



Registration of a Charge

Company Name: **AIRNOW PLC**

Company Number: **10706264**



XA8K4B8B

Received for filing in Electronic Format on the: **12/07/2021**

Details of Charge

Date of creation: **09/07/2021**

Charge code: **1070 6264 0003**

Persons entitled: **TRIPLE DRAGON FUNDING DELTA LTD**

Brief description:

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **MILLIE PIERCE ON BEHALF OF FOX WILLIAMS LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 10706264

Charge code: 1070 6264 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 9th July 2021 and created by AIRNOW PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 12th July 2021 .

Given at Companies House, Cardiff on 13th July 2021

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



Companies House



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

EXECUTION VERSION

DATED 9 July 2021

AIRNOW PLC
(as Chargor 1)

AIRNOW MEDIA LIMITED
(as Chargor 2)

AIRNOW DATA LIMITED
(as Chargor 3)

AIRNOW CYBERSECURITY LIMITED
(as Chargor 4)

TRIPLE DRAGON FUNDING DELTA LTD
(as Security Trustee)

DEED OF ASSIGNMENT AND CHARGE

EXECUTION VERSION

THIS DEED is dated 9 July 2021**BETWEEN:**

- (1) **AIRNOW PLC**, a public limited company incorporated under the laws of England and Wales, with registered number 10706264 and whose registered office is at Salisbury House, London Wall, London, England, EC2M 5PS (“**Chargor 1**”);
- (2) **AIRNOW MEDIA LIMITED**, a company incorporated under the laws of England and Wales with registered number 12798820 and whose registered office is at Salisbury House, London Wall, London, England, EC2M 5PS (“**Chargor 2**”);
- (3) **AIRNOW DATA LIMITED**, a company incorporated under the laws of England and Wales with registered number 12523505 and whose registered office is at Salisbury House, London Wall, London, England, EC2M 5PS (“**Chargor 3**”); and
- (4) **AIRNOW CYBERSECURITY LTD**, a company incorporated under the laws of England and Wales with registered number 11757996 and whose registered office is at Pickering House, 40a York Place, Leeds, United Kingdom, LS1 2ED (“**Chargor 4**”, and together with **Chargor 1**, **Chargor 2** and **Chargor 3**, the “**Chargors**” and each a “**Chargor**”).

in favour of:

- (5) **TRIPLE DRAGON FUNDING DELTA LTD**, a company incorporated under the laws of England and Wales with registered number 12641496 and whose registered office is at 2nd Floor 2 Woodberry Grove, North Finchley, London, United Kingdom, N12 0DR in its capacity as security trustee of the Beneficiaries (the “**Security Trustee**”).

BACKGROUND:

- A. Pursuant to a facility agreement dated on or about the date of this Deed between the Borrower and Triple Dragon Funding Delta LTD (in its capacity as Lender) (as amended from time to time) (the “**Facility Agreement**”), the Lenders have agreed to make available a revolving loan facility to the Borrower on a secured basis.
- B. Each of the **Chargors** has entered into this Deed to provide security for the revolving loan facility made available under the Facility Agreement.
- C. Each of the **Chargors** has also entered into a deed of guarantee and subordination on or about the date of this Deed in favour of the Security Trustee and the Lenders.

AGREED TERMS**1 DEFINITIONS AND INTERPRETATION****1.1 Definitions**

Save as expressly defined herein, terms defined in the Facility Agreement shall have the same meaning in this Deed. The following definitions apply in this Deed:

“**Bank Account**” means any account opened or maintained by a **Chargor** with any bank, building society, financial institution or other person (including any renewal, redesignation, replacement, subdivision or subaccount of such account) and the debt or debts represented thereby.

“**Beneficiaries**” means each Lender, the Agent, the Security Trustee, and any Receiver or Delegate from time to time under the Facility Documents.

“**Borrower**” means **Chargor 1**.

“**Counterparty**” means any party to a Relevant Agreement other than the **Chargor**.

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"Delegate" means any person appointed by the Security Trustee or any Receiver pursuant to clause 12 (Delegation), and any person appointed as attorney of the Security Trustee, Receiver or Delegate.

"Event of Default" has the meaning given to that expression in the Facility Agreement.

"Facility Agreement" has the meaning given to it in Recital A above.

"Instruction Notice" means a notice substantially in the form of Part 3 of Schedule 2 (Form of Notice and Acknowledgement for Relevant Agreements).

"Lender" has the meaning given to that term in the Facility Agreement.

"LPA 1925" means the Law of Property Act 1925.

"Monetary Claims" means all book and other debts and monetary claims of any nature and however arising at any time owing to each Chargor or in which it has an interest together with the benefit of all rights, securities and guarantees of any nature enjoyed or held by it in relation to the same.

"Obligor" means the Borrower, each Chargor and any person who has provided Security pursuant to the Facility Agreement.

"Receiver" means a receiver, receiver and manager or administrative receiver of any or all of the Secured Assets appointed by the Security Trustee under clause 10 (*Receiver*).

"Regulations" means the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226).

"Related Rights" means, as regards any asset, all present and future:

- (a) money, proceeds, fees and royalties of any nature paid or payable in relation to the asset, including any sale proceeds, any money paid by way of damages or any award or judgment made in connection with that asset;
- (b) all rights and assets of any nature attaching to, deriving from or exercisable as a result of a Chargor's interest in or ownership or operation of the asset, including under any licence, agreement for sale or agreement for lease in respect of that asset; and
- (c) powers, benefits, claims, causes of action, contracts, warranties, remedies, security, indemnities, restrictive covenants, easements and covenants for title in respect of that asset.

"Relevant Agreement" means each contract between each Chargor and any of its customers, entered into prior to, on or after the date of this Deed, and all Related Rights relating each such contract, specifically including but not limited to:

- (a) each contract described in Schedule 1 (Relevant Agreements); and
- (b) each contract provided electronically and automatically by each Chargor to the Lenders through the connection to the invoicing and/or accounting system of each Chargor or, if the connection is not available, each contract provided electronically and automatically in list form by each Chargor to the Lenders on a daily basis.

"Secured Assets" means all the assets, property and undertaking for the time being subject to any Security created by this Deed (and references to the Secured Assets shall include references to any part of them).

"Secured Liabilities" means all present and future monies, obligations and liabilities of the Obligors, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with the Facility Documents (including where the Security Trustee is an assignee of such monies, obligations and liabilities), together with all interest (including, without limitation, default interest and fees) accruing in respect of such monies, obligations or liabilities, including without limitation (a) all claims and interest with respect to costs and expenses, in particular legal costs, advisory costs, notification costs of third party debtors and costs for debt recovery, and (b) any increase

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of existing or introduction of new payment obligations or extension of term, including, without limitation, claims of the Security Trustee and/or any other secured party under any guarantee, abstract acknowledgement of debt or other form of parallel debt and any claims based on unjust enrichment or tort.

“**Secured Parties**” means the Lenders, the Security Trustee, and any Delegate, Receiver, agent, attorney or co-trustee appointed by the Security Trustee.

