



Registration of a Charge

Company name: **SIMPLICITY MARKETING LIMITED**

Company number: **04339257**

Received for Electronic Filing: **13/10/2014**



X3IGA1NL

Details of Charge

Date of creation: **10/10/2014**

Charge code: **0433 9257 0001**

Persons entitled: **SILICON VALLEY BANK**

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: **WE 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:

OSBORNE CLARKE



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 4339257

Charge code: 0433 9257 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 10th October 2014 and created by SIMPLICITY MARKETING LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 13th October 2014 .

Given at Companies House, Cardiff on 14th October 2014

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

DEBENTURE

dated 10 October 2014

SIMPLICITY MARKETING LIMITED

as Chargor

and

SILICON VALLEY BANK

OSBORNE CLARKE

We hereby certify that this is a true
and accurate copy of the original document.
dated 15th day of October 2014



Osborne Clarke
1 London Wall
London
EC2Y 5EB

CONTENTS

| CLAUSE | PAGE |
|--------------------------------------------------|------|
| 1. Definitions and interpretation..... | 1 |
| 2. Covenant to pay | 4 |
| 3. Interest | 5 |
| 4. Security..... | 5 |
| 5. Conversion of floating charge..... | 7 |
| 6. Notices of Assignment and Charge..... | 8 |
| 7. Further assurance | 8 |
| 8. Deposit of documents and title deeds | 8 |
| 9. Bank Accounts | 9 |
| 10. Dividends, voting rights and Nominees..... | 9 |
| 11. General undertakings..... | 10 |
| 12. Costs..... | 11 |
| 13. Default..... | 12 |
| 14. Statutory power of sale | 12 |
| 15. Administrator..... | 13 |
| 16. Receiver..... | 13 |
| 17. Protection of third parties | 17 |
| 18. No liability as mortgagee in possession..... | 18 |
| 19. Delegation..... | 18 |
| 20. Power of attorney | 18 |
| 21. Cumulative and continuing security | 19 |
| 22. Avoidance of payments..... | 19 |
| 23. Prior charges..... | 19 |
| 24. Opening a new account..... | 20 |
| 25. Suspense account | 20 |
| 26. Changes to the Parties..... | 20 |
| 27. Currency..... | 20 |
| 28. Set-off | 20 |
| 29. Notices..... | 21 |
| 30. Miscellaneous | 21 |
| 31. HM Land Registry | 21 |
| 32. Release..... | 21 |
| 33. Governing law..... | 22 |
| Schedule 1 | 23 |
| The Secured Assets..... | 23 |
| Schedule 2 | 24 |
| Form of Notices of Assignment..... | 24 |
| Schedule 3 | 28 |
| Form of Accession Deed..... | 28 |
| Schedule 4 | 32 |
| Form Deed of Release..... | 32 |

This Debenture is made as a deed on 10 October 2014

Between:

- (1) **SIMPLICITY MARKETING LIMITED** (Company Number: 04339257) whose registered office is at 5th Floor, 19-22 Rathbone Place, London W1T 1HY (the "**Company**"); and
- (2) **Silicon Valley Bank**, a California corporation acting through its branch at 7th Floor, 41 Lothbury, London EC2R 7HF (the "**Bank**").

It is agreed as follows:

1. Definitions and interpretation

1.1 **Definitions**

Unless otherwise defined in this Debenture, terms defined in the Credit Agreement shall have the same meanings when used in this Debenture and the following expressions shall have the following meanings:

"2003 Rules" mean the Land Registration Rules to the Land Registration Act 2002.

"Accession Deed" means a document substantially in the form set out in Schedule 3 (*Form of Accession Deed*).

"Assets" mean the whole of the property or undertaking (including uncalled share capital) which is or may from time to time be comprised in the property and undertaking of each of the Chorgors.

"Assigned Asset" means an asset for the time being comprised within an assignment created by Clause 4 (*Security*), or (with effect from the date of its creation) any assignment created pursuant to an Accession Deed or a Supplemental Debenture or pursuant to Clause 7 (*Further Assurance*).

"Assigned Contract" means each contract specified in Part 4 of Schedule 1 (*The Secured Assets*), and (with effect from the date of the relevant Accession Deed or Supplemental Debenture) each contract specified as an Assigned Contract in an Accession Deed or a Supplemental Debenture.

"Authorities" mean all national and local governments, government departments, supranational bodies, local or public authorities, statutory undertakings, states or agencies.

"Book Debts" mean:

- (a) all book and other debts in existence from time to time (including, without limitation, any sums whatsoever owed by banks or similar institutions), both present and future, due, owing to or which may become due, owing to or purchased or otherwise acquired by any Chorgor; and
- (b) the benefit of all rights whatsoever relating to the debts referred to above including, without limitation, any related agreements, documents, rights and remedies (including, without limitation, negotiable or non-negotiable instruments, guarantees, indemnities, legal and equitable charges, reservation of proprietary rights, rights of tracing, unpaid vendor's liens and all similar connected or related rights and assets).

"Cash Collateral Accounts" means each Mandatory Prepayment Account, each Holding Account, the accounts specified as such in Part 3 of Schedule 1 (*The Secured Assets*), and (with effect from the date of the relevant Accession Deed or Supplemental Debenture) any

accounts specified as Cash Collateral Accounts in an Accession Deed or a Supplemental Debenture.

"Charged Property" means the whole or any part of the property, assets, income and undertaking of each of the Chargors from time to time mortgaged, charged or assigned, or purported to be mortgaged, charged or assigned to the Bank pursuant to this Debenture, (with effect from its date of creation) any Accession Deed or Supplemental Debenture, including, where the context permits, the proceeds of sale or realisation thereof.

"Chargors" mean the Company and any member of the Group that has executed an Accession Deed in favour of the Bank.

"Contracts" mean all of each Chargor's rights, title, interest and benefit in and to any licence, consent, agreement or contract in respect of the whole or any part of the Charged Property to which such Chargor is a party from time to time.

"Credit Agreement" means the Credit Agreement made between the Company, the Bank and others on or about the date of this Debenture.

"Debenture Security" means the Security constituted by this Debenture, any Accession Deed and any Supplemental Debenture.

"Default Rate" means the default rate of interest set out in clause 10.3 of the Credit Agreement.

"Derivative Assets" mean all stocks, shares, warrants or other securities, rights, dividends, interest or other property accruing, offered, issued or deriving at any time by way of dividend, bonus, redemption, exchange, purchase, substitution, conversion, consolidation, subdivision, preference, option or otherwise attributable to any Securities or any Derivative Assets previously described.

"Enforcement Notice" shall have the meaning given to that expression in Schedule 2.

"Financial Collateral" shall have the meaning given to that expression in the Financial Collateral Regulations.

"Financial Collateral Regulations" mean the Financial Collateral Arrangements (No. 2) Regulations 2003 (S.I. 2003 No. 3226).

"Fixed Charge Asset" means an asset for the time being comprised within a mortgage, fixed charge or assignment by way of security created by Clause 4 (*Security*), or (with effect from the date of its creation) pursuant to an Accession Deed or a Supplemental Debenture or pursuant to Clause 7 (*Further Assurance*).

"Fixtures" mean all assets of whatsoever nature, apart from land and buildings, forming part of any freehold or leasehold property owned by any Chargor and deemed by law to be immovable property other than tenant's fixtures.

"Insolvency Act" means the Insolvency Act 1986 unless otherwise stated.

"Intellectual Property Rights" means all legal and/or equitable interests (including, without limitation, the benefit of all licences in any part of the world) of each Chargor now or in the future in, or relating to:

- (a) any patents, trade marks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, know-how and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered; and

- (b) the benefit of all applications and rights to use such assets of each Chargor (which may now or in the future subsist).

"LPA" means the Law of Property Act 1925.

"Nominees" mean any of the Bank, its agents, nominees and any other person holding the Securities and the Derivative Assets on behalf of the Bank from time to time.

"Occupational Leases" mean all leasehold interests and other occupational rights whatsoever (including, without limitation, all licences and agreements for leases) in existence from time to time relating to the whole or any part of the Property, the immediate reversion to which is vested in a Chargor.

"Plant and Machinery" means all plant and machinery, equipment, fittings, installations and apparatus, tools, motor vehicles and all other similar assets (other than Fixtures), wherever they are situated, which are now, or at any time after the date of this Debenture become, the property of any Chargor.

"Property" means all estates and other interests in any freehold, leasehold or other immovable property (including, without limitation, all buildings and Fixtures on such property, and the benefit of all covenants given in respect of such property) which are now, or at any time after the date of this Debenture become, the property of a Chargor, but excluding any interest in land in Scotland, and **"Properties"** shall be construed accordingly.

