



**Registration of a Charge**

Company name: **PROACTIVE INVESTORS LIMITED**

Company number: **05639690**



X5C3JO00

Received for Electronic Filing: **27/07/2016**

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**Details of Charge**

Date of creation: **27/07/2016**

Charge code: **0563 9690 0003**

Persons entitled: **BELVEDERE SECURITY LIMITED**

Brief description: **ALL PROPERTIES AND CHARGED PROPERTY (BOTH AS DEFINED ON THE INSTRUMENT) AND ALL PRESENT AND FUTURE RIGHTS, LICENCES, GUARANTEES, RENTS, DEPOSITS, CONTRACTS, COVENANTS AND WARRANTIES RELATING TO THE PROPERTIES. FOR MORE DETAILS REFER TO THE INSTRUMENT.**

**Contains fixed charge(s).**

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

**Contains negative pledge.**

**Chargor acting as a bare trustee for the property.**

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**Authentication of Form**

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

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## Authentication of Instrument

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT  
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION  
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **REBECCA DE JONG**



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

Company number: 5639690

Charge code: 0563 9690 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 27th July 2016 and created by PROACTIVE INVESTORS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th July 2016 .

Given at Companies House, Cardiff on 28th July 2016

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



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

DATED

27/7/2016

## DEBENTURE AND TRUST DEED

between

PROACTIVE INVESTORS LIMITED (1)

and

BELVEDERE SECURITY LIMITED  
(AS SECURITY TRUSTEE FOR THE SECURED PARTIES) (2)

**MOORE BLATCH**  
solicitors

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Moore Blatch is the trading name of Moore Blatch LLP, which is a limited liability partnership registered in England and Wales, registration number OC335180. The registered office is 11 The Avenue, Southampton SO17 1XF.

DATED:

27/7/2016

**PARTIES**

- (1) **PROACTIVE INVESTORS LIMITED** a company incorporated in England and Wales (registered number 05639690) and whose registered office is at 44A Shelbourne Road, Bournemouth, BH8 8QY (the "Seller").
- (2) **BELVEDERE SECURITY LIMITED** (as Security Trustee for the Secured Parties), a company incorporated in England and Wales (registered number 9175130) and whose registered office is at Belvedere House, Basing View, Basingstoke, Hampshire RG21 4HG (the "Security Trustee").

**BACKGROUND**

- (A) The Secured Parties have agreed, pursuant to the Rules (as defined below), to purchase Receivables by way of an equitable assignment from the Seller on a secured basis. The Seller agrees that the Rules are and continue to be legally binding in their entirety upon the Seller.
- (B) Under this deed, the Seller provides security to the Security Trustee for the Secured Liabilities whether before or after the date of this Debenture.

**AGREED TERMS**

**1. DEFINITIONS AND INTERPRETATION**

**1.1. Definitions**

In this debenture the definitions and rules of interpretation in this clause apply.

"Administrator"	means an administrator appointed to manage the affairs, business and property of the Seller pursuant to paragraph 15 of Schedule 4;
"Book Debts"	means all present and future book and other debts, and monetary claims due or owing to the Seller, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by the Seller in relation to any of them;
"Business Day"	means a day (other than a Saturday or Sunday) on which commercial banks are open for general business in London and deposits are dealt with on the London Interbank Market;
"Charged Property"	means all the assets, property and undertaking for the time being subject to the security interests created by this debenture (and references to the Charged Property include references to any part of it);
"Costs"	means all costs, charges, expenses and liabilities of any kind including, without limitation, costs and damages in connection with litigation, professional fees, disbursements and any value added tax charged on Costs;
"Designated Account"	means any account of the Seller nominated by the Security Trustee as a designated account for the purposes of this deed;

<b>"Encumbrance"</b>	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;
<b>"Environment"</b>	means all of the air, water and land including the air within buildings and other natural or man-made structures above or below ground, ground and surface water and surface and sub-surface soil;
<b>"Environmental Law"</b>	means all applicable statutes, treaties, regulations, directives or similar measures relating to the pollution or protection of the Environment that affects the Charged Property;
<b>"Equipment"</b>	means all present and future equipment, plant, machinery, tools, vehicles, furniture, fittings, installations and apparatus and other tangible moveable property for the time being owned by the Seller, including any part of it and all spare parts, replacements, modifications and additions;
<b>"Event of Default"</b>	shall have the meaning given in paragraph 1 of Schedule 4;
<b>"Financial Collateral"</b>	shall have the meaning given to that expression in the Financial Collateral Regulations;
<b>"Financial Collateral Regulations"</b>	means the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003/3226);
<b>"Properties"</b>	means all freehold and leasehold properties (whether registered or unregistered) and all commonhold properties, now or in the future (and from time to time) owned by the Seller or in which the Seller holds an interest and <b>"Property"</b> means any of them;
<b>"Receivables"</b>	means as defined in the Rules;
<b>"Receiver"</b>	means a receiver and/or manager of any or all of the Charged Property appointed under paragraph 6 of Schedule 4;
<b>"Rules"</b>	the Platform Black Rules for Invoice Trading as set out on the website <a href="http://www.platformblack.com">www.platformblack.com</a> from time to time in force;
<b>"Secured Assets"</b>	all the assets, property and undertaking for the time being subject to the Encumbrances created by, or pursuant to, this debenture;
<b>"Secured Liabilities"</b>	means all present and future monies, obligations and liabilities owed by the Seller to a Secured Party, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity whatsoever, under or in connection with the Rules or this debenture (including, without limitation, those arising under clause 13.3) together with all

interest (including, without limitation, default interest) accruing in respect of such monies or liabilities;

**"Secured Parties"**

means those persons who have purchased Receivables from the Seller from time to time through Platform Black Limited (Company no. 07485900) (including but not limited to through [www.platformblack.com](http://www.platformblack.com) and/or any other website of Platform Black Limited) and "Secured Party" shall be construed accordingly;

**"Security Financial Collateral Arrangement"**

shall have the meaning given to that expression in the Financial Collateral Regulations; and

**"Security Period"**

means the period starting on the date of this debenture and ending on the date on which all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.