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

“**Security Period**” means the period starting on the date of this Deed and ending on the date on which the Security Trustee is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding in respect of the Secured Assets.

1.2 Interpretation

In this Deed:

- 1.2.1 clause, Schedule and paragraph headings shall not affect the interpretation of this Deed;
- 1.2.2 a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality);
- 1.2.3 unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- 1.2.4 unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- 1.2.5 references to a party shall include that party's successors, permitted assigns and permitted transferees and this Deed shall be binding on, and enure to the benefit of, the parties to this Deed and their respective personal representatives, successors and permitted assigns;
- 1.2.6 a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- 1.2.7 a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- 1.2.8 a reference to **writing** or **written** includes email;
- 1.2.9 an obligation on a party not to do something includes an obligation not to allow that thing to be done;
- 1.2.10 a reference to **this Deed** (or any provision of it) or to any other agreement or document referred to in this Deed is a reference to this Deed, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this Deed) from time to time;
- 1.2.11 unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this Deed and a reference to a paragraph is to a paragraph of the relevant Schedule;
- 1.2.12 where any statement is qualified by the expression **so far as the Chargor is aware** or **to the Chargor's knowledge** (or any similar expression), that statement shall be deemed to include an additional statement that it has been made after due and careful enquiry;
- 1.2.13 any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;

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- 1.2.14** a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and amended shall be construed accordingly);
- 1.2.15** a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- 1.2.16** a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- 1.2.17** a reference to **continuing** in relation to an Event of Default means an Event of Default that has not been waived;
- 1.2.18** a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it; and
- 1.2.19** a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

1.3 Clawback

If the Security Trustee reasonably considers that any amount paid by any Chargor in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of such Chargor or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.

1.4 Perpetuity period

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

1.5 Schedules

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

1.6 Security Trust

- (a) The Security Trustee declares itself trustee of the Security and other rights (including but not limited to the benefit of the covenants contained in this Deed), titles and interests constituted by this Deed and of all monies, property and assets paid to the Security Trustee or to its order or held by the Security Trustee or its nominee or received or recovered by the Security Trustee or its nominee pursuant to or in connection with this Deed with effect from the date of this Deed to hold them on trust for itself and each of the other Secured Parties absolutely pro rata (save as may otherwise be agreed between the Security Trustee and the Secured Parties from time to time) to the monies, obligations and liabilities owed by each Chargor to each of the Secured Parties and from time to time secured by this Deed.
- (b) All monies received by the Security Trustee or any Receiver appointed by it under or pursuant to this Deed shall be held by it or such Receiver upon trust for itself and the Secured Parties according to their respective interests to apply them in accordance with the provisions of the Facility Agreement.
- (c) Section 1 of the Trustee Act 2000 shall not apply to any function of the Security Trustee. Where there are any inconsistencies between the Trustee Act 1925 or the Trustee Act 2000 and the provisions of this Deed, the provisions of this Deed shall, to the extent allowed by law, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this Deed shall constitute a restriction or exclusion for the purposes of the Trustee Act 2000. Sections 22 and 23 of the Trustee Act 2000 shall not apply to this Deed.

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- (d) The trusts in this Deed shall remain in force until the earlier to occur of:
 - (i) the expiration of a period of 125 years from the date of this Deed; or
 - (ii) confirmation in writing from the Security Trustee that there are no longer any outstanding monies, obligations and liabilities secured by this Deed.

3 COVENANT TO PAY

Each Chargor covenants with the Security Trustee (as trustee for the Beneficiaries) to pay, discharge and satisfy all of the Secured Liabilities when they fall due in accordance with their respective terms (or, if the relevant terms do not specify a time for payment, immediately on demand by the Security Trustee).

4 GRANT OF SECURITY

4.1 General

- (a) All the Security created under this Deed:
 - (i) is created in favour of the Security Trustee in its capacity as security trustee for and on behalf of the Secured Parties;
 - (ii) is security for the payment, discharge and performance of all the Secured Liabilities except for any Secured Liabilities which, if secured by this Deed, would cause such Security to be unlawful or prohibited by any applicable law; and
 - (iii) is granted with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.
- (b) Where the grant of a fixed charge or assignment by each Chargor of all or any part of its rights under an agreement (an “**Affected Agreement**”) under this Deed would, but for this sub-clause (b), breach a term of that agreement because a condition (including any prohibition or restriction on the creation of any Security over or in respect of any such Affected Agreement and/or the consent of a third party) would not be satisfied or waived:
 - (i) each Chargor shall notify the Security Trustee promptly;
 - (ii) each Chargor undertakes:
 - (a) if the relevant condition is a consent or waiver which is not to be unreasonably withheld, to use all reasonable endeavours to obtain it as soon as possible; and
 - (b) in all other instances, to use all reasonable endeavours to satisfy any relevant conditions or obtain a waiver of the same within 14 days of the date of this Deed or, if the Affected Agreement is entered into after the date of this Deed, within 14 days of its date; and
 - (c) to keep the Security Trustee informed of its progress in satisfying such condition or obtaining a waiver of the same;
 - (iii) until the condition is satisfied or waived:
 - (a) this Deed will secure all amounts of any nature which each Chargor may now or in future receive under or in connection with that Affected Agreement but exclude rights under such agreement; and
 - (b) each Chargor shall hold the rights under the Affected Agreement on trust for the Security Trustee and each such asset shall constitute a Secured Asset;
 - (iv) upon the condition being satisfied or waived:

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- (a) the Affected Agreement shall be charged or assigned (as appropriate) under the relevant paragraph of this clause 3 and any trust in respect of that asset created under paragraph 3.1(b)(iii)(b) shall immediately terminate; and
- (b) each Chargor shall promptly supply the Security Trustee with evidence of the satisfaction or waiver of any relevant condition.

4.2 Assignment of Relevant Agreements

Each Chargor assigns absolutely, by way of security, to the Security Trustee, subject to reassignment by the Security Trustee in accordance with clause 19 (Release), all of its rights in respect of the benefit of each Relevant Agreement including but not limited to all Monetary Claims and Related Rights arising thereunder.

4.3 Fixed charge over Bank Accounts

Each Chargor charges by way of a first fixed charge all its rights in respect of each Bank Account, all Related Rights in respect of each Bank Account and all monies from time to time standing to the credit of each Bank Account.

4.4 Floating charge

- (a) Each Chargor charges by way of a first floating charge all its rights in respect of the benefit of each Relevant Agreement including but not limited to all Monetary Claims and Related Rights thereunder, and all its rights in respect of each Bank Account and all Related Rights in respect of each such Bank Account, in each case not at any time otherwise effectively charged or assigned by way of assignment or fixed charge under clause 3.