"Receiver" means any receiver appointed pursuant to this Debenture, including, for the avoidance of doubt, a receiver and manager, a manager or an administrative receiver.

"Rights" mean all of any Chargor's rights, title and interest from time to time in any lease, licence or occupational right forming part of the Property together with the entire benefit of each Chargor's rights, title and interest from time to time in any renewal of, replacement of or variation to any such lease, licence or occupational right (including, without limitation, all its rights, title and interest in any Occupational Lease, agreement for any Occupational Lease and any associated agreements which may be granted by a Chargor or any person deriving title from a Chargor from time to time over or in respect of the whole or any part of the Property and any other properties (freehold or leasehold) in which a Chargor has an interest).

"Secured Liabilities" mean all money, debts, obligations and liabilities from time to time due, owing or incurred by the Chargors or any of them to the Bank or its assignee or successor on any current or other account whatever, in each case under each Finance Document (whether present or future, whether alone or jointly with any other person, whether actual or contingent, whether as principal or as surety, whether express or implied, in whatever name, form or style, in whatever currency it is denominated, whether originally owing to the Bank or purchased or otherwise acquired by the Bank, its assignee or successor, or otherwise), but excluding any obligation which, if it were included, would result in this Debenture contravening Section 678 or 679 of the Companies Act 2006.

"Securities" means all stocks, shares, loan notes, bonds, certificates of deposit, depositary receipts, loan capital indebtedness, debentures or other securities from time to time legally or beneficially owned by or on behalf of each Chargor, together with all property and rights of each Chargor in respect of any account held by or for it as participant, or as beneficiary of a nominee or trustee participant, with any clearance or settlement system or depository or custodian or sub-custodian or broker in the United Kingdom or elsewhere.

"Security Financial Collateral Arrangement" shall have the meaning given to that expression in the Financial Collateral Regulations.

"Supplemental Debenture" means a supplemental debenture to this Debenture (in form and substance satisfactory to the Bank) creating further assignments, mortgages or charges over the Assets of any Chargor.

1.2 **Construction**

- (a) Unless a contrary intention appears, Clause 1.2 (*Construction*) of the Credit Agreement applies to this Debenture, and shall be deemed to be incorporated into this Debenture, *mutatis mutandis*, as though set out in full in this Debenture, with any reference to "this Agreement" being deemed to be a reference to "this Debenture", subject to any other necessary changes.
- (b) Unless a contrary indication appears, any reference in this Debenture to:
 - (i) "**administrators**" are references to administrators appointed under the Insolvency Act, and include administrators appointed under the out-of-court procedure under the Insolvency Act;
 - (ii) the "**Bank**", "**Chargor**" or "**Chargors**", or "**Receiver**" shall be construed so as to include its successors in title, permitted assigns, permitted transferees and any delegate of any such person;
 - (iii) "**costs**" means all costs, fees, charges or expenses of whatsoever nature (including, without limitation, legal fees) including, without limitation, disbursements and any VAT to be charged on such costs, charges, expenses and disbursements;
 - (iv) the term "**Finance Document**" includes all restatements, amendments, modifications, variations and supplements including those providing for further advances. The terms of the other Finance Documents and of any side letters between the Bank and any of the Chargors are incorporated into this Debenture to the extent required to ensure that any purported disposition of any freehold or leasehold property contained in this Debenture is a valid disposition in accordance with Section 2(i) of the Law of Property (Miscellaneous Provisions) Act 1989; and
 - (v) "**receivers**" are references to receivers of whatsoever nature including, without limitation, receivers and managers and administrative receivers.

1.3 **Trust**

The perpetuity period for any trusts in this Debenture is 125 years.

1.4 **Third Party Rights**

- (a) Unless expressly provided in this Debenture, no express term of this Debenture nor any term implied under it is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it. Notwithstanding any term of any Finance Document, the consent is not required to rescind or vary this Debenture at any time of any person who is not a party to it.
- (b) For the avoidance of doubt, the terms of this Debenture are intended to be enforceable by any Receiver.

1.5 **Inconsistency**

In the event of any inconsistency arising between any of the provisions of this Debenture and the Credit Agreement, the provisions of the Credit Agreement shall prevail.

2. **Covenant to pay**

- 2.1 Each Chargor irrevocably and unconditionally covenants with the Bank to pay to the Bank on demand all the Secured Liabilities when the Secured Liabilities become due and payable.

- 2.2 Each Chargor gives the covenants in this Clause jointly and severally with the other Chargors from time to time.

3. Interest

Each Chargor shall pay to the Bank interest on the Secured Liabilities to the extent unpaid when due and payable (after as well as before any demand made or judgment obtained or the liquidation or administration of such Chargor) at the Default Rate in accordance with the Credit Agreement.

4. Security

4.1 **General provisions**

All Security created under this Debenture:

- (a) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 (with all covenants implied therein pursuant to the Law of Property (Miscellaneous Provisions) Act 1994 being subject to any Permitted Security;
- (b) is continuing security for the payment and discharge of the Secured Liabilities;
- (c) is created in favour of the Bank; and
- (d) is subject to obtaining any necessary consent to such Security from any third party.

4.2 **Mortgaged Property**

Each Chargor charges by way of first legal mortgage, the Property specified in respect of that Chargor in Part 1 of Schedule 1 (*The Secured Assets*), and all Rights relating to such Property.

4.3 **Other Property**

Each Chargor charges, by way of first fixed charge:

- (a) all Property not validly charged in Clause 4.2 (*Mortgaged Property*) and all Rights relating to such Property;
- (b) all easements, rights and agreements in respect of all Property; and
- (c) all proceeds of sale derived from all Property.

4.4 **Contracts**

Each Chargor charges, by way of first fixed charge, the Contracts.

4.5 **Book Debts**

Each Chargor charges, by way of first fixed charge, the Book Debts.

4.6 **Intellectual Property**

- (a) Each Chargor charges by way of first fixed charge all the Intellectual Property Rights specified in respect of that Chargor in Part 5 of Schedule 1 (*The Secured Assets*).
- (b) Each Chargor charges, by way of first fixed charge, all its Intellectual Property Rights not charged by Clause 4.6(a).

4.7 ***Plant and Machinery***

Each Chargor charges, by way of first fixed charge, the Plant and Machinery.

4.8 ***Securities and Derivative Assets***

- (a) Each Chargor charges by way of first fixed charge, the Securities specified next to its name in Part 2 of Schedule 1 (*The Secured Assets*).
- (b) Each Chargor charges by way of first fixed charge, all its Securities not charged by Clause 4.8(a) (but in respect of shares not governed by English law, only insofar as the Chargor can validly charge the same under applicable law).
- (c) Each Chargor charges by way of first fixed charge, all Derivative Assets of a capital nature.
- (d) Each Chargor charges by way of first fixed charge, all Derivative Assets of an income nature.

4.9 ***Bank Accounts***

- (a) Each Chargor charges by way of first fixed charge each Cash Collateral Account, and all monies standing to the credit of each such account.
- (b) Each Chargor charges by way of first fixed charge all present and future bank accounts, cash at bank and credit balances of that Chargor not charged by Clause 4.9(a) (excluding those arising on fluctuating accounts) with any bank or other person and all rights relating to or attaching to them (including the right to interest).

4.10 ***Goodwill***

Each Chargor charges by way of first fixed charge, all the goodwill and uncalled capital for the time being of that Chargor.

4.11 ***Security Assignments***

- (a) Each Chargor assigns absolutely to the Bank (subject to a proviso for reassignment on redemption) present and future insurances and the proceeds of such insurances provided that, until the Security constituted by this Debenture becomes enforceable, each Chargor shall be entitled (in its sole discretion) to exercise all rights, remedies, any discretion or judgements, give any waivers or consents and to receive (and apply) all sums or other proceeds in relation to such insurances subject to the terms of the Credit Agreement.
- (b) Each Chargor assigns absolutely to the Bank (subject to a proviso for reassignment on redemption) the benefit of the Assigned Contracts provided that, until the Security constituted by this Debenture becomes enforceable, each Chargor shall be entitled (in its sole discretion) to exercise all rights, remedies, any discretion or judgements, give any waivers or consents and to receive (and apply) all sums or other proceeds in relation to such Assigned Contracts subject to the terms of the Credit Agreement.
- (c) The assignments set out in this Clause 4.11 (*Security Assignments*) and Clause 4.12 (*Accruals etc*) are absolute assignments for the purposes of section 136 LPA and are not made by way of charge only.
- (d) Any Assigned Assets which are not effectively assigned pursuant to this Clause 4.11 (*Security Assignments*) and Clause 4.12 (*Accruals etc*) will instead be charged by way of first fixed charge.

