any Permitted Security Interest;
  - 4.1.2 Dispose or agree to Dispose of any Charged Assets charged by way of fixed charge;
  - 4.1.3 Dispose of any Charged Assets charged by way of floating charge other than for market value in the ordinary and normal course of business.
- 4.2 The Company consents to NVL applying to the Land Registry in form RX1 to register the following restriction against each of the titles specified in the Schedule or which is the subject of first registration of title:

##### **"RESTRICTION**

No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered without a written consent signed by the proprietor of the charge dated \_\_\_\_\_ in favour of NVL Limited referred to in the charges register or its solicitors".

#### **5. General Covenants**

- 5.1 The Company agrees with NVL that it will:
- 5.1.1 deliver to NVL copies of its audited financial statements and any reports and notes accompanying them within 4 months of the end of each financial year;
  - 5.1.2 provide such other information as NVL may reasonably request regarding the Company's affairs;
  - 5.1.3 immediately it becomes aware thereof, provide NVL with details of any litigation, arbitration or administrative proceedings in progress, pending or,

to the knowledge of the Company, threatened against it, which might have a material adverse effect on the Charged Assets or the Company's ability to perform its obligations under this Debenture;

- 5.1.4 authorise its bankers from time to time to provide copy statements and full particulars of all of the Company's accounts and facilities with them whenever requested by NVL;
- 5.1.5 conduct its business so that its centre of main interest (for the purposes of Council Regulation (EC) No. 1346/2000) is located at all times in England and Wales and not move its centre of main interest to another jurisdiction without NVL's prior written consent;
- 5.1.6 punctually pay those debts and liabilities which would, on the winding up of the Company, have priority over the Security Interests created by this Debenture;
- 5.1.7 inform NVL if it acquires any Property, a subsidiary or any other material asset;
- 5.1.8 not permit any person to become entitled to any proprietary right or ~~interest which might affect the value of the assets subject to the fixed~~ charges created by this Debenture;
- 5.1.9 maintain and comply in all material respects with all licences, authorisations and consents necessary or desirable for the conduct of its business;
- 5.1.10 keep those Charged Assets that are of an insurable nature comprehensively insured against loss (including loss of rent and profits) or damage by fire and other risks usually insured against by prudent businesses or that NVL reasonably requires to their full replacement or reinstatement value with insurers approved by NVL;
- 5.1.11 procure that NVL's interest is noted on such insurance policies and produce to NVL the receipts (or other evidence) for each current premium on its request; failing such production NVL may assume that such insurance has lapsed and exercise its rights under Clause 5.3;
- 5.1.12 maintain third party and public liability insurance;
- 5.1.13 keep all Property in good and substantial repair and allow NVL access, at all reasonable times, to view the condition of its Property;
- 5.1.14 observe and perform all restrictive and other covenants and stipulations for the time being affecting the Property or its use or enjoyment;
- 5.1.15 comply in all material respects with all statutory and regulatory obligations relating to the Property;
- 5.1.16 observe and perform all the lessee's covenants in any lease under which any Property is held and enforce the observance and performance of all obligations of other persons under any lease or licence granted by it;
- 5.1.17 subject to the requirements of the holder of any prior Permitted Security Interest or of any landlord, deposit with NVL all deeds to and a copy of the insurance of the Property;