4.5 Crystallisation

- (a) The Security Trustee may at any time by notice in writing to each Chargor convert any floating charge created by each Chargor pursuant to clause 4.3 (Floating charge) into a fixed charge with immediate effect as regards any property or assets specified in the notice if:
 - (i) the security constituted by this Deed has become enforceable in accordance with clause 0 (When security becomes enforceable); or
 - (ii) the Security Trustee reasonably considers any Secured Asset to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or otherwise to be in jeopardy; or
 - (iii) the Security Trustee reasonably considers that it is necessary in order to protect the priority of its Security.
- (b) Notwithstanding sub-clause (a) and without any prejudice to any rule of law which may have a similar effect, the floating charge created by clause 4.3 (Floating charge) will automatically and immediately (without notice) convert into a fixed charge over all the Chargors's assets if:
 - (i) any Chargor creates, or attempts to create, any Security over any of the Secured Assets other than in accordance with the terms of the Facility Agreement;
 - (ii) any person levies or attempts to levy any distress, execution or other process against any of the Secured Assets;
 - (iii) an administrator is appointed in respect of each Chargor or a person entitled to appoint an administrator in respect of each Chargor gives notice of its intention to do so or files a notice of appointment with a court; or
 - (iv) any corporate action, legal proceedings or other procedure or step is taken in relation to the suspension of payments, winding up, dissolution or re-organisation of each Chargor

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other than a winding-up petition which is stayed within 14 days of commencement.

4.6 Chargor entitled to exercise rights

Until the Security constituted by this Deed has become enforceable, each Chargor shall be entitled to exercise all its rights in the Relevant Agreements, subject to the other provisions of this Deed.

4.7 Mortgagee in Possession

Nothing in this clause 3 shall constitute the Security Trustee as a mortgagee in possession.

5 LIABILITY OF THE CHARGOR

5.1 Liability not discharged

Each Chargor's liability under this Deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by:

- 4.1.1** any Security, guarantee, indemnity, remedy or other right held by, or available to, the Lenders or the Security Trustee that is or becomes wholly or partially illegal, void or unenforceable on any ground;
- 4.1.2** the Lenders renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or
- 4.1.3** any other act or omission that, but for this clause 4.1, might have discharged, or otherwise prejudiced or affected, the liability of each Chargor.

4.2 Immediate recourse

Each Chargor waives any right it may have to require the Security Trustee to enforce any Security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this Deed against that Chargor.

6 COVENANTS

6.1 Negative pledge and disposal restrictions

Each Chargor shall not at any time, except with the prior written consent of the Security Trustee and unless otherwise permitted pursuant to the Facility Agreement:

- 5.1.1** create, purport to create or permit to subsist any Security on, or in relation to, any Secured Asset other than any Security created by this Deed;
- 5.1.2** sell, assign, transfer, part with possession of or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interest in, the Secured Assets; or
- 5.1.3** create or grant (or purport to create or grant) any interest in any Secured Asset in favour of a third party.

5.2 Enforcement of rights

Each Chargor shall use its reasonable endeavours to:

- 5.2.1** procure the prompt observance and performance of the covenants and other obligations imposed on each Chargor's counterparties (including each Counterparty in respect of a Relevant Agreement); and
- 5.2.2** enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets that the Security Trustee may require from time to time.

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5.3 Notices to be given by each Chargor – Relevant Agreements

- 5.3.1** Each Chargor shall also serve a notice on each Counterparty to (i) a Relevant Agreement either in effect after the date of this Deed or (ii) a Relevant Agreement which is in effect as of the date of this Deed but only gets invoiced after the date of this Deed, by including the following statement on each invoice to such Counterparty:

“We, [•], have granted security over our rights under this contract with you to Triple Dragon Funding Delta LTD (the “Security Trustee”) acting on behalf and for the account of itself and other lenders (together with the Security Trustee, the “Assignees”) to secure our obligations to each of the Assignees. You shall pay to us all sums from time to time due and payable until such time as you receive notice from the Security Trustee instructing you otherwise and following which you shall comply with all instructions contained in such notice. This authority and instruction may only be amended or revoked with the prior written consent of the Security Trustee.”

Following the occurrence of an Event of Default or at any time upon request of the Security Trustee, each Chargor shall provide evidence of the receipt of such notification by each relevant Counterparty to the Security Trustee within 5 days of serving such notification.

- 5.3.2** Immediately upon the occurrence of an Event of Default, each Chargor shall serve a notice by registered signed for post or by courier on each Counterparty to a Relevant Agreement to which that Chargor is a party in effect as at the date of this Deed and on each Counterparty to a Relevant Agreement to which that Chargor is a party which has not otherwise been notified of the assignment prior to the occurrence of an Event of Default, substantially in the form of Part 1 of Schedule 2 (Form of Notice and Acknowledgement for Relevant Agreements).
- 5.3.3** Each Chargor will use its commercially reasonable endeavours to procure that each Counterparty which has received the notice referred to in clause 5.3.2 above will sign and return an acknowledgement substantially in the form of Part 2 of Schedule 2 (Form of Notice and Acknowledgement for Relevant Agreements) to the Security Trustee and the Lenders within 30 Business Days of the date the relevant notice is served on the Counterparty in accordance with clause 5.3.2 and provided that if the relevant Chargor has used its commercially reasonable endeavours during the 45 Business Day period and despite this has been unable to obtain such acknowledgement, then its obligation to use commercially reasonable endeavours to procure such acknowledgement shall be deemed to have been satisfied.
- 5.3.4** At any time after the date falling two Business Days following the occurrence of an Event of Default the Security Trustee may (i) serve Instruction Notices on some or all of the Counterparties, and (ii) direct the notified Counterparties to pay all amounts due to each Chargor into the account set out in the Instruction Notice.
- 5.3.5** Any instructions contained in a notice of charge sent by each Chargor pursuant to this clause 5 may not be revoked or amended without the Security Trustee’s prior written consent.

5.4 Notices to be given by each Chargor – Bank Accounts

- 5.4.1** On the date of this Deed, each Chargor shall serve a notice by registered signed for post or by courier on each bank, financial institution or other person with whom that Chargor holds a bank account (including each Bank Account) in respect of each relevant bank account, substantially in the form of Part 1 of Schedule 3 (Form of Notice and Acknowledgement for Bank Account).
- 5.4.2** Each Chargor will use its commercially reasonable endeavours to procure that each bank, financial institution or other person which has received the notice referred to in clause 5.4.1 above will sign and return an acknowledgement substantially in the form of Part 2 of Schedule 3 (Form of Notice and Acknowledgement for Bank Account) to the Security Trustee and the Lenders within 45 Business Days of the date of this Deed and provided that if the relevant Chargor has used its commercially reasonable endeavours during the 30 Business Day period and despite this has been unable to obtain such acknowledgement, then its obligation to use commercially reasonable endeavours to procure such acknowledgement shall be deemed to have been satisfied.