**1.2. Interpretation**

Unless the context otherwise requires, in this debenture:

- 1.2.1. any reference to any statute or statutory provision includes a reference to any subordinate legislation made under that statute or statutory provision, to any modification, re-enactment or extension of that statute or statutory provision and to any former statute or statutory provision which it consolidated or re-enacted before the date of this debenture;
- 1.2.2. a reference to one gender includes a reference to the other genders;
- 1.2.3. words in the singular include the plural and in the plural include the singular;
- 1.2.4. a reference to a clause or Schedule is to a clause or Schedule of or to this debenture;
- 1.2.5. a reference to **"this debenture"** (or any specified provision of it) or any other document shall be construed as a reference to this debenture, that provision or that document as in force for the time being and as amended or novated from time to time;
- 1.2.6. a reference to a **"person"** shall be construed as including a reference to an individual, firm, corporation, unincorporated body of persons or any state or any agency of a person;
- 1.2.7. a reference to an **"amendment"** includes a supplement, variation, novation or re-enactment (and **"amended"** shall be construed accordingly);
- 1.2.8. a reference to **"assets"** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- 1.2.9. a reference to an **"authorisation"** includes an authorisation, consent, licence, approval, resolution, exemption, filing, registration and notarisation;
- 1.2.10. 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; and

1.2.11. the headings do not form part of this debenture or any part of it and do not affect its interpretation.

**1.3. Clawback**

If the Security Trustee considers that an amount is capable of being avoided or otherwise set aside on liquidation or administration of the Seller or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this debenture.

**1.4. Nature of security over real property**

A reference in this debenture to a charge or mortgage of any freehold, leasehold or commonhold property includes:

- 1.4.1. all buildings and fixtures (including trade and tenant's fixtures) which are at any time situated on that property;
- 1.4.2. the proceeds of sale of any part of that property; and
- 1.4.3. the benefit of any covenants for title given or entered into by any predecessor in title of the Seller in respect of that property or any monies paid or payable in respect of those covenants.

**1.5. Law of Property (Miscellaneous Provisions) Act 1989**

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

**1.6. Insolvency Act 1986**

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 (as inserted by section 248 of, and Schedule 16 to, the Enterprise Act 2002) applies to the floating charge created by this debenture.

**1.7. Trust**

All Secured Liabilities and dispositions made or created, and all obligations and undertakings contained in this Deed in favour of or for the benefit of the Security Trustee are made, created and entered into in favour of the Security Trustee as trustee for the Secured Parties from time to time on the terms set out in Schedule 7 and otherwise in the remainder of this Deed.

**2. COVENANT TO PAY**

- 2.1. The Seller formally acknowledges and agrees that the contents of the Rules represent and will continue to represent a legally binding obligation on it.
- 2.2. The Seller covenants in favour of the Security Trustee that it shall on demand pay and discharge the Secured Liabilities when they become due.

**3. GRANT OF SECURITY**

**3.1. Charging clause**

As a continuing security for the payment and discharge of the Secured Liabilities, the Seller with full title guarantee:



- 3.1.1. charges to the Security Trustee, by way of first legal mortgage, all the Properties owned by the Seller at the date of this debenture;
- 3.1.2. charges to the Security Trustee, by way of first fixed charge:
  - 3.1.2.1. all Properties acquired by the Seller in the future;
  - 3.1.2.2. all present and future interests of the Seller not effectively mortgaged or charged under the preceding provisions of this clause 3 in or over freehold or leasehold property;
  - 3.1.2.3. all present and future rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to the Properties;
  - 3.1.2.4. all licences, consents and authorisations, statutory or otherwise held or required in connection with the Seller's business or the use of any Charged Property and all rights in connection with them;
  - 3.1.2.5. all present and future goodwill and uncalled capital for the time being of the Seller; and
  - 3.1.2.6. all the Book Debts;
  - 3.1.2.7. all Equipment; and
- 3.1.3. charges to the Security Trustee, by way of first floating charge, all the undertaking, property, assets and rights of the Seller at any time not effectively mortgaged, charged or assigned pursuant to clause 3.1.1 and clause 3.1.2.

### 3.2. Automatic conversion of floating charge

The floating charge created by clause 3.1.3 shall automatically and immediately (without notice) be converted into a fixed charge over the relevant Charged Property if:

- 3.2.1. the Seller:
  - 3.2.1.1. creates, or attempts to create, over all or any part of the Charged Property an Encumbrance without the prior written consent of the Security Trustee or any trust in favour of another person (except as expressly permitted by the terms of this deed or the Rules); or
  - 3.2.1.2. disposes or attempts to dispose of all or any part of the Charged Property (other than property subject only to the floating charge while it remains uncrystallised which property may be disposed of in the ordinary course of business); or
- 3.2.2. a receiver is appointed over all or any of the Charged Property that is subject to the floating charge; or
- 3.2.3. any person levies or attempts to levy any distress, attachment, execution or other process against all or any part of the Charged Property; or
- 3.2.4. the Security Trustee receives notice of the appointment of, or a proposal or an intention to appoint, an administrator of the Seller.