- 5.1.18 grant NVL or its solicitors, on request, all reasonable facilities to enable it or them to carry out, at the Company's expense, such investigation of title to the Property and enquiries about it as would be carried out by a prudent mortgagee;
- 5.1.19 punctually pay and indemnify NVL and any Receiver or Administrator against all rent, rates, taxes, charges and any other outgoings payable in respect of the Property and promptly produce the receipts for them to NVL upon its request;
- 5.1.20 in relation to any Property, not, without NVL's prior written consent:
  - 5.1.20.1 part with or share possession or occupation;
  - 5.1.20.2 grant or extend any lease or licence or agreement for the same;
  - 5.1.20.3 grant any licence or permission to any tenant, licensee or other occupier to assign, underlet, part with possession or occupation;
  - ~~5.1.20.4~~ ~~forfeit, determine, accept or agree to accept the surrender of~~ any lease granted by it;
  - 5.1.20.5 vary the terms of any lease or licence granted by it;
  - 5.1.20.6 agree any rent review of any lease or licence granted by it;
  - 5.1.20.7 surrender (or agree to surrender) any leasehold interest held by it or allow such interest to be forfeited;
  - 5.1.20.8 make or allow any material change of use or any development within the Town and Country Planning Acts;
  - 5.1.20.9 create or permit to arise any interest having overriding effect; or
  - 5.1.20.10 permit any person to become entitled to any right, easement, covenant or other matter which might adversely affect the use, value or marketability of the Property;
- 5.1.21 maintain the Equipment in good and substantial repair and serviceable condition and (where applicable) ensure that it is properly and regularly serviced in accordance with any relevant warranties or manuals;
- 5.1.22 only permit the Equipment to be used or handled by individuals who are properly qualified and trained and not allow it to be overloaded or to be used for any purpose for which it is not designed or reasonably suitable and take all reasonable precautions to protect the Equipment from deterioration or damage;
- 5.1.23 obtain all necessary certificates, licences, permits and authorisations from time to time required for the use and/or operation of the Equipment and not to do or permit to be done any act or omission whereby the Equipment or its use would contravene any legislation or regulations for the time being in force;
- 5.1.24 not, without NVL's prior written consent, make any modification (or permit any modification to be made) to the Equipment if the effect of such

- modification may be, in NVL's opinion, to reduce the value of the Equipment;
- 5.1.25 notify NVL of any material loss, theft, damage or destruction of the Equipment;
  - 5.1.26 inform NVL of any change in the location, condition, use or operation of the Equipment and permit any persons designated by NVL at all reasonable times to inspect, examine and photograph the Equipment and all records maintained in connection with it;
  - 5.1.27 if requested by NVL, keep prominently affixed to each item of Equipment plates, labels or such other means of identification or notification as NVL requires showing that the Equipment is subject to this security and not remove, obscure or deface the same or permit the same to be removed, obscured or defaced;
  - 5.1.28 prevent the Equipment from being distrained for any rent, rates or other outgoings or from being taken under execution;
  - 5.1.29 punctually pay and indemnify NVL and any Receiver or Administrator against any assessments, fees and charges in respect of the Equipment;
  - 5.1.30 on NVL's request, send to it details of its Book Debts including the identity of the debtor, the amount owing and the due date for payment;
  - 5.1.31 not compromise, compound or release its Book Debts, exercise (or allow any other person to exercise) set off against them or otherwise deal or dispose of them;
  - 5.1.32 not waive any right of recovery or do or omit to do anything which may delay or prejudice recovery of its Book Debts;
  - 5.1.33 not extend the due date for payment of its Book Debts (other than by way of normal trade credit in the ordinary course of business);
  - 5.1.34 not assign, factor or discount its Book Debts;
  - 5.1.35 collect its Book Debts in the ordinary course of its business or in accordance with any directions given by NVL from time to time;
  - 5.1.36 unless or until NVL requires otherwise, procure that all Remittances are paid into its current account with its bankers advised to NVL from time to time;
  - 5.1.37 if requested by NVL, open such bank accounts (including separate designated accounts, blocked accounts or trust accounts) in the name of the Company with such mandates as NVL may specify; and if requested by NVL, procure that all Remittances in respect of its Book Debts are paid into such bank accounts and only deal with the monies in any such account in accordance with the written directions of NVL from time to time (subject only to such rights as the bank at which the account is held may have in respect of such Remittances);
  - 5.1.38 on NVL's demand execute an assignment of its Book Debts in such form as NVL may require and serve notice of such assignment on the relevant debtors;