5.5 Information

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Each Chargor shall:

- 5.5.1** give the Security Trustee and the Lenders such commercially relevant information (including information relating to risk management and regulatory requirements) concerning the Secured Assets as the Security Trustee and/or the Lenders may reasonably require; and
- 5.5.2** promptly notify the Security Trustee and the Lenders in writing of any material action, claim, notice or demand made by or against it in connection with all or any part of a Secured Asset or of any material fact, matter or circumstance which may, with the passage of time, give rise to such a material action, claim, notice or demand, together with, in each case, each Chargor's proposals for settling, liquidating, compounding or contesting any such action, claim or demand and shall, subject to the Security Trustee's prior approval (which approval shall not be unreasonably withheld, conditioned, or delayed), implement those proposals at its own expense.

5.6 Description of assets

Each Chargor represents and warrants that the descriptions of the assets set out in Schedule 1 (Relevant Agreements) constitute accurate descriptions of the agreements to be assigned to the Security Trustee pursuant to clause 4.2.

5.7 Indulgence

The Security Trustee (acting on the instructions of the Lenders) may, at its discretion, grant time or other indulgence or make any other arrangement, variation or release with any person not being a party to this Deed (whether or not any such person is jointly liable with each Chargor) in respect of any of the Secured Liabilities or of any other security for them without prejudice either to this Deed or to the liability of each Chargor for the Secured Liabilities.

5.8 Compliance with laws and regulations

- 5.8.1** No Chargor shall, without the Security Trustee's prior written consent, use or permit the Secured Assets to be used in any way contrary to law.

- 5.8.2** Each Chargor shall:

- (a) comply with the requirements of any law and regulation relating to or affecting the Secured Assets or the use of them or any part of them;
- (b) obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Secured Assets or their use or that are necessary to preserve, maintain or renew any Secured Asset; and
- (c) promptly effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Secured Assets.

5.9 Notice of misrepresentation and breaches

Each Chargor shall, promptly on becoming aware of any of the same, notify the Security Trustee in writing of:

- (a) any representation or warranty set out in this Deed that is incorrect or misleading in any material respect when made or deemed to be repeated; and
- (b) any breach of any covenant set out in this Deed.

6 RELEVANT AGREEMENTS

6.1 Relevant Agreements - Representations and warranties

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Each Chargor represents and warrants to the Security Trustee that, save as highlighted in the Facility Agreement:

- (a) it is the sole legal and beneficial owner of, and has good, valid and marketable title to, each of the Relevant Agreements to which it is a party;
- (b) each Relevant Agreement to which the Chargor is a party is in full force and effect and constitutes its and the applicable Counterparty's legal, valid, binding and enforceable obligations;
- (c) its execution and performance of the Relevant Agreements does not conflict with any law or regulation applicable to it, its constitutional documents or any agreement or instrument binding on it or constitute a default or termination event (however described) under any such agreement or instrument;
- (d) it is not in default, nor, so far as it is aware after having made due and careful enquiries, is the relevant Counterparty in default, under any Relevant Agreement;
- (e) all payments due to it from any party under any Relevant Agreement can be made without withholding or deduction on account of Tax;
- (f) all payments to it by the relevant Counterparty or any other party to any of the Relevant Agreements are not subject to any right of set-off or similar right; and
- (g) there is no prohibition on assignment in the Relevant Agreements.

6.2 Undertakings

- (a) Each Chargor may not, unless otherwise permitted under the Facility Agreement, without the Security Trustee's prior written consent:
 - (i) amend, supplement or waive or agree to the amendment, supplement or waiver of any term of any Relevant Agreement or terminate such Relevant Agreement or allow such Relevant Agreement to lapse (other than where a Relevant Agreement expires in accordance with its terms and not by reason of default) and shall not do or permit anything to be done which may impair the enforceability of any term of any Relevant Agreement; or
 - (ii) take any action which might jeopardise the existence or enforceability of any Relevant Agreement.
- (b) Each Chargor shall:
 - (i) promptly perform all its obligations under each Relevant Agreement;
 - (ii) diligently enforce its rights under each Relevant Agreement; and
 - (iii) inform the Security Trustee and the Lenders immediately if it serves notice of default, or commences any legal proceeding, or receives notice of default or of the initiation of any legal proceeding in relation to any Relevant Agreement.

6.3 Collecting Monetary Claims

Each Chargor shall promptly get in and realise all Monetary Claims arising under each Relevant Agreement and pay the proceeds of such Monetary Claims into the Chargor's Account(s) in accordance with the terms of the Facility Agreement or as the Security Trustee may otherwise direct in writing and pending that payment will hold those proceeds on trust for the Security Trustee.

6.4 Dealing with Monetary Claims

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No Chargor shall, without the prior written consent of the Security Trustee, charge, assign, factor, discount, release, waive, compound or otherwise deal with any of the Monetary Claims arising under any Relevant Agreement or purport to do so or vary any term relating to a Monetary Claim other than as permitted by the terms of the Facility Agreement.

6.5 Obligations

Notwithstanding the operation of clause 4.2 (Assignment of Relevant Agreements), each Chargor is and shall remain liable under any Relevant Agreement to which it is a party to perform all its obligations under each Relevant Agreement and the Security Trustee shall not be, or be deemed to be, under any obligation or liability under or in connection with any Relevant Agreement by reason of this Deed or the exercise by the Security Trustee of any rights, powers or remedies under this Deed.

7 WHEN SECURITY BECOMES ENFORCEABLE

7.1 Security becomes enforceable on Event of Default

The Security constituted by this Deed shall become immediately enforceable if an Event of Default occurs.

7.2 Discretion

After the Security constituted by this Deed has become enforceable, the Security Trustee (acting on the instructions of the Lenders) may, enforce all or any part of that Security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Secured Assets.

8 ENFORCEMENT OF SECURITY

8.1 Enforcement powers

9.1.1 For the purpose of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this Deed.

9.1.2 The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this Deed) shall be exercisable at any time after the Security constituted by this Deed has become enforceable under clause 7.1 (*Security becomes enforceable on Event of Default*).

9.1.3 Section 103 of the LPA 1925 does not apply to the Security constituted by this Deed.

9.2 Protection of third parties

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

9.2.1 whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;

9.2.2 whether any power the Security Trustee, a Receiver or Delegate is purporting to exercise has become exercisable or is properly exercisable; or

9.2.3 how any money paid to the Security Trustee, any Receiver or any Delegate is to be applied.

9.3 Privileges

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

9.4 No liability as mortgagee in possession

Neither the Security Trustee, any Receiver nor any Delegate shall be liable, by reason of entering into

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possession of a Secured Asset or for any other reason, to account as mortgagee in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any act, neglect or default (other than the neglect or default of Security Trustee) of any nature in connection with, all or any of the Secured Assets for which a mortgagee in possession might be liable as such.

9.5 Conclusive discharge to purchasers

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

10 RECEIVER

10.1 Appointment

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

10.2 Removal

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

10.3 Remuneration

The Security Trustee may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925; provided such remuneration is a commercially reasonable amount, and the remuneration of the Receiver shall be a debt secured by this Deed, to the extent not otherwise discharged.