4.12 ***Accruals etc***

Each Chargor assigns absolutely all rights, money or property accruing or payable to that Chargor now or in the future under or by virtue of a Fixed Charge Asset charged under the provisions of Clauses 4.2 (*Mortgaged Property*) to 4.11 (*Security Assignments*) (inclusive).

4.13 ***Floating Charge***

- (a) Each Chargor charges by way of first floating charge, all the undertaking and assets of that Chargor whatsoever, wherever situate, whether movable, immovable, present or future, including, without limitation, its uncalled capital for the time being and all the undertaking and assets of that Chargor referred to above which are, for any reason, not validly charged or assigned pursuant to Clauses 4.2 (*Mortgaged Property*) to 4.11 (*Security Agreement*) (inclusive) of this Debenture.
- (b) The floating charge created by this Debenture is a qualifying floating charge for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act.

4.14 ***Consent of third parties***

The Company shall use its reasonable endeavours to procure any consents necessary, including any consent necessary to enable the assets of each Chargor to be the subject of an effective mortgage, fixed charge or assignment pursuant to the terms of Clause 4 (*Security*) and, immediately upon obtaining any such consent, the asset concerned shall become subject to such security

5. Conversion of floating charge

5.1 ***Conversion by notice***

The Bank may by notice to the relevant Chargor convert the floating charge contained in this Debenture into a fixed charge as regards such Charged Property as the Bank may specify (whether generally or specifically) in that notice if: (i) the Bank reasonably considers that it would be necessary to do so in order to protect, preserve or supplement the charges over the Charged Property or the priority of those charges, or (ii) the Bank reasonably considers the Charged Property to be in jeopardy in any respect, or (iii) a Declared Default has occurred.

5.2 ***Automatic conversion***

If, without the prior written consent of the Bank: (i) any Chargor creates any Security (other than Permitted Security) over any of the Charged Property not expressed to be subject to a fixed charge under this Debenture, or attempts to do so, or (ii) any person levies or attempts to levy any distress, attachment, execution or other legal process against any of such Charged Property, provided the same also constitutes an Event of Default under the terms of the Credit Agreement or (iii) any formal steps are taken for the appointment of, or notice is given of intention to appoint, or a petition is filed or application is made, or a competent court makes an order for the appointment of an administrator, in relation to any Chargor, then the floating charge created by this Debenture over the Charged Property which is the subject of such Security, process, steps or order will automatically, without notice, be converted into a fixed charge as soon as such event occurs.

5.3 ***No conversion as a result of Moratorium***

Notwithstanding any other provision of this Debenture, the floating charge contained in this Debenture or any Accession Deed may not be converted into a fixed charge solely by reason of the obtaining of a moratorium, or anything done with a view to obtaining a moratorium, as a preliminary to a creditors voluntary arrangement, by an eligible company (as determined by Schedule A1 of the Insolvency Act) under the Insolvency Act.

6. Notices of Assignment and Charge

6.1 ***Notices of Assignment***

Each Chargor shall promptly give notice (in the case of (a), (b) and (c) below, in the form set out in Schedule 2 (*Notice of Assignment*), and in the case of (d) below in such form as the Bank may require) of:

- (a) the assignment of the Assigned Contracts under this Debenture to each counterparty to an Assigned Contract;
- (b) if the Bank so requires, the assignment of its insurance policies under this Debenture to its insurers;
- (c) the charge over its bank accounts with any bank other than the Bank under this Debenture to its account bank; and
- (d) if the Bank so requires, the assignment of any other Assigned Asset to a relevant third party as required by the Bank,

and in each case shall use its reasonable endeavours to procure that each such person executes and delivers to the Bank an acknowledgement of such notice in form and substance satisfactory to the Bank.

6.2 ***Notice of Charge***

Each Chargor shall, at the request of the Bank and at such Chargor's expense, promptly affix to, or register, endorse or cause to be registered or endorsed on such register and/or documents of title of, such of the Charged Property as the Bank reasonably requires, identifying thereby the charge constituted by or pursuant to this Debenture.

6.3 ***Enforcement Notice***

The Bank shall not, prior to the occurrence of a Declared Default, serve an Enforcement Notice.

7. Further assurance

Each Chargor shall at any time if required by the Bank and at such Chargor's own reasonable expense execute and deliver to the Bank, or carry out, such further Supplemental Debentures, legal or other mortgages, charges, assignments, securities, authorities, documents, acts and things as the Bank in its discretion may reasonably require of or in respect of the whole or such part of the Charged Property as the Bank may reasonably specify, in such form as the Bank in its discretion may require, to secure the payment or discharge of the Secured Liabilities or to vest the whole or such part of the Charged Property in the Bank, its nominee, a Receiver, or in any purchaser from the Bank or a Receiver or to perfect or protect the security created by this Debenture.

8. Deposit of documents and title deeds

8.1 While the Debenture Security subsists, each Chargor shall deposit with the Bank:

- (a) all deeds and documents of title relating to the Property (including, without limitation, all Occupational Leases);
- (b) all stock and share certificates or other documents of title to or representing the Securities (including without limitation the Securities listed in Part 2 of Schedule 1 (*The Secured Assets*)) and the Derivative Assets (together with duly executed blank transfers); and

(c) to the extent reasonably requested by the Bank from time to time:

- (i) certified copies of all the Assigned Contracts; and
- (ii) details of all bank accounts;

8.2 The Bank shall be entitled to provide for the safe custody by third parties of all stock and share certificates and documents of title deposited with the Bank or its nominee at the reasonable expense of the Chargors.

9. Bank Accounts

9.1 **Cash Collateral Accounts**

While the Debenture Security subsists, no Chargor shall, except with the prior written consent of the Bank, withdraw or attempt or be entitled to withdraw from the Cash Collateral Accounts all or any monies standing to the credit of such Cash Collateral Accounts.

9.2 **Other Bank Accounts**

At any time when a Declared Default has occurred, if the Bank has served written notice on the Company requiring the same, no Chargor shall, except with the prior written consent of the Bank, withdraw or attempt or be entitled to withdraw from any of its bank accounts all or any monies standing to the credit of such bank accounts.

10. Dividends, voting rights and Nominees

10.1 **Dividends and voting rights**

For so long as no Declared Default has occurred, each Chargor may:

- (a) subject to Clause 8 (*Deposit of document and title deeds*), receive and retain all dividends, interest and other income deriving from and received by it in respect of the Securities and the Derivative Assets; and
- (b) exercise all voting and other rights and powers attached to the Securities and the Derivative Assets provided that it shall not use its voting rights to vary the rights attaching to the Securities and Derivative Assets which would materially and adversely affect the validity or enforceability of the Security in respect of the Securities and the Derivative Assets.

10.2 **Bank's powers of enforcement over the Securities and the Derivative Assets**

- (a) Following the occurrence of a Declared Default:
 - (i) the Bank may in its discretion (in the name of any Chargor or otherwise and without any consent or authority on the part of any Chargor) exercise all the powers given to trustees by Section 10(3) and (4) of the Trustee Act 1925 (as amended by Section 9 of the Trustee Investments Act 1961) in respect of those Securities and Derivative Assets subject to a trust as set out in this Clause 10;
 - (ii) all dividends, interest and other income forming part of the Securities and Derivative Assets shall, unless otherwise agreed between the Bank and the Company, be paid without any set-off or deduction whatsoever to an interest bearing suspense account in the name of the Bank and shall be retained by the Bank until applied as provided in this Debenture as part of the Securities and the Derivative Assets, and any such monies which may be received by a Chargor shall, pending such payment, be held in trust for the Bank;

- (iii) all voting rights in respect of all Securities and Derivative Assets charged by Clause 4.8 (*Securities and Derivative Assets*) may be exercised (without obligation to do so) by the Bank (or its nominee) in such a manner as it shall (in its absolute discretion) see fit;
 - (iv) (if directed to do so in writing by the Bank) each Chargor shall procure the registration in its books of the transfer of the Securities and the Derivative Assets to the Bank (or its Nominees); the entry of the Bank (or its Nominees) in the register of members of the company or companies which has/have issued the Securities as the holder or holders of the Securities and the Derivative Assets and the issue of new share certificates in respect of the Securities and the Derivative Assets to the Bank (or its Nominees); and
 - (v) upon the accrual, offer, issue or receipt of any Derivative Assets, each Chargor shall deliver or pay to the Bank or procure the delivery or payment to the Bank of all such Derivative Assets or the stock or share certificates or other documents of title to or representing them together with duly executed blank transfers.
- (b) The Bank shall not have any duty as to any Securities or Derivative Assets and shall not incur liability for:
- (i) ascertaining or taking action in respect of any calls, instalments, conversions, exchanges, maturities, tenders or other matters in relation to any Securities or Derivative Assets or the nature or sufficiency of any payment whether or not the Bank has or is deemed to have knowledge of such matters; or
 - (ii) taking any necessary steps to preserve rights against prior parties or any other rights pertaining to any Securities or Derivative Assets; or
 - (iii) any failure to present any interest, coupon or any bond or stock drawn for repayment or for any failure to pay any call or instalment or to accept any offer or to notify any Chargor of any such matter or for any failure to ensure that the correct amounts (if any) are paid or received in respect of the Securities or the Derivative Assets,

except in the case of gross negligence or wilful default.