- 5.1.39 upon crystallisation of the floating charge in Clause 3.1.13 not pay or otherwise deal with the monies in any of its bank accounts except in accordance with any written directions NVL may give from time to time (subject to any rights which the bank at which the account is held has in respect of such monies);
- 5.1.40 protect its Intellectual Property against theft, loss, copying or unauthorised use by third parties and upon becoming aware of any infringement of, or challenge to, its Intellectual Property, inform NVL and take (or permit NVL in the name but at the expense of the Company to take) whatever action is necessary to prevent such infringement or challenge or to recover damages;
- 5.1.41 take all necessary actions (including obtaining all necessary registrations and paying all applicable renewal and licence fees) to ensure that the Intellectual Property to which the Company is or may become entitled is valid and subsisting and remains owned by the Company and not allow any Intellectual Property to be abandoned, cancelled or to lapse. If any Intellectual Property shall at any time lapse or become void, the Company shall do everything necessary to restore such Intellectual Property to the Company;—
- 5.1.42 pay all calls in respect of any Securities (it being acknowledged by the Company that NVL shall not incur any liability of any kind for such monies); and
- 5.1.43 deposit with NVL all certificates or other documents of title in respect of the Securities, together with duly executed transfers or assignments of the Securities with the name of the transferee left blank (it being acknowledged that NVL may at any time register the Securities either in its own name or in the name of nominees selected by it).
- 5.2 If the Company holds a leasehold interest in any Property and is required either to insure or to reimburse the landlord for the insurance premium paid by him then provided that, upon NVL's request, it produces evidence satisfactory to NVL that it or the landlord has complied with its obligations to insure that Property in accordance with the terms of the lease, the Company shall be treated as having complied with its insuring obligation in this Debenture.
- 5.3 If the Company fails to comply with any of its obligations under this Debenture (including failing to insure or repair any Property or Equipment) the Company irrevocably authorises NVL (and any agent appointed by it) to make good such failure on its behalf. For this purpose the Company authorises NVL (and any agent appointed by it) to enter into its Property. NVL shall not become liable as mortgagee in possession as a result of any action taken by it under this Clause. All costs and expenses incurred by NVL pursuant to this authority shall be reimbursed by the Company to NVL on its demand.
- 6. Further Assurance and Power of Attorney**
- 6.1 The Company will, upon NVL's request, grant it such further Security Interests in the Charged Assets in such form and on such terms as NVL may require and do whatever other acts or things NVL may require in relation to the Charged Assets in order to secure the Secured Liabilities, to perfect or protect the Security Interests created by this Debenture or to facilitate the realisation of the Charged Assets.

6.2 The Company by way of security irrevocably appoints NVL and any Receiver severally to be its attorneys in its name and on its behalf to:

6.2.1 do all things which the Company may be required to do under this Debenture;

6.2.2 sign, execute and deliver and otherwise perfect any security required to be executed pursuant to Clause 6.1; and

6.2.3 sign, execute, deliver and complete any deeds, instruments or other documents and to do all acts and things which may be required to enable NVL or any Receiver to exercise their powers under this Debenture, or to perfect or vest in NVL, its nominees or any purchaser, title to any Charged Assets or which they may deem expedient in connection with the getting in, disposal, or realisation of any or the exercise of any other power under this Debenture.

6.3 Each attorney may appoint a substitute or delegate his authority. The Company ratifies and confirms (and agrees to ratify and confirm) anything which an attorney does under the power of attorney in this Clause 6.

## **7. Enforcement**

At any time after a Default, NVL may with or without further notice to the Company:

7.1 appoint an Administrator of the Company in accordance with the Insolvency Act;

7.2 appoint a Receiver to any of the Charged Assets, provided that they comprise less than the whole or substantially the whole of the Company's assets (within the meaning of section 29 of the Insolvency Act);

7.3 exercise in respect of all or any of the Charged Assets all or any of the powers and remedies given to mortgagees by the LPA, including the power to take possession of, receive the benefit of or sell any of the Charged Assets;

7.4 exercise in the name of the Company (without any further consent or authority from the Company) any voting rights attached to the Securities and all powers given to trustees in sections 40(1) and 40(3) of the Trustees Act 2000 in respect of securities or property subject to a trust and any other powers or rights exercisable;

7.5 direct that all dividends, distributions, interest and other monies received by it in respect of the Securities are paid to it and applied in accordance with Clause 11.

## **8. Appointment of a Receiver**

8.1 NVL may either under hand of any manager or by deed appoint any one or more than one person to act as Receiver of those Charged Assets specified in the appointment.

8.2 NVL may from time to time fix the remuneration of any Receiver on such basis as it shall determine. This may include a fixed fee or an hourly rate or a commission depending upon the work and responsibilities assumed by the Receiver and the basis of charging applied by his firm. Section 109 of the LPA shall be varied accordingly.

8.3 NVL may remove or replace any Receiver appointed by it.

8.4 NVL may extend a Receiver's appointment to include Charged Assets previously excluded from his appointment.

8.5 A Receiver will be the agent of the Company and the Company will be solely responsible for his acts, omissions, defaults and remuneration.