10.4 Power of appointment additional to statutory powers

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

10.5 Power of appointment exercisable despite prior appointments

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

10.6 Agent of the Chargors

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

11 POWERS OF RECEIVER

11.1 General

11.1.1 Any Receiver appointed by the Security Trustee under this Deed shall, in addition to the powers conferred on him by statute, have the powers set out in clause 11.2 (*Remuneration*) to clause 11.12 (*Incidental*

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powers).

11.1.2 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.

11.1.3 Any exercise by a Receiver of any of the powers given by this clause 11 may be on behalf of each Chargor, the directors of each Chargor or himself.

11.2 Remuneration

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by him) that the Security Trustee may prescribe or agree with him; provided such remuneration is a commercially reasonable amount.

11.3 Realise Secured Assets

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

11.4 Dispose of Secured Assets

A Receiver may sell or assign (or concur in selling or assigning), all or any of the Secured Assets in respect of which he is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as he thinks (exercising commercially reasonable judgment) fit. Any sale may be for any consideration that the Receiver thinks fit (exercising commercially reasonable judgment) and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold.

11.5 Valid receipts

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

11.6 Make settlements

A Receiver may make any arrangement, settlement or compromise between each Chargor and any other person that he may think (exercising commercially reasonable judgment) expedient.

11.7 Bring proceedings

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as he thinks (exercising commercially reasonable judgment) fit.

11.8 Powers under the LPA 1925

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

11.9 Redeem prior Security

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

11.10 Delegation

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

11.11 Absolute beneficial owner

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

11.12 Incidental powers

A Receiver may do any other acts and things that he (exercising commercially reasonable judgment):

11.12.1 may consider desirable or necessary for realising any of the Secured Assets;

11.12.2 may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this Deed or law; or

11.12.3 lawfully may or can do as agent for each Chargor.

12 DELEGATION

12.1 Delegation

The Security Trustee or any Receiver may delegate (either generally or specifically) by the power of attorney granted pursuant to clause 14 (Power of Attorney) or in any other manner to any person any right, power, authority or discretion conferred on it by this Deed.

12.2 Terms

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

12.3 Liability

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

12.4 Appropriation

Neither the Security Trustee, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

13 RIGHTS, POWERS AND DISCRETIONS OF THE SECURITY TRUSTEE

13.1 The Security Trustee shall be entitled to request instructions, or clarification of any instruction, from the Lenders as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion. The Security Trustee may refrain from acting unless and until it receives any such instructions or clarification that it has requested.

13.2 The Security Trustee shall not be obliged to monitor the performance of any other party or such party's obligations under this Deed or the Facility Agreement.

13.3 The Security Trustee shall be entitled to rely on any notification, instruction, report, record, information, representation or communication of each Chargor or the Lenders reasonably believed by it to be genuine.

13.4 Unless and until notified to the contrary by the Lenders, the Security Trustee shall be entitled to assume that no Event of Default has occurred or is continuing.

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- 13.5** The Security Trustee is entitled, in connection with the performance of its duties under this Deed or the Facility Agreement, at its own discretion and at the cost of each Chargor, to seek information and advice from legal counsel, financial consultants, banks and other experts at market prices, if appropriate. The Security Trustee may rely on such information and advice without having to make its own investigation. The Security Trustee shall not be liable for any damages or losses caused by its acting in reliance on information or advice of such advisers or other experts. The Security Trustee shall not be liable for any negligence of such advisers or other experts. The Security Trustee shall only be liable for the exercise of the standard of care applicable to the Security Trustee as beneficiary of the security granted hereunder in the selection of any such adviser or other expert.
- 13.6** The Security Trustee shall be entitled (but shall not be obliged) to remedy, at any time, a breach by each Chargor of any of its obligations contained in this Deed.
- 13.7** Each Chargor irrevocably authorises the Security Trustee and its agents to do all things that are necessary or desirable for that purpose.
- 13.8** Any monies expended by the Security Trustee in remedying a breach by each Chargor of its obligations contained in this Deed, shall be reimbursed by each Chargor to the Security Trustee on a full indemnity basis and shall carry interest in accordance with clause 16.1.
- 13.9** The rights of the Security Trustee under 13.6 are without prejudice to any other rights of the Lenders under this Deed.
- 13.10** To the extent permitted by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) or by law on a Receiver may, after the security constituted by this Deed has become enforceable, be exercised by the Security Trustee in relation to any of the Secured Assets whether or not it has taken possession of any Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver.
- 13.11** For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Security Trustee may convert any monies received, recovered or realised by it under this Deed (including the proceeds of any previous conversion under this clause 13.11, clause 13.12 and clause 13.13) from their existing currencies of denomination into any other currencies of denomination that the Security Trustee may think fit.
- 13.12** Any such conversion shall be effected at Barclays PLC's then prevailing spot selling rate of exchange for such other currency against the existing currency.
- 13.13** Each reference in clause 13.11, clause 13.12 and this clause 13.13 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.
- 13.14** If the Security Trustee receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, the Security Trustee may open a new account for each Chargor in the Security Trustee's books. Without prejudice to the Security Trustee's right to combine accounts, no money paid to the credit of each Chargor in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.
- 13.15** If the Security Trustee does not open a new account immediately on receipt of the notice, or deemed notice, under clause 13.14, then, unless the Security Trustee gives express written notice to the contrary to each Chargor, all payments made by each Chargor to the Security Trustee shall be treated as having been credited to a new account of each Chargor and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt of the relevant notice by the Security Trustee.
- 14 POWER OF ATTORNEY**
- 14.1.1** Each Chargor, by way of security for the performance of its obligations under this Deed, irrevocably and severally appoints the Security Trustee, each Receiver and each of their respective Delegates and sub delegates to be its attorney (with full power of substitution and delegation) and in its name, on its behalf and as its act and deed to execute, deliver and perfect all other documents, deeds and agreements and do

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all such things which the attorney may consider to be required or desirable for:

- (a) carrying out any obligation imposed on each Chargor by this Deed or any agreement binding on each Chargor to which the Security Trustee and/or the Lenders are a party (including, but not limited to, the execution and delivery of any charges, assignments or other security and any transfers of the Secured Assets and perfecting and/or releasing the Security created or intended to be created in respect of the Secured Assets); and
- (b) enabling the Security Trustee, the Lenders and any Receiver to exercise any of the rights, powers and authorities conferred on them pursuant to this Deed or by law (including, after the Security constituted by this Deed has become enforceable in accordance with clause 7.1, the exercise of any right of a legal or beneficial owner of the Secured Assets or any part of the Secured Assets).

14.1.2 Each Chargor shall ratify and confirm all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of his powers.

14.1.3 Each Chargor covenants (for the purpose of the irrevocable nature of the power of attorney granted in this clause 14) with each Receiver appointed under this Deed, to join in and concur with the exercise by such Receiver of any powers of such Receiver to act on behalf of each Chargor.

15 LIABILITY OF THE SECURITY TRUSTEE

15.1 The Security Trustee shall not be liable for any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with this Deed, unless directly caused by its gross negligence or wilful misconduct.