### 3.3. Conversion of floating charge by notice

The Security Trustee may in its sole discretion at any time by written notice to the Seller convert the floating charge created under this debenture into a fixed charge as regards any part of the Charged Property specified by the Security Trustee in that notice.

**3.4. Assets acquired after any floating charge crystallisation**

Any asset acquired by the Seller after any crystallisation of the floating charge created under this debenture which but for such crystallisation would be subject to a floating charge shall (unless the Security Trustee confirms in writing to the contrary) be charged to the Security Trustee by way of first fixed charge.

**4. LIABILITY OF SELLER**

**4.1. Liability not discharged**

The liability of the Seller under this debenture 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 Security Trustee being or becoming wholly or partially illegal, void or unenforceable on any ground; or
- 4.1.2. the Security Trustee 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 which but for this provision might have discharged or otherwise prejudiced or affected the liability of the Seller.

**4.2. Immediate recourse**

The Seller waives any right it may have of requiring 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 debenture against the Seller.

**5. REPRESENTATIONS AND WARRANTIES**

The Seller represents and warrants to the Security Trustee and each Secured Party in the terms set out in Schedule 1. The representations and warranties set out in Schedule 1 are made on the date of this debenture and shall be deemed to be made on each day of the Security Period with reference to the facts and circumstances then existing.

**6. COVENANTS**

The Seller covenants with the Security Trustee and each Secured Party during the continuance of the security constituted by this debenture in the terms set out in Schedule 2.

**7. POWERS OF THE SECURITY TRUSTEE**

The Security Trustee shall have the powers set out in Schedule 3.

**8. ENFORCEMENT**

**8.1. Enforcement events**

The security constituted by this debenture shall be immediately enforceable in any of the circumstances set out in paragraph 1 of Schedule 4. The parties to this debenture agree that

the provisions of Schedule 4 shall apply to this debenture and shall be binding between them.

**8.2. Receiver's powers**

A Receiver shall have, in addition to the powers conferred on receivers by statute, the further powers set out in Schedule 5.

**8.3. Right of appropriation**

To the extent that the Charged Property constitutes Financial Collateral and this debenture and the obligations of the Seller hereunder constitute a Security Financial Collateral Arrangement, the Security Trustee shall have the right, at any time after the security constituted this debenture has become enforceable, to appropriate all or any of that Charged Property in or towards the payment and/or discharge of the Secured Liabilities in such order as the Security Trustee in its absolute discretion may from time to time determine. The value of any Charged Property appropriated in accordance with this clause shall be the price of that Charged Property at the time the right of appropriation is exercised as listed on any recognised market index, or determined by such other method as the Security Trustee may select (including independent valuation). The Seller agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations.

**9. COSTS AND INDEMNITY**

**9.1. Costs**

The Seller shall pay to or reimburse the Security Trustee and any Receiver on demand, on a full indemnity basis, all Costs incurred by the Security Trustee and/or any Receiver in relation to:

- 9.1.1. this debenture or the Charged Property; or
- 9.1.2. protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Security Trustee's or the Receiver's rights under this debenture; or
- 9.1.3. suing for, or recovering, any of the Secured Liabilities,

(including, without limitation, the Costs of any proceedings in relation to this debenture or the Secured Liabilities) together with, in the case of clause 9.1.2 and clause 9.1.3, interest on the amount due at the default rate of interest specified in the Rules.

**9.2. Indemnity**

The Security Trustee and any Receiver and their respective employees and agents shall be indemnified on a full indemnity basis out of the Charged Property in respect of all actions, liabilities and Costs incurred or suffered in or as a result of:

- 9.2.1. the exercise or purported exercise of any of the powers, authorities or discretions vested in them under this debenture; or
- 9.2.2. any matter or thing done or omitted to be done in relation to the Charged Property under those powers; or
- 9.2.3. any default or delay by the Seller in performing any of its obligations under this debenture.

**10. RELEASE**

Subject to clause 13.3, upon the expiry of the Security Period (but not otherwise) the Security Trustee shall, at the request and cost of the Seller, use its best endeavours to release the Charged Property from the security constituted by this debenture.

**11. BOOK DEBTS COVENANTS**

**11.1. Realising Book Debts**

11.1.1. The Seller shall as an agent for the Security Trustee, collect in and realise all Book Debts, pay the proceeds into a Designated Account immediately on receipt and, pending that payment, hold those proceeds in trust for the Security Trustee;

11.1.2. The Seller shall not, without the prior written consent of the Security Trustee, withdraw any amounts standing to the credit of any Designated Account; and

11.1.3. The Seller shall, if called on to do so by the Security Trustee, execute a legal assignment of the Book Debts to the Security Trustee on such terms as the Security Trustee may require and give notice of that assignment to the debtors from whom the Book Debts are due, owing or incurred.

**11.2. Preservation of Book Debts**

The Seller shall not (except as provided by clause 11.1 or with the prior written consent of the Security Trustee) release, exchange, compound, set-off, grant time or indulgence in respect of, or in any other manner deal with, all or any of the Book Debts.

**12. ASSIGNMENT AND TRANSFER**

**12.1. Assignment by Security Trustee**

The Security Trustee may at any time, without the consent of the Seller, assign or transfer the whole or any part of the Security Trustee's rights and/or obligations under this debenture to any person.

**12.2. Assignment by Seller**

The Seller may not assign any of its rights or transfer any of its obligations under this debenture or enter into any transaction, which would result in any of those rights or obligations passing to another person.