## **9. Powers on Enforcement**

9.1 An Administrator will have all the powers given to him under the Insolvency Act.

9.2 A Receiver may exercise in respect of the Charged Assets to which he is appointed:

9.2.1 the same powers to do, or to omit to do, in the name of and on behalf of the Company, anything which the Company itself could have done or omitted to do with such Charged Assets were they not the subject of this Debenture and the Company were not in insolvency proceedings;

9.2.2 all or any powers given to receivers by the LPA but without any of the restrictions imposed upon the exercise of those powers by the LPA; and

9.2.3 notwithstanding that he is not an administrative receiver, all or any of the powers specified in Schedule 1 to the Insolvency Act.

9.3 If more than one person is appointed to act as Receiver, each person may act severally, independently of any other, except to the extent that NVL states to the contrary in the appointment. References in this Debenture to the Receiver are to each and all of them as appropriate.

9.4 If NVL enforces this Debenture itself pursuant to Clause 7.3 it will have the same powers as a Receiver in respect of those Charged Assets which are the subject of the enforcement.

9.5 Except to the extent provided by law, none of the powers described in this Clause 9 will be affected by an insolvency event in relation to the Company.

## **10. NVL's Powers and Protections**

10.1 The powers and remedies conferred on NVL as a mortgagee by the LPA shall not be subject to any of the restrictions imposed by the LPA upon the exercise of those powers and remedies including those imposed by sections 103 and 109 of the LPA.

10.2 NVL may grant or accept surrenders of leases at a premium or otherwise and grant agreements or options for the same on such terms as it shall consider expedient and without the need to observe sections 99 and 100 of the LPA.

10.3 The restrictions on the right of consolidating mortgages contained in section 93 of the LPA will not apply to this Debenture.

10.4 Neither NVL nor any Receiver will be liable to account as mortgagee in possession of the Charged Assets or be liable for any loss upon realisation or for any neglect or default of any nature whatsoever for which a mortgagee may be liable.

10.5 Neither NVL nor any Receiver is obliged to take any particular action to collect the Company's Book Debts and neither shall be liable to the Company for the manner in which it collects or fails to collect a Book Debt.

10.6 If NVL receives notice of any subsequent Security Interest affecting the Charged Assets then NVL may open a new account for the Company. If it does not open a new account then, unless it notifies the Company otherwise, it shall be treated as if it had done so at the time when it received such notice. From that time onwards all payments received by NVL in or towards payment of the Secured Liabilities shall be



credited (or be treated as having been credited) to the new account and will not reduce the amount then due from the Company to NVL.

## **11. Application of Monies**

11.1 All money received by NVL or any Receiver under this Debenture will be applied in the following order:

11.1.1 first, in or towards payment of liabilities having priority to the Secured Liabilities;

11.1.2 secondly, in or towards payment of all costs, charges and expenses incurred in or incidental to the exercise or performance (or attempted exercise or performance) by NVL of the powers or authorities conferred by or in any other way connected with this Debenture;

11.1.3 thirdly, in or towards payment to the Receiver of his remuneration fixed in accordance with this Debenture;

11.1.4 fourthly, in or towards payment to NVL of the Secured Liabilities in such order as NVL in its absolute discretion thinks fit; and

11.1.5 fifthly, in payment to the Company of any surplus.

11.2 Any surplus shall not carry interest. The Receiver or NVL may pay any surplus into any of the Company's bank accounts including an account opened specifically for such purpose. The Receiver or NVL shall then have no further liability for such surplus.

11.3 NVL or the Receiver may credit any monies received upon realisation of the Charged Assets to a suspense account for so long and on such basis as NVL or the Receiver may from time to time determine in order to preserve NVL's right to prove for the whole of its claim against the Company or any other person liable.

11.4 Subject to the rights of the holder of any prior ranking Permitted Security Interest or any landlord, any money received by the Company under any insurance of the Charged Assets will be treated as part of the Charged Assets. It will be applied at the discretion of NVL either in reducing the Secured Liabilities or towards making good the loss or damage for which the money became payable. Any money received by the Company under any insurance of the Charged Assets shall be held on trust for NVL pending such application.

## **12. Protection of Third Parties**

12.1 Any person dealing with NVL or a Receiver may assume, unless he has actual knowledge to the contrary, that:

12.1.1 NVL or such Receiver has the power to do the things which they purport to do; and

12.1.2 they are exercising their powers properly.