11. General undertakings

Each Chargor gives each of the undertakings contained in this Clause 11 (*General undertakings*) to the Bank and each of the undertakings shall remain in force while the Debenture Security subsists.

11.1 ***Negative pledge and Restriction on dealing***

No Chargor shall do any of the following without the prior written consent of the Bank or as permitted by the Credit Agreement:

- (a) create or allow to create any Security over any of its Assets;
- (b)
 - (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by any Chargor or any other member of the Group;
 - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;

- (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
 - (iv) enter into any other preferential arrangement having a similar effect,
- in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

11.2 **Insurance**

Each Chargor shall:

- (a) supply on reasonable request copies of each of its policies of insurance;
- (b) ensure that the interest of the Bank is noted on all its insurance policies in respect of its Charged Property from time to time; and
- (c) maintain its insurance policies in accordance with the Credit Agreement. If the Chargor at any time fails to pay any such premiums or other moneys on such insurance policies, the Bank may pay such premiums and other moneys and the Company shall reimburse the Bank for the amount of such premiums and other moneys within 3 Business Days of demand.

11.3 **Insurance monies**

- (a) Each Chargor shall apply all monies received by virtue of any insurance relating to the whole or any part of the Charged Property in accordance with the terms of the Finance Documents.
- (b) This Clause applies whether or not the Debenture Security has become enforceable.

11.4 **To repair**

Each Chargor shall:

- (a) at all times keep in good and substantial repair and condition all the Charged Property including, without limitation, all buildings, erections and structures on and in the Property; and
- (b) keep all Plant and Machinery in good repair, working order and condition and fit for its purpose,

as is necessary for the conduct of its business (fair wear and tear excepted) to the extent a prudent owner of a similar business would do so.

12. **Costs**

Each Chargor shall, promptly on demand, pay to the Bank or the Receiver, or discharge (as the case may be), all costs and expenses (including legal fees) reasonably incurred by any of them in connection with:

- (a) the negotiation, preparation, printing and execution of, and
- (b) any amendment, variation or release (in whole or in part), including the negotiation, preparation, printing and execution of any amendment, variation or release, of, and
- (c) the enforcement of, or preservation of rights under, this

this Debenture, on a full and unlimited indemnity basis, together with interest at the Default Rate from the date the relevant cost was expended, incurred or suffered (whichever is the earlier) by the Bank or the Receiver (as the case may be) until full payment or discharge of such cost and such cost shall form part of the Secured Liabilities, provided that the Bank may not recover costs and expenses already provided for in the Credit Agreement.

13. Default

13.1 **Enforcement**

The Debenture Security shall become enforceable without further notice immediately:

- (a) on the occurrence of a Declared Default; or
- (b) if any Chargor requests the Bank to appoint an administrator or a receiver over the whole or any part of its undertaking or assets.

13.2 **Enforcement**

- (a) On and at any time after the Debenture Security becomes enforceable, the Bank will be entitled to enforce all or any part of the Debenture Security in any manner it sees fit, including without limitation by exercising all or any of the powers conferred on a mortgagee by the LPA (as varied or extended by this Debenture), all or any of the powers conferred on the holder of a qualifying floating charge (as defined in the Insolvency Act) and all or any of the rights and powers conferred by this Debenture.
- (b) Without limiting the generality of sub-clause (a) above, on and at any time after the occurrence of a Declared Default, the Bank in its absolute discretion may by written notice to a Chargor appropriate (for the purposes of the Financial Collateral Regulations and subject to Clause 13.3 (*Financial Collateral*) below) any part or the whole of the Financial Collateral secured by this Debenture.

13.3 **Financial Collateral**

- (a) To the extent that any of the Charged Property constitutes Financial Collateral and is subject to a Security Financial Collateral Arrangement created by or pursuant to this Debenture, the Bank shall have the right, at any time after the Debenture Security has become enforceable, to appropriate all or any part of those Charged Property in or towards the payment or discharge of the Secured Liabilities.
- (b) The value of any Charged Property appropriated in accordance with this Clause 13.3 (*Financial Collateral*) shall be determined by such method as the Bank may reasonably select (including independent valuation), at the time the right of appropriation is exercised. Each Chargor agrees that the methods of valuation provided for in this Clause 13.3 (*Financial Collateral*) are commercially reasonable for the purposes of Regulation 18 of the Financial Collateral Regulations.
- (c) To the extent that the Charged Property constitute Financial Collateral, each Chargor agrees that such Charged Property shall be held or designated so as to be under the control of the Bank for all purposes of the Financial Collateral Regulations.

14. Statutory power of sale

- 14.1 For the purposes of all powers under this Debenture and implied by statute, and in particular the power of sale under Section 101 of the LPA (Powers incident to estate or interest in a mortgage), the Secured Liabilities will be deemed to have become due immediately on the date of this Debenture and Section 103 of the LPA (Regulation of exercise of power of sale) and Section 93 of the LPA (Restriction on consolidation of mortgages) will not apply, but such power of sale shall only be exercisable after the occurrence of a Declared Default in accordance with Clause 13.1 (*Enforcement*).

14.2 The statutory powers of leasing conferred on the Bank are extended so as to authorise the Bank to lease, make arrangements for leases, accept surrender of leases and grant options on such terms and conditions as the Bank may in its discretion think fit. The Bank is not obliged to comply with any of the provisions of Section 99 (Leasing powers of mortgagor and mortgagee in possession) and Section 100 (Powers of mortgagor and mortgagee in possession to accept surrenders of leases) of the LPA.

14.3 Each of the Bank and the Receiver may exercise the statutory power of sale and the statutory powers of leasing, as amended and varied in the foregoing clauses, and all other statutory powers, in respect of the whole or any part of the Property.

15. Administrator

At the time that, or at any time after, the Debenture Security becomes enforceable, whether or not the Bank has entered into or taken possession of the whole or any part of the Charged Property pursuant to this Debenture, the Bank may, insofar as permitted by law, at its option and in addition to any right to appoint a Receiver, by writing under the hand of any authorised officer of the Bank, appoint, petition the relevant court to appoint or apply to the court for the appointment of any person to be an administrator of any Chargor under the Insolvency Act and such person shall, from the effective date of such appointment, be an administrator.

16. Receiver

16.1 ***Appointment of Receiver***

(a) At any time that, or at any time after, the Debenture Security becomes enforceable, whether or not the Bank has entered into or taken possession of the whole or any part of the Charged Property pursuant to this Debenture:

- (i) the Bank may, insofar as permitted by law, at its option, by writing under the hand of any authorised officer of the Bank, appoint any person to be a receiver of the Charged Property and such person shall, with effect from the effective date of such appointment, be a Receiver provided that this provision shall not apply solely by reason of the obtaining of a moratorium, or anything done with a view to obtaining a moratorium, as a preliminary to a creditors voluntary arrangement, by an eligible company (as defined in Schedule A1 of the Insolvency Act) under the Insolvency Act;
- (ii) the Bank may, from time to time, in similar manner, remove the Receiver and appoint another in his place;
- (iii) the Bank may, either at the time of appointment or at any time thereafter, fix the remuneration of the Receiver (excluding for the purposes of this Clause the limitation set out in Section 109(6) LPA (Appointment, powers, remuneration and duties of receivers));
- (iv) the Bank and any Nominee wherever situated may, without further notice and without the restrictions contained in Section 103 of the LPA (Regulation of exercise of power of sale), exercise in respect of all or any part of the Securities and the Derivative Assets all the powers and rights exercisable by the registered holder of the Securities and the Derivative Assets and all other powers conferred on mortgagees by the LPA as varied or extended by this Debenture; and
- (v) the Bank and any Nominee wherever situated may apply any dividends, interest or other payments received or receivable by the Bank or by such Nominee in respect of the Securities and the Derivative Assets as if they were proceeds of sale.

- (b) None of the restrictions imposed by the LPA in relation to the appointment of receivers, the giving of notice or otherwise shall apply.
- (c) The Receiver may from time to time delegate, by power of attorney or otherwise, to any person any of his powers and discretions, whether arising by statute, the provisions of this Debenture or otherwise, upon such terms and for such periods of time as he may in his discretion think fit and may from time to time terminate any such delegation. Following the occurrence of a Declared Default, neither the Bank nor any Receiver shall be liable to any Chargor for any loss or damage arising from any such delegate's act, default, neglect or misconduct of any nature whatsoever.