**13. FURTHER PROVISIONS**

**13.1. Independent security**

This debenture shall be in addition to and independent of every other security or guarantee which the Security Trustee may at any time hold for any of the Secured Liabilities and no prior security held by the Security Trustee over the whole or any part of the Charged Property shall merge in the security created by this debenture.

**13.2. Continuing security**

13.3. This debenture shall remain in full force and effect as a continuing security for the Secured Liabilities, notwithstanding any settlement of account or intermediate payment or other matter or thing whatsoever, unless and until the Security Trustee discharges this debenture in writing.

**13.4. Discharge conditional**

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

13.4.1. the Security Trustee or its nominee shall be at liberty to retain this debenture and the security created by or pursuant to this debenture, including all certificates and documents relating to the whole or any part of the Charged Property, for such period as the Security Trustee shall deem necessary to provide the Security Trustee with security against any such avoidance, reduction or order for refund; and

13.4.2. the Security Trustee shall be entitled to recover the value or amount of such security or payment from the Seller subsequently as if such release, discharge or settlement had not occurred.

**13.5. Certificates**

A certificate or determination by the Security Trustee as to any amount for the time being due to it from the Seller shall (in the absence of any manifest error) be conclusive evidence of the amount due.

**13.6. Rights cumulative**

The rights and powers of the Security Trustee conferred by this debenture are cumulative, may be exercised as often as the Security Trustee considers appropriate, and are in addition to its rights and powers under the general law.

**13.7. Waivers**

Any waiver or variation of any right by the Security Trustee (whether arising under this debenture or under the general law) shall only be effective if it is in writing and signed by the Security Trustee and applies only in the circumstances for which it was given and shall not prevent the Security Trustee from subsequently relying on the relevant provision.

**13.8. Further exercise of rights**

No act or course of conduct or negotiation by or on behalf of the Security Trustee shall in any way preclude the Security Trustee from exercising any right or power under this debenture or constitute a suspension or variation of any such right or power.

**13.9. Delay**

No delay or failure to exercise any right or power under this debenture shall operate as a waiver.

**13.10. Single or partial exercise**

No single or partial exercise of any right under this debenture shall prevent any other or further exercise of that or any other such right.

**13.11. Consolidation**

The restriction on the right of consolidation contained in section 93 of the Law of Property Act 1925 shall not apply to this debenture.

**13.12. Partial invalidity**

The invalidity, unenforceability or illegality of any provision (or part of a provision) of this debenture under the laws of any jurisdiction shall not affect the validity, enforceability or legality of the other provisions. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with any modification necessary to give effect to the commercial intention of the parties.

#### **13.13. Counterparts**

This debenture 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.

#### **13.14. Third party rights**

13.14.1 Subject to clause 13.14.2, a third party (including any Secured Party) has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce, or to enjoy the benefit of, any term of this debenture.

13.14.2 The officers, employees and agents of the Security Trustee hereby have the benefit of and may enforce paragraph 2.9 of Schedule 7 of this debenture in addition to any term implied under it by the Contracts (Rights of Third Parties) Act 1999.

#### **13.15. Perpetuity period**

The perpetuity period applicable to all trusts created by this debenture shall be 125 years.

### **14. NOTICES**

#### **14.1. Service**

Any notice or other communication given under this debenture shall be in writing and shall be served by delivering it personally or by sending it by pre-paid first-class post or by fax to the address or fax number and for the attention of the relevant party as set out in Schedule 6 or such other address or fax number as may be notified in writing from time to time by the relevant party to the other party.

#### **14.2. Receipt**

Receipt of any notice, given under clause 14.1 above, shall be deemed to be:

14.2.1. if delivered personally, at the time of delivery; or

14.2.2. in the case of pre-paid first-class letter, 48 hours from the date of posting; or

14.2.3. in the case of a fax, when received;

but if deemed receipt occurs:

14.2.3.1. before 9:00 am on a Business Day, the notice shall be deemed to have been received at 9:00 am on that day; or

14.2.3.2. after 5:00 pm on a Business Day or on a day that is not a Business Day, the notice shall be deemed to have been received at 9:00 am on the next Business Day.

#### **14.3. Proof of service**

In proving service of a notice, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party as set out in Schedule 6 (or as otherwise notified by that party under clause 14.1 above) and delivered either:

14.3.1. to that address, or

14.3.2. into the custody of the postal authorities as a pre-paid recorded delivery first-class letter.

**14.4. E-mail invalid**

Notice given under this debenture shall not be validly served if sent by e-mail.

**15. GOVERNING LAW AND JURISDICTION**

**15.1. Governing law**

This debenture 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 according to the law of England and Wales.

**15.2. Jurisdiction**

The parties to this debenture 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 debenture 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 Seller 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.

**15.3. Other service**

The Seller irrevocably consents to any process in any proceedings being served on it in accordance with the provisions of this debenture relating to service of notices. Nothing contained in this debenture shall affect the right to serve process in any other manner permitted by law.

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

## Schedule 1

### **REPRESENTATIONS AND WARRANTIES**

1. **OWNERSHIP OF CHARGED PROPERTY**

The Seller is the legal and beneficial owner of the Charged Property free from any Encumbrance other than the Encumbrances created by this debenture.

2. **ADVERSE CLAIMS**

The Seller has not received or acknowledged notice of any adverse claim by any person in respect of the Charged Property or any interest in it.

3. **ADVERSE COVENANTS**

There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatever, which materially adversely affect the Charged Property.

4. **NO BREACH OF LAWS**

There is no breach of any law or regulation, which materially adversely affects the Charged Property.