12.2 All the protections to purchasers by sections 104 and 107 of the LPA shall apply to any person purchasing from or dealing with any Receiver or NVL as if the Secured Liabilities had become due and the statutory power of sale and appointing a receiver in relation to the Charged Assets had arisen on the date of this Debenture.

### 13. Continuing and Additional Security

- 13.1 This Debenture is a continuing security. It secures the ultimate balance of the Secured Liabilities despite any interim settlement of account until a final discharge of this Debenture is given by NVL to the Company.
- 13.2 The rights of NVL under this Debenture are in addition to any other rights they may have against the Company (or any other person in respect of the Secured Liabilities) under any other document, the general law or otherwise. The rights of NVL will not merge with or limit those other rights or be limited by them.
- 13.3 NVL is not obliged to make any claim or demand on the Company or any other person or to enforce any guarantee, mortgage or other security now or in future held by it before enforcing this Debenture and no action taken or omitted in connection with any such right or instrument shall discharge, reduce or affect the Company's liability to NVL. NVL does not have to account for any money or other asset received pursuant to any such right or instrument.

### 14. Expenses and Indemnities

- 14.1 The Company will on demand pay all professionals' fees (including VAT) and any ~~other costs, charges or expenses (on a full indemnity basis) incurred by NVL and any~~ Administrator or Receiver in connection with the actual or attempted perfection, preservation, defence or enforcement of this Debenture or the preservation or disposal of any Charged Assets or the exercise of any power under this Debenture or any amendment, waiver, consent or release of this Debenture.
- 14.2 The Company will on demand indemnify NVL, any Administrator and any Receiver and any of its and their officers and employees and any attorney, agent or other person appointed by NVL under this Debenture (each an "**Indemnified Party**") in respect of all costs, losses, actions, claims, expenses, demands or liabilities whether in contract, tort, or otherwise and whether arising at common law, in equity or by statute which may be incurred by, or made against, any of them at any time relating to or arising directly or indirectly out of:
- 14.2.1 anything done or omitted to be done in the exercise or purported exercise of the powers contained in this Debenture;
  - 14.2.2 a claim of any kind (including one relating to the environment) made or asserted against any Indemnified Party which would not have arisen if this Debenture had not been executed; or
  - 14.2.3 any breach by the Company of any of its obligations under this Debenture unless, in the case of Clauses 14.2.1 and 14.2.2 it was caused by the negligence or wilful misconduct of the Indemnified Party.
- 14.3 Neither NVL nor any Receiver nor any officer nor employee of either of them shall in any way be liable or responsible to the Company for any loss or liability of any kind arising from any act or omission by it of any kind (whether as mortgagee in possession or otherwise) in relation to the Charged Assets, except to the extent caused by its own negligence or wilful misconduct.
- ### 15. Payments
- 15.1 NVL or any Receiver may convert any money received under this Debenture (including the proceeds of any previous conversion) into such currency as NVL or such Receiver may think fit in order to discharge the Secured Liabilities. Any such

conversion shall be effected at the then prevailing spot selling rate of exchange of the Bank for such other currency against the existing currency.

- 15.2 If the amount of the currency so converted is less than the amount of the Secured Liability concerned, the Company will indemnify NVL in respect of that shortfall.
- 15.3 Any certificate signed by NVL as to any amount payable under this Debenture at the date of such certificate shall, in the absence of manifest error, be conclusive evidence of such amount and be binding on the Company.
- 15.4 All amounts payable by the Company under this Debenture will be paid in full without set off or other deduction.
- 15.5 NVL may at any time without notice set off against any Secured Liabilities any amount owed by it to the Company. NVL may effect such set off by transferring all or any part of any balance standing to the credit of any of the Company's accounts with it to any other account or by combining or consolidating such accounts.

## **16. Discharge**

- 16.1 Upon the Secured Liabilities being irrevocably and unconditionally paid or discharged in full NVL will, at the request and cost of the Company, release this Debenture. NVL will also transfer to the Company any Charged Assets which have been assigned or transferred to NVL.
- 16.2 If any payment by the Company or any other person or any release given by NVL is avoided or adjusted pursuant to the Insolvency Act:
  - 16.2.1 the Company's liability for the Secured Liabilities will continue as if the payment, release, avoidance or adjustment had not occurred; and
  - 16.2.2 NVL will be entitled to recover the value or amount of that payment or security from the Company as if the payment, release, avoidance or adjustment had not occurred.