16.2 ***Powers of Receiver***

The Receiver has all the powers to do or abstain from doing anything which the Bank or any Chargor could do or abstain from doing in relation to the Charged Property including, without limitation the powers conferred by Section 109 of the LPA (Appointment, powers, remuneration and duties of receivers) and, in the case of a Receiver who is an administrative receiver, the powers conferred by Section 29 of the Insolvency Act (Definitions) and Schedule 1 to the Insolvency Act (Powers of administrator or administrative receiver), and in particular the Receiver may:

(a) *Possession*

take immediate possession of, get in and collect the Charged Property or any part thereof;

(b) *Carry on business*

carry on, manage or concur in carrying on or managing the whole or any part of the business of any Chargor as he in his discretion may think fit;

(c) *Protection of assets*

(i) manage, insure, repair, decorate, maintain, alter, improve, develop, construct, modify, refurbish, renew or add to the Charged Property or concur in so doing;

(ii) commence, continue or complete any new works, unfinished work, building operations, construction, reconstruction, maintenance, furnishing, finishing or fitting-out on the Property;

(iii) apply for and maintain any planning permissions, building regulations, approvals and any other permissions, consents or licences,

in each case as he in his discretion may think fit;

(d) *Realisation of assets*

sell, exchange, convert into money and realise the Charged Property or concur in so doing by public auction or private contract and generally in such manner and on such terms as he in his discretion may think fit. Without prejudice to the generality of the foregoing, he may do any of these things for any valuable consideration, whether full market value or otherwise, including, without limitation, cash, shares, stock, debentures or other obligations. Any such consideration may be payable in a lump sum or by instalments spread over such period as he in his discretion may think fit;

(e) *Let, hire or lease*

(i) let, hire or lease (with or without premium) and accept surrenders of leases or tenancies or concur in so doing;

(ii) grant rights, options or easements over and otherwise deal with or dispose of, and exercise all rights, powers and discretions incidental to, the ownership of the Charged Property;

(iii) exchange or concur in exchanging the Charged Property;

in each such case in such manner and generally on such terms as he may in his discretion think fit, with all the powers of an absolute beneficial owner. The Receiver may exercise any such power by effecting such transaction in the name or on behalf of the relevant Chargor or otherwise;

(f) *Registration*

use a Chargor's name to effect any registration or election for tax or other purposes;

(g) *Insurances*

effect, review or vary insurances;

(h) *Borrowing*

for the purpose of exercising any of the powers, authorities or discretions conferred on him by or pursuant to this Debenture or of defraying any costs (including, without limitation, his remuneration) which are incurred by him in the exercise of such powers, authorities or discretions or for any other purpose, to raise and borrow money or incur any other liability either unsecured or secured on the Charged Property, either in priority to the Debenture Security or otherwise, and generally on such terms as he in his discretion may think fit. No person lending such money is to be concerned to enquire as to the propriety or purpose of the exercise of such power or as to the application of money so raised or borrowed;

(i) *Lending*

lend money to any person;

(j) *Advance credit*

advance credit, in the ordinary course of the Chargor's business, to any person;

(k) *Make calls*

make, or require the directors of any Chargor to make, such calls upon the shareholders of that Chargor in respect of any uncalled capital of that Chargor as the Receiver in his discretion may require and enforce payment of any call so made by action (in the name of that Chargor or the Receiver as the Receiver in his direction may think fit) or otherwise;

(l) *Compromise*

(i) settle or compromise any claim by, adjust any account with, refer to arbitration any dispute with, and deal with any question or demand from, any person who is, or claims to be, a creditor of any Chargor, as he may in his discretion think fit; and

(ii) settle or compromise any claim, adjust any account, refer to arbitration any dispute and deal with any question or demand relating in any way to the Charged Property, as he in his discretion may think fit;

(m) *Proceedings*

in the name of any Chargor, bring, prosecute, enforce, defend or abandon all such actions, suits and proceedings in relation to the Charged Property as he in his discretion may think fit;

(n) *Subsidiaries*

- (i) promote the formation of any subsidiary of any Chargor with a view to such subsidiary purchasing, leasing, licensing or otherwise acquiring an interest in the Charged Property;
- (ii) arrange for the purchase, lease, licence or acquisition of an interest in the Charged Property by any such subsidiary for any valuable consideration, including, without limitation, cash, shares, debentures, loan stock, convertible loan stock or other securities, profits or a sum calculated by reference to profits, turnover, royalties, licence fees or otherwise, whether or not secured on the undertaking or assets of such subsidiary and whether or not such consideration is payable or receivable in a lump sum or at any time or any number of times by instalments spread over such period, as the Receiver in his discretion may think fit; and
- (iii) arrange for such subsidiary to trade or cease to trade as the Receiver in his discretion may think fit;

(o) *Employees*

appoint and discharge any manager, officer, agent, professional adviser, employee and any other person, upon such terms as he in his discretion may think fit;

(p) *Receipts*

give valid receipts for all monies and execute all assurances and things which he in his discretion may think proper or desirable for realising the Charged Property;

(q) *Environment*

conduct and complete all investigations, studies, sampling and testing and all remedial, removal and other actions, whether required under Environmental Law or by the Bank or otherwise and comply with all lawful orders and directives of all Authorities regarding Environmental Law;

(r) *Delegation*

delegate any or all of his powers in accordance with this Debenture; and

(s) *General powers*

do all such other acts and things as the Receiver in his discretion may consider to be incidental or conducive to any of the matters or powers set out in this Debenture or otherwise incidental or conducive to the preservation, improvement or realisation of the Charged Property.

16.3 Receiver as agent of a Chargor

The Receiver is at all times and for all purposes the agent of the Chargor over which, or over the assets of which, he is appointed. Subject to the provisions of the Insolvency Act, that Chargor is solely responsible for all the Receiver's and the Receiver's delegates' acts, defaults, neglect and misconduct of any nature whatsoever and for his remuneration and costs, to the exclusion of liability on the part of the Bank.

16.4 No obligation

The Receiver is not obliged to exercise any nor all of the powers set out in this Clause 16.

16.5 Several power

Where more than one Receiver is appointed, each Receiver has the power to act severally unless the Bank specifies otherwise in the appointment of such Receiver.

16.6 Powers exercisable by the Bank

- (a) Following the occurrence of a Declared Default, the Bank may exercise all powers granted to the Receiver by this Debenture, whether as attorney of any Chargor or otherwise.
- (b) The powers of the Receiver set out above are in addition to, and without prejudice to, all statutory and other powers of the Bank as provided in Clause 14 (*Statutory power of sale*) or otherwise and so that, inter alia, such powers are and remain exercisable by the Bank in respect of that part of the Charged Property in respect of which no appointment of a Receiver by the Bank is from time to time subsisting.

16.7 Application of proceeds

The provisions of Sections 99 to 109 inclusive of the LPA are varied and extended to the extent that all monies received by the Receiver shall be applied (subject to the provisions of the Insolvency Act, in so far as applicable to this Debenture) in the following order:

- (a) in full payment of his remuneration and the costs of realisation including, without limitation, all costs of, or incidental to, any exercise of any power referred to in this Debenture, including, without limitation, all outgoings paid by the Receiver;
- (b) providing for the matters specified in paragraphs (i) to (iii) inclusive of Section 109 (8) of the LPA (Appointment, powers, remuneration and duties of receiver);
- (c) in or towards satisfaction of any debts or other imposts which are by statute made payable in preference to the Secured Liabilities to the extent to which such debts or imposts are made so payable;
- (d) if so required by the Bank in its discretion, in or towards satisfaction of the Secured Liabilities; and
- (e) to the person or persons entitled to any surplus.

17. Protection of third parties

17.1 Any person (including, without limitation, any purchaser, mortgagor or mortgagee) (in this Clause 17 (*Protection of Third Parties*) a "**purchaser**") dealing with the Bank or the Receiver may assume without inquiry that:

- (a) some part of the Secured Liabilities has become due;
- (b) a demand for such Secured Liabilities has been duly made, if required; and
- (c) such Secured Liabilities have become due within the meaning of Section 101 of the LPA (Powers incident to estate or interest in a mortgage).

17.2 No purchaser dealing with the Receiver or the Bank is to be concerned to enquire whether any power exercised or purported to be exercised by the Receiver or the Bank has become exercisable, or as to the propriety or regularity of any sale by, or other dealing with, the Receiver or the Bank. Any such sale or dealing is deemed to be within the powers conferred by this Debenture and to be valid and effective accordingly. All the protection to purchasers contained in Section 104 (Conveyance on sale) and Section 107 (Mortgagee's receipt,

discharges etc.) of the LPA and Section 42(3) of the Insolvency Act (Prohibition upon enquiry into administrative receiver's powers) apply to any purchaser.