5. **NO INTERFERENCE IN ENJOYMENT**

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

6. **NO OVERRIDING INTERESTS**

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

7. **AVOIDANCE OF SECURITY**

No Encumbrance expressed to be created by this debenture is liable to be avoided or otherwise set aside on the liquidation or administration of the Seller or otherwise.

8. **ENVIRONMENTAL COMPLIANCE**

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



## Schedule 2

### COVENANTS

#### 1. **TRADING AND PRESERVATION OF CHARGED PROPERTY**

The Seller shall:

- 1.1. carry on its trade and business in accordance with the standards of good management from time to time current in such trade or business on those parts (if any) of the Properties as are, or may be, used for the purposes of trade or business; and
- 1.2. not do, or permit to be done, any act or thing, which will or might depreciate, jeopardise or otherwise prejudice the security held by the Security Trustee or materially diminish the value of any of the Charged Property or the effectiveness of the security created by this debenture.

#### 2. **STATUTORY COMPLIANCE**

The Seller shall comply with all statutes, byelaws and regulations relating to its trade or business and the whole or any part of the Charged Property.

#### 3. **PROVISION OF INFORMATION**

The Seller shall:

- 3.1. promptly provide to the Security Trustee whatever information, documents or papers relating to the Charged Property as the Security Trustee may from time to time request; and
- 3.2. inform the Security Trustee promptly of any acquisition by the Seller of, or contract made by the Seller to acquire, any freehold, leasehold or other interest in Property.

#### 4. **INSURANCE**

4.1. The Seller shall:

- 4.1.1. insure and keep insured all of its undertaking and assets with reputable and responsible insurers previously approved by the Security Trustee in such manner and to such extent as is reasonable and customary for an enterprise engaged in the same or similar business and in the same or similar localities against such risks and contingencies as the Security Trustee shall from time to time request;
- 4.1.2. procure that the interest of the Security Trustee is noted on all its policies of insurance in such manner as the Security Trustee may in its absolute discretion require; and
- 4.1.3. duly and punctually pay all premiums and any other monies necessary for maintaining its insurance in full force and effect.

4.2. The Seller shall apply all monies received by virtue of any insurance of the whole or any part of the Charged Property:

- 4.2.1. in making good or in recouping expenditure incurred in making good any loss or damage; or
- 4.2.2. if the Security Trustee in its discretion so requires, towards the discharge of the Secured Liabilities.

**5. REPAIR**

The Seller shall:

- 5.1. at all times keep in good and substantial repair and condition all the Charged Property including, without limitation, all buildings, erections, structures and fixtures and fittings on and in the Property;
- 5.2. keep all Equipment in good repair, working order and condition and fit for its purpose; and
- 5.3. where it is uneconomic to repair any part of the Charged Property, replace such part by another similar asset of equal or greater quality and value.

**6. NEGATIVE PLEDGE**

- 6.1. The Seller shall not at any time, except with the prior written consent of the Security Trustee:
  - 6.1.1. create, purport to create or permit to subsist any Encumbrance on, or in relation to, any Secured Asset other than any Encumbrance created by this debenture;
  - 6.1.2. 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 (except, in the ordinary course of business, Secured Assets that are only subject to an uncrystallised floating charge); or
  - 6.1.3. create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party.

**7. NOTICE OF BREACH**

The Seller shall promptly upon becoming aware of the same give the Security Trustee notice in writing of any breach of:

- 7.1. any representation or warranty set out in Schedule 1; and
- 7.2. any covenant set out in this Schedule 2.

**8. TITLE DOCUMENTS**

The Seller shall on the execution of this debenture (or, if later, the date of acquisition of the relevant Charged Property) deposit with the Security Trustee and the Security Trustee shall during the continuance of this debenture be entitled to hold all deeds and documents of title relating to the Charged Property which are in the possession or control of the Seller (and, if not within the possession and/or control of the Seller, the Seller undertakes to obtain possession of all such deeds and documents of title).

**9. FURTHER ASSURANCE**

The Seller, at its own cost, shall prepare and execute such further legal or other mortgages, charges or transfers (containing a power of sale and such other provisions as the Security Trustee may reasonably require) in favour of the Security Trustee as the Security Trustee shall in its absolute discretion from time to time require over all or any part of the Charged Property and give all notices, orders and directions which the Security Trustee may require in its absolute discretion for perfecting, protecting or facilitating the realisation of its security over the Charged Property.

**10. INSPECTION**

The Seller shall permit the Security Trustee and any Receiver and any person appointed by either of them to enter upon and inspect any Property during normal business hours upon reasonable prior notice.

**11. SELLER'S WAIVER OF SET-OFF**

The Seller waives any present or future right of set-off it may have in respect of the Secured Liabilities (including sums payable by the Seller under this debenture).



### Schedule 3

#### **POWERS OF SECURITY TRUSTEE**

**1. POWER TO REMEDY**

The Security Trustee shall be entitled (but shall not be bound) to remedy a breach at any time by the Seller of any of its obligations contained in this debenture and the Seller irrevocably authorises the Security Trustee and its agents to do all such things as are necessary or desirable for that purpose.

**2. EXERCISE OF RIGHTS**

The rights of the Security Trustee under paragraph 1 of this Schedule 3 are without prejudice to any other rights of the Security Trustee under this debenture and the exercise of those rights shall not make the Security Trustee liable to account as a mortgagee in possession.