15.2 The Security Trustee shall not be liable for:

15.2.1 the legality, validity, binding nature and enforceability of this Deed or the Facility Agreement;

15.2.2 any decline in the value or any loss realised or any insufficiency of proceeds upon any sale or other disposition of any of the Security made pursuant to this Deed or the Facility Agreement; and

15.2.3 any losses, liability, claims, damages or expenses which result from the Security Trustee acting in accordance with any direction given to it by the Lenders.

16 COSTS AND INDEMNITY

16.1 Costs

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

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

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

16.2 Indemnity

16.2.1 Each Chargor shall pay or discharge all external costs, charges and expenses reasonably or necessarily

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incurred by the Security Trustee, each Receiver and each Delegate, and their respective employees and agents under or in connection with this Deed or the Facility Agreement, including in connection with an enforcement or contemplated enforcement of this Deed, except to the extent directly attributable to the Security Trustee's fraud, gross negligence or wilful misconduct.

- 16.2.2** Each Chargor shall indemnify the Security Trustee, the Lenders, each Receiver and each Delegate, and their respective employees and agents for any loss or liability incurred by the Security Trustee, the Lenders, each Receiver and each Delegate, and their respective employees and agents (otherwise than as a direct result of the fraud, gross negligence or wilful misconduct of the Security Trustee, each Receiver and each Delegate) under or in connection with this Deed or the Facility Agreement.

17 FURTHER ASSURANCE

- 17.1** Each Chargor shall, at its own expense, take whatever action the Security Trustee, the Lenders or any Receiver may reasonably require for:

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

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

18 SUSPENSE ACCOUNT

All monies received, recovered or realised by the Security Trustee under this Deed (including the proceeds of any conversion of currency) may in the discretion of the Security Trustee be credited to any interest bearing suspense or impersonal account(s) maintained with a bank, building society or financial institution (including itself) for so long as it may think fit (the interest being credited to the relevant account) pending their application from time to time at the Security Trustee's discretion, in or towards the discharge of any of the Secured Liabilities.

19 RELEASE

- 19.1** On the expiry of the Security Period (but not otherwise), the Security Trustee shall at Chargor's cost and at the request of each Chargor, take whatever action is necessary to:

- (a) release the Secured Assets from the Security constituted by this Deed; and
- (b) reassign the Secured Assets to each Chargor.

20 PRESERVATION OF SECURITY

This Deed is in addition to any other rights or Security, now and in the future, held by the Security Trustee from each Chargor or any other person for the Secured Liabilities and will not merge with or prejudice or be prejudiced by any such rights or Security.

21 SET-OFF

The Security Trustee and the Lenders may set off any matured obligation due from any Obligor under this Deed (to the extent beneficially owned by the Security Trustee or the Lenders as the case may be) against any matured obligation owed by the Security Trustee or the Lenders as the case may be to the relevant Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Security Trustee or the Lenders as the case may be may convert either obligation at a market rate of exchange in its usual course of business for the purpose of

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the set-off.

22 FINANCIAL COLLATERAL

- (a) To the extent that any of the Secured Assets constitute “financial collateral” and this Deed constitutes a “security financial collateral arrangement” (as those terms are defined in the Regulations), the Security Trustee shall, upon the Security created by this Deed becoming enforceable and to the extent permitted by the Regulations, have the right to appropriate all or any part of those Secured Assets in or towards the discharge of the Secured Liabilities without obtaining any court authorisation and in such order as the Security Trustee may in its absolute discretion determine.
- (b) The parties to this Deed agree that the value of any Secured Asset appropriated in accordance with sub-clause (a) shall be:
 - (i) in the case of cash denominated in the currency of denomination of the Secured Liabilities, the amount of such cash plus any accrued but unposted interest attributable to such cash on the date of appropriation; or
 - (ii) in the case of any other cash, the amount of the currency of denomination of the Secured Liabilities that the Lenders could purchase with the amount of such cash (plus any accrued but unposted interest attributable to such cash) on the date of appropriation in accordance with its usual practice.
- (c) The Parties agree that the method of valuation provided for in this clause 22 is commercially reasonable for the purposes of the Regulations.

23 EFFECTIVENESS OF SECURITY

23.1 Continuing Security

Subject to clause 19 (Release) the Security constituted by this Deed shall remain in full force and effect as continuing security for the Secured Liabilities until the end of the Security Period and shall not be released before then by any intermediate payment, discharge or satisfaction of all or any of the Secured Liabilities or for any other reason.

23.2 Cumulative rights

The Security created by or pursuant to this Deed and the rights, powers and remedies of the Security Trustee under this Deed shall be cumulative and shall be in addition to and independent of every other Security, right, power or remedy which the Security Trustee may at any time have in connection with the Secured Liabilities, including all rights, powers and remedies provided by law, and accordingly, the Security Trustee shall not be obliged before exercising any such rights, powers or remedies:

- (a) to make any demand of, or take any action or obtain any judgment in any court against, each Chargor;
- (b) to make or file any claim or proof in winding-up or dissolution of each Chargor; or
- (c) to enforce or seek to enforce any other Security held by it in respect of the Secured Liabilities.

23.3 No merger of Security

No prior Security held by the Security Trustee over the whole or any other part of the Secured Assets shall merge into the Security constituted by this Deed.

23.4 Tacking

The Lenders confirm (including for the purposes of section 94(1)(c) of the LPA) that it will comply with its obligations to make further advances under the Facility Agreement.

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23.5 Severance

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

24 DISCHARGE CONDITIONAL

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

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

25 COUNTERPARTS**25.1 Counterparts**

- (a) This Deed may be executed and delivered in any number of counterparts, each of which is an original and which together have the same effect as if each party had signed the same document.
- (b) Transmission of the executed signature page of a counterpart of this Deed by email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this Deed. If either method of delivery is adopted, without prejudice to the validity of the deed thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.

26 THIRD PARTY RIGHTS

Except as expressly provided elsewhere in this Deed, a person who is not a party to this Deed (other than the Lenders, a permitted successor or assign, any Receiver or any Delegate) has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

27 NOTICES**27.1 Delivery**

- (a) The provisions of clause 16 of the Facility Agreement apply to this Deed as if they were set out in full in this Deed, except that each reference in those clauses to “you” shall mean each Chargor and references to “we” or “us” shall mean the Beneficiaries, and clause 16.1(d) shall be replaced by the following:

“(d) to **each of the Chargors** at:

Address: Airnow Plc, Salisbury House, London Wall, London EC2M 5PS

Email: philip@airnow.com

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Attention: Philip Marcella”

- (b) Each notice or other communication required to be given under or in connection with this Deed shall be given in accordance with clause 16 (*Communication*) of the Facility Agreement. All notices shall be copied to the Security Trustee at the following details:

Address: Triple Dragon Funding Delta LTD, 86-90 Paul Street, London EC2A 4NE, United Kingdom
 Attn.: Diederik van Lede
 Email: dvl@tripleddragon.co.uk

28 NO SANCTIONS

Each Chargor represents and warrants that it is not subject to any Sanctions. For the purposes of this clause 28:

“**Sanctions**” means the economic sanctions, laws, regulations, embargoes or restrictive measures administered, enacted or enforced by any Sanctions Authority (including the Sanctions List), provided that Sanctions shall only apply to the extent that such Sanctions or the relevant party's compliance with such Sanctions provision would not result in (i) any violation of, conflict with or liability under EC Regulation (EC) 2271/96, (ii) a violation or conflict with Section 7 of the Foreign Trade Regulation (AWV, Außenwirtschaftsverordnung) (in connection with Section 4 German Foreign Trade Law (AWG, Außenwirtschaftsgesetz)); or (iii) any violation of, conflict with or liability under any similar anti-boycott statute.