18. No liability as mortgagee in possession

18.1 ***Mortgagee's liability***

Neither the Bank nor the Receiver is:

- (a) liable to account as mortgagee in possession in respect of the Charged Property; nor
- (b) liable for any loss upon realisation or exercise of any power, authority or right of the Bank or the Receiver arising under this Debenture, except in the case of gross negligence or wilful default upon its part.

18.2 ***Possession***

If the Bank or the Receiver enters into possession of the Charged Property, such person may at any time go out of possession at their own discretion.

19. Delegation

19.1 ***Power of Attorney***

The Bank or any Receiver may delegate by power of attorney or in any other manner to any person any right, power or discretion exercisable by it under this Debenture.

19.2 ***Terms***

Any delegation under Clause 20 (*Power of Attorney*) may be made upon any terms (including power to sub-delegate) which the Bank or any Receiver may think fit.

19.3 ***Liability***

Following the occurrence of a Declared Default, neither the Bank nor any Receiver shall be in any way liable or responsible to any Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate.

20. Power of attorney

20.1 Subject to Clause 20.3, each Chargor irrevocably and by way of security appoints the Bank, each person deriving title from the Bank and the Receiver, jointly and severally to be its attorney (with full power to appoint substitutes and to delegate) for it, in its name, on its behalf and as its act and deed or otherwise to sign or execute any deed or document or do any act or thing which that Chargor is, or may become, obliged to sign, execute or do pursuant to this Debenture or which the Bank, the Receiver or any person deriving title from the Bank or the Receiver in the absolute discretion of such person may think fit in connection with the exercise of any of the powers of such person or the realisation of any of the Debenture Security.

20.2 Neither the Bank, nor any person deriving title from the Bank or the Receiver may exercise the power of attorney granted pursuant to Clause 20.1 until after the occurrence of any Event of Default which is continuing.

20.3 Without prejudice to the generality of the foregoing, each Chargor unconditionally undertakes to the Bank, and separately to the Receiver and to each person deriving title from the Bank or the Receiver, that it shall ratify and confirm anything done or purported to be done by any attorney appointed pursuant to this Clause 20 save in relation to any breach by the Bank or any person deriving title from the Bank or the Receiver of the provisions of Clause 20.1.

21. Cumulative and continuing security

- 21.1 The Debenture Security constitutes a continuing security to the Bank regardless of the intermediate payment or discharge of the whole or any part of the Secured Liabilities and will not be prejudiced or affected by any act, omission or circumstance which, but for this Clause 21, might affect or diminish their effectiveness.
- 21.2 The Debenture Security is in addition to, are not in substitution for, are without prejudice to, and do not merge with, any rights whatsoever which the Bank may have, whether in respect of the Secured Liabilities or otherwise, including, without limitation, any rights arising under any other Security, any bill, note, guarantee, contract or applicable rule of law.
- 21.3 The obligations of the Chargors under this Charge will not be affected by any amendment, variation, restatement or supplement of or to, or any novation, transfer or termination (in whole or in part) of, any document relating to the Secured Liabilities or any exercise by the Bank (in its absolute discretion) of its rights to refuse, grant, continue, vary, review, determine or increase any credit or facilities to the Chargors or any other person.
- 21.4 Any receipt, release or discharge of the Debenture Security, or of any liability arising under, this Debenture shall not release or discharge any Chargor from any liability which may exist independently of this Debenture to the Bank.
- 21.5 Where the Debenture Security initially take effect as collateral or further security to any other Security held by the Bank then, notwithstanding any receipt, release or discharge given in respect of such other Security, this Debenture shall take effect as an independent security for any monies, liabilities or other sums secured by such other Security.

22. Avoidance of payments

- 22.1 No assurance, security or payment which is likely to be (in the Bank's opinion on the basis of legal advice received from a reputable firm of solicitors) avoided under the law or subject to an order of the court made under any law relating to bankruptcy, insolvency, administration or winding-up, including, without limitation, the Insolvency Act, and no release, settlement or discharge given or made by the Bank on the faith of any such assurance, security or payment, prejudices or affects the right of the Bank:

- (a) to recover any monies from any Chargor (including, without limitation, any monies which it is compelled to refund under the Insolvency Act and any costs payable by it incurred in connection with such process); or
- (b) to enforce the Debenture Security to the full extent of the Secured Liabilities, and

where any payment has been so received it will not be considered to have been paid for the purposes of this Debenture or for reduction or discharge of the Secured Liabilities.

23. Prior charges

- 23.1 If there subsists any prior Security against the Charged Property and either any step is taken to exercise any power or remedy conferred by such Security or the Bank or the Receiver exercises any power of sale pursuant to this Debenture, then the Bank may redeem such prior Security or procure the transfer of such Security to itself and may settle and pass the accounts of the person entitled to such Security. Any accounts so settled and passed are conclusive and binding on each Chargor.
- 23.2 Each Chargor shall reimburse the Bank for any costs incurred by the Bank in exercise of its rights under this Clause 23 (*Prior charges*).

24. Opening a new account

24.1 If the Bank receives notice of any subsequent Security affecting the Charged Property, then it may open a new account for any Chargor in its books.

24.2 If the Bank does not open such new account, then, unless it gives express written notice to the contrary to the relevant Chargor, all payments by or on behalf of the Chargor to the Bank will be treated as from time of receipt of notice of such subsequent Security by the Bank as having been credited to a new account of that Chargor and not as having been applied in reduction of the amount of the Secured Liabilities as at the time when the notice was received.

25. Suspense account

The Bank may, in its discretion, credit to any suspense or impersonal account and hold in such account, on such terms as the Bank in its discretion may think fit, all monies received, recovered or realised by the Bank pursuant to this Debenture (including, without limitation, the proceeds of any conversion of currency) pending the application from time to time (as the Bank may effect in its discretion) of such monies and accrued interest, if any, in or towards satisfaction of the Secured Liabilities.

26. Changes to the Parties

26.1 No Chargor shall be entitled to assign, transfer, novate or dispose of all or any part of, or any interest in, its rights, benefit or obligations under this Debenture.

26.2 The Bank may assign, transfer, novate or dispose of all or any part of, or any interest in, its rights and obligations under this Debenture to any person to whom it assigns, transfers, novates or disposes of all or any part of the Secured Liabilities in accordance with the Credit Agreement. Each Chargor will enter into such documentation as the Bank may reasonably require to give effect to any assignment, transfer, novation or disposal permitted by this Clause.

26.3 Each Chargor consents to Subsidiaries of the Company becoming party to this Debenture as Chargors from time to time by entering into an Accession Deed with the Bank.

27. Currency

27.1 All monies received or held by the Bank or any Receiver in respect of the Secured Liabilities may be converted from time to time after demand has been made, into such other currency as the Bank in its absolute discretion considers necessary to cover the obligations and liabilities actual or contingent of any Chargor in that other currency at the Bank's spot rate of exchange for purchasing that other currency with the existing currency.

27.2 Neither the Bank nor any Receiver shall be liable to any Chargor for any loss resulting from any fluctuation in exchange rates before or after the exercise of any of its or their powers or rights under this Debenture.

27.3 No payment to the Bank (whether under any judgment or court order or otherwise) shall discharge the obligation or liability of any Chargor in respect of which it was made unless and until the Bank shall have received payment in full and, to the extent that the amount of any such payment, on actual conversion into such currency, shall fall short of such obligation or liability actual or contingent expressed in that currency, the Bank shall have a further separate cause of action against that Chargor and shall be entitled to enforce the security constituted by this Debenture to recover the amount of the shortfall and such amount will bear interest at the Default Rate from the date of payment by the Bank until the date of reimbursement.

28. Set-off

The Bank may, after the occurrence of a Declared Default, set off any matured obligation due from a Chargor to it under the Finance Documents (to the extent beneficially owned by the

Bank) against any matured obligation due and payable by it to that Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Bank may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

29. Notices

Clause 30 (*Notices*) of the Credit Agreement is incorporated into this Debenture as if fully set out in this Debenture.

30. Miscellaneous

30.1 Every provision contained in this Debenture shall be severable and distinct from every other provision and if, at any time, any provision of this Debenture is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

30.2 Clause 32 (*Partial Invalidity*), Clause 33 (*Remedies and Waivers*), and Clause 36 (*Counterparts*) of the Credit Agreement apply to this Debenture as though set out in this Debenture in full.