**3. POWER TO DISPOSE OF CHATTELS**

At any time after the security constituted by this debenture shall have become enforceable, the Security Trustee or any Receiver:

- 3.1. may dispose of any chattels or produce found on any Property as agent for the Seller; and
- 3.2. without prejudice to any obligation to account for the proceeds of any sale of such chattels or produce, shall be indemnified by the Seller against any liability arising from such disposal.

**4. PRIOR ENCUMBRANCES**

At any time after the security constituted by this debenture shall have become enforceable or after any powers conferred by any Encumbrance having priority to this debenture shall have become exercisable, the Security Trustee may:

- 4.1. redeem such or any other prior Encumbrance or procure its transfer to itself; and
- 4.2. settle any account of the holder of any prior Encumbrance.

The settlement of any such account shall be conclusive and binding on the Seller and all monies paid by the Security Trustee to an encumbrancer in settlement of such an account shall, as from its payment by the Security Trustee, be due from the Seller to the Security Trustee on current account and shall bear interest and be secured as part of the Secured Liabilities.

**5. CONVERSION OF CURRENCY**

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 the Security Trustee under this debenture (including the proceeds of any previous conversion under this paragraph 5) from their existing currencies of denomination into such other currencies of denomination as the Security Trustee may think fit and any such conversion shall be effected at HSBC Bank plc's then prevailing spot selling rate of exchange for such other currency against the existing currency. Each previous reference in this paragraph 5 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.

**6. NEW ACCOUNTS**

- 6.1. If the Security Trustee receives notice of any subsequent Encumbrance or other interest affecting all or part of the Charged Property, the Security Trustee may open a new account or accounts for the Seller in the Security Trustee's books and (without prejudice to the Security Trustee's right to combine accounts) no money paid to the credit of the Seller in any such new account will be appropriated towards or have the effect of discharging any part of the Secured Liabilities.
- 6.2. If the Security Trustee does not open a new account or accounts immediately on receipt of notice under paragraph 6.1 of this Schedule 3, then, unless the Security Trustee gives express written notice to the contrary to the Seller, as from the time of receipt of the relevant notice by the Security Trustee all payments made by the Seller to the Security Trustee shall be treated as having been credited to a new account of the Seller and not as having been applied in reduction of the Secured Liabilities.

**7. SECURITY TRUSTEE'S SET-OFF RIGHTS**

If the Security Trustee shall have more than one account for the Seller in its books the Security Trustee may at any time after:

- 7.1. the security constituted by this debenture has become enforceable; or
- 7.2. the Security Trustee has received notice of any subsequent Encumbrance or other interest affecting all or any part of the Charged Property,

transfer, without prior notice, all or any part of the balance standing to the credit of any account to any other account which may be in debit but the Security Trustee shall notify the Seller of the transfer once made.

**8. INDULGENCE**

The Security Trustee may in its discretion grant time or other indulgence or make any other arrangement, variation or release with any person or persons not being a party to this debenture (whether or not such person or persons are jointly liable with the Seller) in respect of any of the Secured Liabilities or of any other security for them without prejudice either to this debenture or to the liability of the Seller for the Secured Liabilities.

## Schedule 4

### ENFORCEMENT

#### 1. ENFORCEMENT EVENTS

This debenture shall be enforceable if:

- 1.1. any of the Secured Liabilities shall not be paid or discharged when the same ought to be paid or discharged by the Seller (whether on demand or at scheduled maturity or by acceleration or otherwise, as the case may be); or
- 1.2. the Seller shall be in breach of any of its obligations under this debenture or under any other agreement between the Seller and the Security Trustee and that breach (if capable of remedy) has not been remedied to the satisfaction of the Security Trustee within 14 days of notice by the Security Trustee to the Seller to remedy the breach; or
- 1.3. the Seller:
  - 1.3.1. becomes unable to pay its debts as they fall due (and/or the value of the Seller's assets is less than the amount of its liabilities, taking into account the Seller's contingent and prospective liabilities); or
  - 1.3.2. commences negotiations with any one or more of its creditors with a view to the general readjustment or rescheduling of its indebtedness; or
  - 1.3.3. makes a general assignment for the benefit of, or a composition with, its creditors; or
- 1.4. the Seller passes any resolution or takes any corporate action or a petition is presented or proceedings are commenced or any action is taken by any person for its winding-up, dissolution, administration or re-organisation or for the appointment of a receiver, administrative receiver, administrator, trustee or similar officer of it or of any or all of its revenues and assets; or
- 1.5. a distress, execution, attachment or other legal process is levied or enforced upon or sued against all or any part of the assets of the Seller and remains undischarged for seven days; or
- 1.6. any event occurs in relation to the Seller that is analogous to those set out in paragraph 1.3, paragraph 1.4 or paragraph 1.5 of this Schedule 4; or
- 1.7. any representation, warranty or statement made or deemed to be made by the Seller under this debenture is or proves to have been incorrect or misleading when made or deemed to be made; or
- 1.8. an event of default occurs where there is a breach of any provisions of the Rules or any failure to repay any sums advanced under those Rules or otherwise by the Secured Parties at any time.

("Events of Default" and each an "Event of Default")

and in any such event (whether or not the event is continuing), without prejudice to any other rights of the Security Trustee, the powers of sale under the Law of Property Act 1925 shall immediately be exercisable and the Security Trustee shall enforce all or any part of the security created by this debenture as it sees fit.

**2. STATUTORY POWER OF SALE**

The powers of sale conferred upon mortgagees under the Law of Property Act 1925 shall, as between the Security Trustee and a purchaser from the Security Trustee, arise on and be exercisable at any time after the execution of this debenture, but the Security Trustee shall not exercise such power of sale until the security constituted by this debenture has become enforceable under paragraph 1 of this Schedule 4.