“**Sanctions Authority**” means:

- a) the Security Council of the United Nations;
- b) the US;
- c) the European Union;
- d) the member states of the European Union;
- e) the United Kingdom of Great Britain and Northern Ireland;
- f) the jurisdiction of incorporation of each party; and
- g) the governments and official institutions or agencies of any of paragraphs (a) to (f) above, including the Office of Foreign Assets Control of the U.S. Department of Treasury (“**OFAC**”), the U.S. Department of State and Her Majesty's Treasury (“**HMT**”).

“**Sanctions List**” means:

- a) the “Specially Designated Nationals and Blocked Persons” list maintained by OFAC;
- b) the Consolidated List of Financial Sanctions Targets and the Investment Ban List maintained by HMT;
- c) Consolidated list of persons, groups and entities subject to EU financial sanctions maintained by the European Union; and
- d) any similar list maintained by, or public announcement of Sanctions designation made by, any of the Sanctions Authorities, each as amended, supplemented or substituted from time to time.

29 GOVERNING LAW AND JURISDICTION

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29.1 Governing law

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

29.2 Jurisdiction

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

29.3 Other service

Each Chargor irrevocably consents to any process in any proceedings under clause 29.2 (*Jurisdiction*) being served on it in accordance with the provisions of this Deed relating to service of notices. Nothing contained in this Deed shall affect the right to serve process in any other manner permitted by law.

This Deed has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

SCHEDULE 1

RELEVANT AGREEMENTS

The contracts between each Chargor and its customers provided electronically by each Chargor to the Lenders by way of electronic access to the invoicing and accounting system of each Chargor. If the electronic access to the invoicing and accounting system of each Chargor is not available, the contracts between each Chargor and its customers provided electronically in list form by each Chargor to the Lenders.

SCHEDULE 2

FORM OF NOTICE AND ACKNOWLEDGEMENT FOR RELEVANT AGREEMENTS

PART 1 – FORM OF NOTICE TO COUNTERPARTY

[On the letterhead of the Chargor]

To: *[name and address of Counterparty]*
Attention: *[●]*
Copy to: Triple Dragon Funding Delta LTD *[address]*
Date: *[●]*

Dear Sirs

Deed of Assignment and Charge dated [●] 2021 (the “Security Agreement”) between, among others, (1) [CHARGOR] (the “Chargor”), and (2) Triple Dragon Funding Delta LTD as security trustee (the “Security Trustee”)

- 1 This letter constitutes notice to you that pursuant to the Security Agreement we have assigned to Triple Dragon Funding Delta LTD (the “**Security Trustee**”), by way of security, all our present and future rights under or in connection with *[insert details of Relevant Agreement]* (the “**Contract**”) (including under any guarantee, warranty or indemnity granted in relation to the Contract) and all Related Rights.
- 2 In this notice, “Related Rights” means, in respect of the Contract, all present and future:
 - (a) money and proceeds of any nature paid or payable in relation to the Contract, including sale proceeds and money paid by way of damages, award or judgment made in connection with that Contract; and
 - (b) all rights and assets of any nature attaching to, deriving from or exercisable as a result of an interest in or ownership or operation of the Contract.
- 3 We irrevocably authorise and instruct you to:
 - (a) deal with us in relation to the Contract; and
 - (b) pay to us all sums from time to time due and payable by you under the Contract,

until such time as you receive notice from the Security Trustee instructing you otherwise (an “**Instruction Notice**”) following which you shall comply with all instructions contained in such Instruction Notice or in any subsequent notice or instructions relating to the Contract or the debts represented by such Contract which you receive from the Security Trustee without any reference to or further authority from us and without any enquiry by you as to the justification for or validity of such notice or instruction; and
 - (c) send copies of all notices and communications relating to the Contract to the Security Trustee as well as to us.
- 4 We further instruct you that upon receipt of notice from the Security Trustee that an Event of Default has occurred:
 - (a) all remedies provided for in the Contract or available at law or in equity are exercisable by the Security Trustee (provided that the Security Trustee shall have no greater rights under this notice than we have under the Contract);

(b) all rights to compel performance of the Contract are exercisable by the Security Trustee although we shall remain liable to perform all of the obligations assumed by us under the Contract; and

(c) all rights, interests and benefits whatsoever accruing to or for the benefit of us arising from the Contract belong to the Security Trustee to the exclusion of the Chargor.

5 Please note that we are and will remain liable to perform all the obligations assumed by us under the Contract and that neither the Security Trustee, the Lenders, any Receiver nor any of their agents will at any time have any liability to you under the Contract.

6 We are not permitted to agree any amendment or supplement to, or to waive any term of the Contract, or to terminate the Contract or to allow it to lapse other than where the Contract expires in accordance with its terms and not by reason of default without the prior written consent of the Security Trustee.

7 The instructions in this notice may not be revoked or amended without the prior written consent of the Security Trustee.

8 This notice is governed by English law.

9 Please confirm your agreement to the above by sending the attached acknowledgement to the Security Trustee at *[insert address details of Security Trustee]*, and the Lenders *[insert address details of the Lenders]*, with a copy to us at the above address.

Yours faithfully

.....
For and on behalf of
[CHARGOR]

PART 2 – FORM OF ACKNOWLEDGEMENT FROM COUNTERPARTY

[On the letterhead of the Counterparty]

To: Triple Dragon Funding Delta LTD [*address*]

Date: [●]

Dear Sirs

- 1 We confirm receipt from the Chargor of a notice dated [●] 2021 (the “**Notice**”) of an assignment, pursuant to the terms of the Security Agreement, of all the Chargor’s present and future rights under or in connection with [*insert details of Relevant Agreement/Contract*] (the “**Contract**”) (including under any guarantee, warranty or indemnity granted in relation to the Contract) and all Related Rights (as defined in the Notice).
- 2 We confirm that:
 - (a) we accept the instructions and authorisations contained in the Notice and we undertake to act in accordance with and comply with the terms of the Notice;
 - (b) we have not received notice of the creation of any other assignment of or security over rights or proceeds arising under the Contract in favour of any third party or the creation of any other third-party interest in those rights or proceeds and we will notify you promptly should we receive any such notice;
 - (c) we have not claimed or exercised nor do we have any outstanding right to claim or exercise against the Chargor any right of set-off, counter claim or other right relating to the Contract; and
 - (d) we agree that no term of the Contract may be amended, supplemented or waived without your prior written consent;
 - (e) we agree that the Contract may not be terminated or allowed to lapse other than where the Contract expires in accordance with its terms and not by reason of default without your prior written consent.
- 3 This letter is governed by English law.