30.3 Failure by one or more parties ("**Non-Signatories**") to execute this Debenture on the date of this Debenture will not invalidate the provisions of this Debenture as between the other parties who do execute this Debenture. Any Non-Signatories may execute this Debenture (or a counterpart of this Debenture) on a subsequent date and will thereupon become bound by its provisions.

30.4 If any one or more of the Chargors is not bound by any or all of the provisions of this Debenture (whether by reason of lack of capacity, improper execution, failure to execute or for any other reason whatsoever) the remaining Chargors shall nonetheless continue to be bound as if such Chargor had never been a party.

31. HM Land Registry

31.1 Each Chargor shall apply in the manner specified by the 2003 Rules to the Land Registry (or will use all reasonable endeavours to assist the Bank in its application to the Land Registry, and in any event will not object to such registration), at the same time as applying to register this Debenture, for registration against the title to the Property of the following restriction:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [●] in favour of Silicon Valley Bank referred to in the charges register".

31.2 Each Chargor shall apply in the manner specified by the 2003 Rules to the Land Registry (or will use all reasonable endeavours to assist the Bank in its application to the Land Registry, and in any event will not object to such registration), at the same time as applying to register this Debenture, for registration against the title to the Property of a notice of the obligation of the Bank to make further advances under the terms of the Finance Documents (which obligation is deemed to be incorporated into this Debenture).

32. Release

32.1 Subject to Clause 22.1 (*Avoidance of payments*), upon irrevocable discharge in full of the Secured Liabilities the Bank shall, at the request and the cost of the Chargors, release from the Debenture Security and reassign to the Chargors all the Chargors' rights, title, interest and benefit in and to the Charged Property and release the Chargors from their present and future obligations and liabilities under this Debenture, any Accession Deed and any Supplemental Debenture by executing a release in the form set out in Schedule 4 (*Deed of Release*), with such amendments as the Bank may agree at the Chargors' request.

32.2 Where any Chargor sells or otherwise disposes of an asset to a purchaser, and such sale or disposal is permitted by the terms of the Credit Agreement, the Bank shall, at the request and cost of the relevant Chargor, release from the Debenture Security all the Chargor's rights, title, interest and benefit in and to the asset the subject of the sale or disposal.

33. Governing law

- (a) This Debenture and any dispute, controversy, proceedings, claim or obligation of whatever nature arising out of or in any way relating to it, its subject matter or formation (whether contractual or non-contractual) is governed by and shall be construed in accordance with English law.
- (b) Clause 38 (*Enforcement*) of the Credit Agreement is incorporated into this Debenture as if fully set out in this Debenture, and as though each reference to "this Agreement" was a reference to this Debenture.

In witness whereof this Debenture has been entered into on the date written at the beginning of this Debenture and has been executed and delivered as a deed by each of the Chargors on the date written at the beginning of this Debenture.

Schedules

Schedule 1

The Secured Assets

Part 1

Property

None at the date of this Debenture.

Part 2

Securities

None at the date of this Debenture.

Part 3

Cash Collateral Accounts

| Chargor | Account number | Account Bank | Account bank branch address and sort code |
|------------------------------|-----------------------|---------------------|------------------------------------------------------------------------------------------|
| Simplicity Marketing Limited | | | Santander UK plc Commercial Banking Bridle Road Bootle Merseyside L30 4GD |

Part 4

Assigned Contracts

None at the date of this Debenture.

Part 5

Intellectual Property Rights

None at the date of this Debenture.

Schedule 2

Form of Notices of Assignment

Part 1

(Form of notice of Assigned Contacts)

To •[Insurer/Counterparty]
 •[Address]

Attention: •

• 20••[Date]

Dear Sirs

Notice of assignment

- 1 We refer to the following [insurance policy]/[contract] (the "[Policy]/[Contract]"):

 •[insert details]
- 2 We hereby give you notice that by a debenture dated • 20•• granted by us, [•] (the "Chargor") to • Bank PLC (the "Bank") we have assigned absolutely to the Bank all of our rights, title, interest and benefits in and to the [Policy]/[Contract].
- 3 Please note that you may continue to deal directly with us in relation to the [Policy]/[Contract]* until such time as the Bank gives you written notice that the Debenture has become enforceable in accordance with its terms (an "Enforcement Notice").
- 4 You are hereby authorised and directed:
 - (a) Following receipt of an Enforcement Notice from the Bank to comply with all requests (for information or otherwise) and instructions received by you from the Bank without reference to or further authority from us;
 - (b) [to note on the Policy the interest of the Bank pursuant to the assignment referred to above;]** and
 - (c) following receipt of notice an Enforcement Notice, to pay all sums payable to us pursuant to the [Policy]/[Contract]* to such bank account as the Bank may instruct you from time to time and to hold the benefit of the [Policy]/[Contract]* to the order of the Bank.
- 5 This notice may only be revoked or amended with the prior written consent of the Bank.
- 6 Please confirm by completing the acknowledgement on the enclosed copy of this notice and returning it to the Bank (with a copy to us) that you agree to the above and that:
 - (a) that up to the date of your acknowledgement of this notice, you have not received any notice of any prior assignments, charges, or other security or third party interests in or to the [Policy]/[Contract]*, you are not aware of any breach of the terms of the [Policy]/[Contract]*, and you will notify the Bank promptly if you should do so in the future;

- (b) following a receipt of an Enforcement Notice:
 - (i) the Bank shall be entitled immediately or at any time thereafter to exercise all our rights, powers and discretions in respect of the [Policy]/[Contract]*; and
 - (ii) you will not permit any sums to be paid to us or to any person pursuant to the [Policy]/[Contract]* without the prior written consent of the Bank; and
- (c) if you make any attempt to amend, terminate or cancel the [Policy]/[Contract], you will liaise with and notify the Bank and not us.

7 This notice shall be governed by and construed in accordance with English law.

Yours faithfully

For and on behalf of
●[Chargor]

[On copy]

To ●[Bank]
●[Address]

Attention: ●

Dear Sirs,

We acknowledge receipt of the above notice (the "**Notice**") and confirm that we agree with, and undertake to comply with, its terms, including without limitation the matters set out in Clause 6 of the notice.

For and on behalf of
●

Dated:

NOTES:

* Delete as appropriate

** Include in notices for insurance policies only

Part 2

(Form of notice in relation to a Cash Collateral Account or Other Account)

To •[Insert name of Account provider]

•[Address]

Attention: •

• 20••[Date]

Dear Sirs

Notice of assignment

We hereby give you notice that by a debenture dated • 20•• granted by us, [•] (the "**Chargor**") to • Bank PLC (the "**Bank**") we have assigned absolutely to the Bank our right, title and interest in and to the monies from time to time standing to the credit of the accounts identified in the schedule to this notice and to any other accounts from time to time that we maintain with you (the "**Charged Accounts**") and to all interest (if any) accruing on the Charged Accounts.

Please note that you may continue to deal directly with us in relation to the Charged Accounts until such time as the Bank gives you written notice that the Debenture has become enforceable in accordance with its terms (an "**Enforcement Notice**").

We irrevocably authorise and instruct you to:

- 1 disclose to the Bank any information relating to us and any Charged Accounts which the Bank may from time to time request you to provide.
- 2 following receipt of an Enforcement Notice, comply with the terms of any written notice or instruction relating to any Charged Account received by you from the Bank; and
- 3 following receipt of an Enforcement Notice, pay or release any sum standing to the credit of any Charged Account in accordance with the written instructions of the Bank.

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

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

Please sign and return the enclosed copy of this notice to the Bank (with a copy to us) by way of your confirmation that:

- (a) you agree to act in accordance with the provisions of this notice;
- (b) you have not received notice that we have assigned or charged our rights to the monies standing to the credit of the Charged Accounts or otherwise granted any other interest over those monies in favour of any third party;
- (c) you will not exercise any right to combine accounts or any rights of set-off or lien or any similar rights in relation to the monies standing to the credit of the Charged Accounts, except normal debt transactions in the course of operating the Charged Accounts, for the netting of credit and debit balances pursuant to current account netting arrangements previously approved in writing by the Bank;
- (d) you have not claimed or exercised, nor do you have outstanding any right to claim or exercise against us, any right of set-off, counter-claim or other right relating to the Charged Accounts; and

(e) following receipt of an Enforcement Notice, you will not permit any amount to be withdrawn from any Charged Account without the Bank's prior written consent.

The provisions of this notice and any non-contractual obligations arising out of or in connection with it are governed by English law.

Schedule

Account Number Sort Code

Yours faithfully,

.....

for and on behalf of

•

[On acknowledgement copy]

To: [insert name of Bank]

Copy to: [insert name of the relevant Chargor]

We acknowledge receipt of the above notice and the notifications therein, agree to abide by its terms and confirm the matters set out in paragraphs (a) to (f) (inclusive) above.