## **17. Transfers and Disclosures**

- 17.1 NVL may novate or assign this Debenture or sub-contract or delegate its obligations or duties under it. References in this Debenture to NVL include its successors, assignees and transferees.
- 17.2 The Company may not assign, transfer, delegate or make any declaration of trust of any of its rights or obligations under this Debenture.
- 17.3 NVL may disclose any information about the Company and any member of its group and any other person connected or associated with it to any member of NVL's group and/or to any person to whom it is proposing to transfer or assign or has transferred or assigned this Debenture.

## **18. Miscellaneous**

- 18.1 No delay or failure by NVL to exercise any right or remedy under this Debenture shall impair or operate as a waiver of that right or remedy. Any single, partial or defective exercise of any such power, right or remedy shall not prevent the further exercise of that or any other right or remedy.
- 18.2 Any waiver, consent or approval given by NVL of or under this Debenture will only be effective if given in writing. Such waiver, consent or approval shall then only apply

for the purpose stated and be subject to any written terms and conditions imposed by NVL.

- 18.3 If at any time any one or more of the provisions of this Debenture is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction then neither the legality, validity or enforceability of the remaining provisions of this Debenture nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall be in any way affected or impaired as a result.
- 18.4 Each Indemnified Party may enforce the terms of this Debenture in accordance with the Contracts (Rights of Third Parties) Act 1999. Apart from the Indemnified Parties and the parties to this Debenture, no other person may enforce its terms.
- 18.5 NVL may grant releases of or waivers under this Debenture and it and the Company may agree variations to its terms without either notifying the Indemnified Parties or obtaining their consent.

## **19. Service of Notices and Process**

- 19.1 Any notice, request, demand, consent, approval, notification, instruction, proceedings or other communication from NVL to the Company under this Debenture shall be in writing and may be sent by hand or by post, courier, facsimile or e-mail. Any such communication shall be addressed to the Company at its address given in this Debenture, its registered office or the address last known to NVL at which it carried on business and shall be treated as served:
- 19.1.1 if delivered by hand or by courier: at the time of delivery;
- 19.1.2 if posted: 48 hours after posting or upon receipt (whichever is earlier); or
- 19.1.3 if sent by fax or e-mail: at the time of transmission (unless NVL knows or ought reasonably to have been aware of a transmission failure).
- 19.2 Any notice, request or other communication under this Debenture from the Company to NVL must be in writing and sent by first class post to NVL's registered office or such other address as NVL advises the Company in writing for this purpose and will be treated as served:
- 19.2.1 if it is received during business hours on a Business Day: on receipt; or
- 19.2.2 if it is received outside business hours or on a day which is not a Business Day: on the first Business Day after receipt.

## **20. Governing Law**

- 20.1 This Debenture shall be governed by and interpreted in accordance with English law. Non-contractual obligations (if any) arising out of or in connection with this Debenture (including its formation) shall be governed by English law.
- 20.2 The parties agree to submit to the exclusive jurisdiction of the English courts in relation to any claim or matter (whether contractual or non-contractual) arising under this Debenture.
- 20.3 Each party irrevocably waives any objection which it might at any time have to the courts of England being nominated as the forum to decide any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with this Debenture (including non-contractual disputes and claims) and agrees not to claim that the courts of England are not a convenient or appropriate forum.

**THE PARTIES** have executed this Debenture as a deed and delivered it on the date first set out above.

**The Schedule**  
**Registered Land**

Description and Title Numbers

EXECUTED and DELIVERED as a DEED )  
by THE EDUCATION NETWORK )  
(BIRMINGHAM) LIMITED acting by one )  
director in the presence of: )

Director

Witness Signature:

Witness Name:

GARY PITT

Witness Address:

c/o MERIDEN HALL, MAIN ROAD,  
MERIDEN, CV7 9PT

Witness Occupation:

SOLICITOR

EXECUTED and DELIVERED as a DEED )  
by NETWORK VENTURES LIMITED acting )  
by one director in the presence of: )

Director

Witness Signature:

Witness Name:

GARY PITT

Witness Address:

c/o MERIDEN HALL, MAIN ROAD,  
MERIDEN, CV7 9PT

Witness Occupation:

SOLICITOR