Yours faithfully

.....
For and on behalf of
[COUNTERPARTY]

PART 3 – FORM OF INSTRUCTION NOTICE TO COUNTERPARTY

To: [name and address of Counterparty]
Attention: [●]
Copy to: Triple Dragon Funding Delta LTD [address]
Re: [insert details of Contract] (the “**Contract**”)
Date: [●]

Dear Sirs

Deed of Assignment and Charge dated [●] 2021 (the “Security Agreement”) between, among others, (1) [CHARGOR] (the “Chargor”), and (2) Triple Dragon Funding Delta LTD as security trustee (the “Security Trustee”)

Capitalized terms used herein shall have the meaning ascribed to them under the Security Agreement.

We hereby inform you that an Event of Default has occurred and is continuing and that, as from the date hereof, each Chargor is not entitled to receive the monies derived from the Contract in accordance with the provisions of the Security Agreement, it being understood that any payment made to a bank account other than the one indicated below will not discharge your payment obligations. Therefore, you are hereby kindly requested to pay all sums due under the Contract directly on the following bank account opened in the name of the Security Trustee: [●].

Please ensure that all sums due under the Contract are credited to the above bank account at the following dates (i) in respect of any Contract that is due but not yet payable, as of its due date (as indicated in the related invoice) and (ii) in respect of any Contract that is already due and payable on the date of receipt of this Instruction Notice to Counterparty, immediately and no later than [●].

This letter is governed by English law.

Signed in [●], on [_____]

Triple Dragon Funding Delta LTD
acting as Security Trustee

By:

For acknowledgement of receipt
[●]
as Counterparty

By:

SCHEDULE 3

FORM OF NOTICE AND ACKNOWLEDGEMENT FOR BANK ACCOUNT

PART 1 – FORM OF NOTICE TO ACCOUNT BANK

[On the letterhead of the Chargor]

To: [ACCOUNT BANK NAME AND ADDRESS]

Copy to: Triple Dragon Funding Delta LTD [address]

Date: []

Dear Sir/Madam,

Deed of Assignment and Charge dated [*] 2021 (the “Security Agreement”) between, among others, (1) [CHARGOR] (the “Chargor”), and (2) Triple Dragon Funding Delta LTD as security trustee (the “Security Trustee”)

This letter constitutes notice to you that under the Security Agreement we have charged, by way of first fixed charge, in favour of the Security Trustee all monies from time to time standing to the credit of the accounts held with you and detailed below (each an “Account”), together with all other rights and benefits accruing to or arising in connection with each Account (including, but not limited to, entitlements to interest):

Name of Account: [NAME OF ACCOUNT]

Account holder: [ACCOUNT HOLDER]

Accounts details: []

We irrevocably instruct and authorise you to:

- disclose to the Security Trustee any information relating to each Account requested from you by the Security Trustee;
- comply with the terms of any written notice or instructions relating to each Account received by you from the Security Trustee, including without limitation, any instructions requiring you to disregard our instructions relating to any of the Accounts;
- until such time as the Security Trustee notifies you to the contrary, pay, release or hold all or any part of the monies standing to the credit of each Account in accordance with our written instructions; and
- following receipt of such notice from the Security Trustee, cease to comply with our written instructions and pay, release or hold all or any part of the monies standing to the credit of each Account in accordance with the written instructions of the Security Trustee.

We acknowledge that you may comply with the instructions in this notice without any further permission from us.

The instructions in this notice may only be revoked or amended with the prior written consent of the Security Trustee.

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

Please acknowledge receipt of this notice by sending the attached acknowledgement to the Security Trustee by email to [], with a copy to us.

Yours sincerely,

Signed.....

For and on behalf of
[]

PART 2 – FORM OF ACKNOWLEDGEMENT FROM ACCOUNT BANK

To: Triple Dragon Funding Delta LTD (the **Secured Party**)

Date: []

Dear Sir/Madam,

Deed of Assignment and Charge dated [●] 2021 (the “Security Agreement”) between, among others, (1) [CHARGOR] (the “Chargor”), and (2) Triple Dragon Funding Delta LTD as security trustee (the “Security Trustee”)

We refer to the notice of charge dated _____ provided to us by the Chargor, and the account(s) listed in that notice (the **Security Account(s)**).

We note that the Chargor is free to continue to operate the Security Account(s) until such time as the Security Trustee provides us with notice to the contrary. Any such notice must be provided to *86-90 Paul Street, London EC2A 4NE, United Kingdom*.

We confirm that we:

- if you provided a copy of the charge document, we have not reviewed this and are not on notice of any provision contained in it, other than any provisions set out in the notice of charge detailed above;
- we will be entitled to rely upon any instruction or notice purporting to be from the Secured Party in relation to any Security Account without further enquiry or investigation into: (a) the identity of individuals providing such instruction or notice; or (b) whether a default or other event allowing the Secured Party to provide such instruction or notice has in actual fact occurred;
- we will not claim or exercise, any security interest, set-off, counter-claim or other right arising after the date of this acknowledgment in respect of any Account; and
- we, at the department specified above, have not, at the date of this acknowledgment, received any prior notice of charge in relation to any Security Account, provided that we shall be under no obligation to update the Chargor or the Secured Party in this respect.

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

Yours faithfully,

Signed.....

[NAME OF BANK]

SIGNATURES

The Chargors

Executed as a Deed
for and on behalf of
AIRNOW PLC

)
)
) _____ 
Director

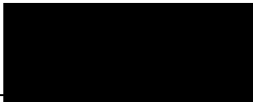
in the presence of:

Signature of witness:

Name: **Clive Carver**

Address: 

Occupation: **Chairman**

_____ 

Executed as a Deed
for and on behalf of
AIRNOW MEDIA LIMITED

)
)
) _____ 
Director

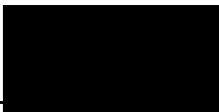
in the presence of:

Signature of witness:

Name: **Clive Carver**

Address: 

Occupation: **Chairman**

_____ 

Executed as a Deed
for and on behalf of
AIRNOW DATA LIMITED

)
)
) _____ 
Director

in the presence of:

Signature of witness:

Name: **Clive Carver**

Address: 

Occupation: **Chairman**

_____ 

Executed as a Deed
for and on behalf of
AIRNOW CYBERSECURITY LTD

)
)
) _____
Director

in the presence of:

Signature of witness:
Name: **Clive Carver**
Address: _____
Occupation: **Chairman**

The Security Trustee

Executed as a Deed
for and on behalf of
TRIPLE DRAGON FUNDING DELTA LTD

)
)
) _____
Director

in the presence of:

Signature of witness:
Name: **Johanna de Greef**
Address: _____
Occupation: **Legal Consultant**