.....

for and on behalf of

[Insert name of Account provider]

Dated: •

Schedule 3
Form of Accession Deed

This Accession Deed made on

20●●

Between:

- (1) [●] (company number: ●) whose registered office is at [●] (the "**New Chargor**"); and
- (2) [●] **Bank plc** (the "**Bank**"),

and is supplemental to a Debenture granted by ● Limited and others in favour of the Bank on ● 20●● (the "**Debenture**").

Now this Deed witnesses as follows:

1 Definitions and Interpretation

Words and expressions defined in the Debenture shall have the same meaning in this Accession Deed.

2 Confirmation

The New Chargor confirms it has been supplied with a copy of the Debenture and that it is a member of the Group.

3 Accession

The New Chargor:

- (a) covenants with the Bank for the benefit of the Bank (including its assigns, transferees and successors in title) to be bound by all the terms of the Debenture; and
- (b) creates and grants with effect from the date of this Deed, the mortgages, charges, assignments and other Security which are stated to be created or granted pursuant to the Debenture,

as if the New Chargor had been an original party to the Debenture as a Chargor.

4 Security

4.1 Without prejudice to the generality of Clause 3 of this Deed, the New Chargor charges and assigns with full title guarantee in favour of the Bank:

- (a) by way of first legal mortgage, the Property specified in Part 1 of the Schedule to this Deed, and all Rights relating to such Property;
- (b) by way of first fixed charge:
 - (i) all Property not validly charged in Clause 4.1(a) and all Rights relating to such Property;
 - (ii) all easements, rights and agreements in respect of all Property; and
 - (iii) all proceeds of sale derived from all Property;

- (c) by way of first fixed charge, its Contracts;
- (d) by way of first fixed charge, its Book Debts;
- (e) by way of first fixed charge, all the Intellectual Property Rights specified in respect of that Chargor in Part 4 of the Schedule to this Deed;
- (f) by way of first fixed charge, all its Intellectual Property Rights not charged by Clause 4.1(e);
- (g) by way of first fixed charge, its Plant and Machinery;
- (h) by way of first fixed charge, the Securities specified in Part 2 of the Schedule to this Deed;
- (i) by way of first fixed charge, all its Securities not charged by Clause 4.1(h);
- (j) by way of first fixed charge, all its Derivative Assets of a capital nature;
- (k) by way of first fixed charge, all its Derivative Assets of an income nature;
- (l) by way of first fixed charge all its present and future bank accounts, cash at bank and credit balances (excluding those arising on fluctuating accounts) with any bank or other person and all rights relating to or attaching to them (including the right to interest);
- (m) by way of first fixed charge, all its goodwill and uncalled capital for the time being;
- (n) by way of absolute assignment (subject to a proviso for reassignment on redemption), all present and future insurances in respect of any Fixed Charge Assets and the proceeds of such insurances, provided that, until the Security constituted by this Deed becomes enforceable, the Chargor shall be entitled (in its sole discretion) to exercise all rights, remedies, any discretion or judgements, give any waivers or consents and to receive (and apply) all sums or other proceeds in relation to such insurances subject to the terms of the Credit Agreement;
- (o) by way of absolute assignment (subject to a proviso for reassignment on redemption), all other present and future insurances and the proceeds of such insurances not charged by Clause 4.1(n); provided that, until the Security constituted by this Deed becomes enforceable, the Chargor shall be entitled (in its sole discretion) to exercise all rights, remedies, any discretion or judgements, give any waivers or consents and to receive (and apply) all sums or other proceeds in relation to such insurances subject to the terms of the Credit Agreement;
- (p) by way of absolute assignment (subject to a proviso for reassignment on redemption), the benefit of contracts specified as Assigned Contracts in Part 3 of the Schedule to this Deed provided that, until the Security constituted by this Deed becomes enforceable, the Chargor shall be entitled (in its sole discretion) to exercise all rights, remedies, any discretion or judgements, give any waivers or consents and to receive (and apply) all sums or other proceeds in relation to the Assigned Contracts subject to the terms of the Credit Agreement; and
- (q) by way of first floating charge, all its undertaking and assets whatsoever, wherever situate, whether movable, immovable, present or future, including, without limitation, its uncalled capital for the time being and all its undertaking and assets referred to above which are, for any reason, not validly charged or assigned pursuant to Clauses 4.1(a) to 4.1(q) (inclusive) of this Deed.

4.2 The assignments set out in Clause 4.1 are absolute assignments for the purposes of section 136 LPA and are not made by way of charge only.

- 4.3 The floating charge created by Clause 4.1(q) of this Deed is a qualifying floating charge for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act.

5 Construction

Save as specifically varied in respect of the New Chargor only, the Debenture shall continue and remain in full force and effect this Accession Deed shall be read and construed as one with the Debenture so that all references to "this Debenture" in the Debenture shall include reference to this Accession Deed.

6 Governing Law

This Accession Deed shall be governed by and construed according to English law.

In witness whereof the New Chargor and the Bank have caused this Accession Deed to be duly executed on the date appearing at the head of page 1.

[Add signature blocks after Schedule]

Schedule to Accession Deed

Part 1

Property

| Chargor | Short Description of Property | Title Number (if registered) |
|---------|-------------------------------|------------------------------|
| [•] | [•] | [•] |

Part 2

Securities

| Chargor | Name of company in which Securities are held | Securities held |
|---------|----------------------------------------------|-----------------------|
| [•] | [•] | [•] [ordinary] shares |

Part 3

Assigned Contracts

| Chargor | Date of contract | Parties to contract | Details of contract |
|---------|------------------|---------------------|---------------------|
| [•] | [•] | [•] | [•] |

Part 4

Intellectual Property Rights

| Trade marks | | | | |
|-------------|---------------|--------------|--------------|---------|
| Chargor | Trade number | mark | Jurisdiction | Classes |
| [•] | [•] | [•] | [•] | [•] |
| | | | | |
| Patents | | | | |
| Chargor | Patent number | Jurisdiction | Description | |
| [•] | [•] | [•] | [•] | |

Schedule 4

Form Deed of Release

This Deed of release is made on

20●●

Between:

- (1) **SILICON VALLEY BANK** (the "**Bank**"); and
- (2) ●[The Chargors] (registered in England and Wales under company number ●) the registered office of which is at ● (the "**Chargors**").

It is agreed as follows:

The Bank hereby releases all and any security interests created or evidenced in the debenture granted by the Chargors to the Bank on [●] (the "**Debenture**") and all and any fixed and floating charges and assignments created by the Debenture over any of the property, rights and assets more particularly described in the Debenture and reassigns to the relevant Obligor the Assigned Property (as defined in the Debenture) (together the "**Security Interests**"). The Bank also hereby releases the Chargors from all present and future obligations and liabilities under the Debenture, Accession Deed and any Supplemental Debenture (each as defined in the Debenture).

The Bank hereby confirms that it is entering into this Deed for itself and on behalf of each other bank and other financial institutions for whom it acts as agent in respect of the matters set out herein.

The Bank hereby agrees, subject to its reasonable costs for so doing being fully indemnified by the Chargors, to execute such other documents for the release of the Security Interests as the Chargors may require, including, without limitation, notices of reassignment and Land Registry Forms.

This Deed shall be governed by and construed in accordance with English Law.

Unless expressly provided in this Deed, no express term of this Deed nor any term implied under it is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise by any person who is not a party to it and the consent is not required to rescind or vary this Deed at any time of any person who is not a party to it.

In witness whereof this Deed has been executed and delivered as a deed on the date written at the beginning of this Deed.

[Add signature blocks]

NOTE: this deed of release is intended to provide a simple template for the Bank to execute on redemption of the secured liabilities without needing to take additional legal advice at such time should it choose not to. It cannot therefore be negotiated until the time of release, at which point the Bank will consider any proposed amendments from the Chargor.

Signatures

The Company

Executed and Delivered as a Deed
for and on behalf of
SIMPLICITY MARKETING LIMITED
by:

Director

Signature of witness:

Name: _____

JOSEPH SHELDRIKE

Address:

Occupation:

TRAINEE SOLICITOR

The Bank

Signed for and on behalf of
SILICON VALLEY BANK
by its duly authorised attorney
in the presence of:

Authorised Signatory

Signatures

The Company

Executed and Delivered as a Deed
for and on behalf of
SIMPLICITY MARKETING LIMITED
by:

)
)
)
)

Director

Signature of witness:

Name:

Address:

Occupation:

The Bank

Signed for and on behalf of
SILICON VALLEY BANK
by its duly authorised attorney
in the presence of:

)
)
)
)

Authorised Signatory

SIGNATURE OF WITNESS

NAME

ADDRESS

OCCUPATION

DARREN DAVIDSON

ASSOCIATE