**3. EXTENSION OF STATUTORY POWERS**

The statutory powers of sale, leasing and accepting surrenders conferred upon mortgagees under the Law of Property Act 1925 and/or by any other statute shall be exercisable by the Security Trustee under this debenture and are extended so as to authorise the Security Trustee whether in its own name or in that of the Seller to make any lease or agreement for lease, accepts surrenders of lease or grant any option of the whole or any part or parts of the freehold and leasehold property of the Seller with whatever rights relating to other parts of it and containing whatever covenants on the part of the Seller and generally on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) and whether or not at a premium as the Security Trustee thinks fit.

**4. PROTECTION OF THIRD PARTIES**

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

4.1. to enquire whether any of the Secured Liabilities have become due or payable or remain unpaid or undischarged, or whether the power the Security Trustee or a Receiver is purporting to exercise has become exercisable; or

4.2. to see to the application of any money paid to the Security Trustee or any Receiver.

**5. NO LIABILITY AS MORTGAGEE IN POSSESSION**

Neither the Security Trustee nor any Receiver nor any Administrator shall be liable to account as mortgagee in possession in respect of all or any of the Charged Property nor shall any of them be liable for any loss upon realisation of, or for any neglect or default of any nature whatsoever in connection with, all or any of the Charged Property for which a mortgagee in possession might as such be liable.

**6. APPOINTMENT OF RECEIVER**

6.1. At any time after the security constituted by this debenture has become enforceable, or at the request of the Seller, the Security Trustee may without further notice:

6.1.1. appoint under seal or by writing under hand of a duly authorised officer of the Security Trustee any one or more person or persons to be a receiver or a receiver and manager of all or any part of the Charged Property; and

6.1.2. (subject to section 45 of the Insolvency Act 1986) from time to time under seal or by writing under hand of a duly authorised officer of the Security Trustee, remove any person appointed to be Receiver and may in like manner appoint another in his place.

Where more than one person is appointed Receiver, they will have power to act separately (unless the appointment by the Security Trustee specifies to the contrary).

6.2. The Security Trustee may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the Law of Property Act 1925 and the remuneration of the Receiver shall be a debt secured by this debenture which shall be due and payable immediately upon its being paid by the Security Trustee.

**7. POWERS ADDITIONAL**

- 7.1. The powers of sale and appointing a Receiver conferred by this debenture shall be in addition to all statutory and other powers of the Security Trustee under the Insolvency Act 1986, the Law of Property Act 1925 or otherwise and shall be exercisable without the restrictions contained in sections 103 and 109 of the Law of Property Act 1925 or otherwise.
- 7.2. The power to appoint a Receiver (whether conferred by this debenture or by statute) shall be and remain exercisable by the Security Trustee notwithstanding any prior appointment in respect of all or any part of the Charged Property.

**8. AGENT OF THE SELLER**

Any Receiver appointed by the Security Trustee under this debenture shall be the agent of the Seller and the Seller shall be solely responsible for his acts and remuneration as well as for any defaults committed by him.

**9. POWERS OF RECEIVER**

Any Receiver appointed by the Security Trustee under this debenture shall in addition to the powers conferred on him by the Law of Property Act 1925 and the Insolvency Act 1986 have power to do all such acts and things as an absolute owner could do in the management of such of the Charged Property over which the Receiver is appointed and in particular the powers set out in Schedule 5.

**10. ORDER OF APPLICATION OF PROCEEDS**

All monies received by the Security Trustee or a Receiver in the exercise of any enforcement powers conferred by this debenture shall be applied:

- 10.1. first in paying all unpaid Costs incurred by or on behalf of the Security Trustee (and any Receiver, attorney or agent appointed by it);
- 10.2. second in paying the remuneration of any Receiver (as agreed between him and the Security Trustee);
- 10.3. third in or towards discharge of the Secured Liabilities in such order and manner as the Security Trustee shall determine; and
- 10.4. finally in paying any surplus to the Seller or any other person entitled to it.

**11. SECTION 109(8) LAW OF PROPERTY ACT 1925**

Neither the Security Trustee nor any Receiver shall be bound (whether by virtue of section 109(8) of the Law of Property Act 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 as between any of the Secured Liabilities.

**12. SUSPENSE ACCOUNT**

All monies received by the Security Trustee or a Receiver under this debenture may, at the discretion of the Security Trustee or Receiver, be credited to any suspense or securities realised account and shall bear interest at such rate, if any, as may be agreed in writing between the Security Trustee and the Seller and may be held in such account for so long as the Security Trustee or Receiver thinks fit.



**13. POWER OF ATTORNEY**

By way of security the Seller irrevocably appoints the Security Trustee and every Receiver separately to be the attorney of the Seller and in its name and on its behalf and as its act and deed to execute any documents, and do any acts and things which:

- 13.1. the Seller is required to execute and do under this debenture; and/or
- 13.2. any attorney may deem proper or desirable in exercising any of the powers, authorities and discretions conferred by this debenture or by law on the Security Trustee or any Receiver.

**14. RATIFICATION OF ACTS OF ATTORNEY**

The Seller ratifies and confirms and agrees to ratify and confirm anything which any of its attorneys may do in the proper and lawful exercise or purported exercise of all or any of the powers, authorities and discretions referred to in paragraph 13 of this Schedule 4.

**15. APPOINTMENT OF AN ADMINISTRATOR**

- 15.1. The Security Trustee may without notice to the Seller appoint any one or more persons to be an administrator of the Seller pursuant to paragraph 14 Schedule B1 of the Insolvency Act 1986 if this debenture becomes enforceable.
- 15.2. Any appointment under this paragraph 15 shall:
  - 15.2.1. be in writing signed by a duly authorised signatory of the Security Trustee, and
  - 15.2.2. take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986, when the requirements of paragraph 18 of that Schedule B1 are satisfied.
- 15.3. The Security Trustee may (subject to any necessary approval from the court) end the appointment of an Administrator by notice in writing in accordance with this paragraph 15 and appoint under that paragraph a replacement for any Administrator whose appointment ends for any reason.

**16. FURTHER PROVISIONS**

- 16.1. The Security Trustee shall be entitled, at its absolute discretion, (a) to set aside a sum and (b) to make and pay, any deductions and withholdings (on account of taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Deed, and to pay all taxes which may be assessed against it in respect of any charged property, or as a consequence of performing its duties, or by virtue of its capacity as Security Trustee under this Deed or otherwise.
- 16.2. No purchaser or other person dealing with the Security Trustee or any Receiver shall be bound or concerned:
  - 16.2.1. to see or enquire whether the right of the Security Trustee or any Receiver to exercise any of the powers conferred by this Deed has arisen or not;
  - 16.2.2. with the propriety of the exercise or purported exercise of those powers; or
  - 16.2.3. with the application of any moneys paid to the Security Trustee, to any Receiver or to any other person.

## Schedule 5

### **FURTHER POWERS OF RECEIVER**

**1. TO REPAIR AND DEVELOP PROPERTIES**

A Receiver may undertake or complete any works of repair, building or development on the Properties.

**2. TO SURRENDER LEASES**

A Receiver may grant or accept surrenders of any leases or tenancies affecting the Properties upon such terms and subject to such conditions as he thinks fit.

**3. TO EMPLOY PERSONNEL AND ADVISORS**

A Receiver may provide services and employ, or engage, such managers contractors and other personnel and professional advisors on such terms as he deems expedient.

**4. TO MAKE VAT ELECTIONS**

A Receiver may make such elections for value added tax purposes as he thinks fit.

**5. TO CHARGE REMUNERATION**

A Receiver may charge and receive such sum by way of remuneration (in addition to all costs, charges and expenses incurred by him) as the Security Trustee may prescribe or agree with him.

**6. TO REALISE CHARGED PROPERTY**

A Receiver may collect and get in the Charged Property in respect of which he is appointed or any part thereof and for that purpose make such demands and take any proceedings as may seem expedient and to take possession of the Charged Property with like rights.

**7. TO MANAGE OR RECONSTRUCT THE SELLER'S BUSINESS**

A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Seller.

**8. TO DISPOSE OF CHARGED PROPERTY**

A Receiver may grant options and licences over all or any part of the Charged Property, sell or concur in selling, assign or concur in assigning, lease or concur in leasing and accept or concur in accepting surrenders of leases of, all or any of the property of the Seller in respect of which he is appointed in such manner and generally on such terms and conditions as he thinks fit (fixtures and plant and machinery may be severed and sold separately from the premises in which they are contained without the consent of the Seller) and to carry any such sale, assignment, leasing or surrender into effect. Any such sale may be for such consideration as he shall think fit and he may promote or concur in promoting a Seller to purchase the property to be sold.

**9. TO MAKE SETTLEMENTS**

A Receiver may make any arrangement, settlement or compromise between the Seller and any other person which he may think expedient.

**10. TO IMPROVE EQUIPMENT**

A Receiver may make substitutions of, or improvements to, the Equipment as he may think expedient.

**11. TO MAKE CALLS ON SELLER MEMBERS**

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

**12. TO APPOINT STAFF AND AGENTS**

A Receiver may appoint managers, officers, servants, workmen and agents for the aforesaid purposes at such salaries and for such periods and on such terms as he may determine.

**13. TO INSURE**

A Receiver may, if he thinks fit, but without prejudice to the indemnity contained in clause 9, effect with any insurer any policy or policies of insurance either in lieu or satisfaction of, or in addition to, such insurance.

**14. SELL BOOK DEBTS**

A Receiver may sell and assign all or any of the Book Debts in respect of which he is appointed in any manner, and generally on any terms and conditions, that he thinks fit.

**15. LAW OF PROPERTY ACT 1925**

A Receiver may exercise all powers provided for in the Law of Property Act 1925 in the same way as if he had been duly appointed under that act and exercise all powers provided for an administrative receiver in Schedule 1 of the Insolvency Act 1986.

**16. TO BORROW**

A Receiver may for any of the purposes authorised by this Schedule 5 raise money by borrowing from the Security Trustee or from any other person on the security of all or any of the Charged Property in respect of which he is appointed upon such terms (including if the Security Trustee shall consent to terms under which such security ranks in priority to this debenture) as he shall think fit.

**17. TO REDEEM PRIOR ENCUMBRANCES**

A Receiver may redeem any prior Encumbrance and settle and pass the accounts to which the Encumbrance relates and any accounts so settled and passed shall be conclusive and binding on the Seller and the monies so paid will be deemed to be an expense properly incurred by him.

**18. INCIDENTAL POWERS**

A Receiver may do all such other acts and things as he may consider incidental or conducive to any of the matters or powers in this Schedule 5 or which he lawfully may or can do as agent for the Seller.

**19. SCOPE OF POWERS**

Any exercise of any of these powers may be on behalf of:

- 19.1 the Seller;
- 19.2 the directors of the Seller (where the Seller is a company); and
- 19.3 the members of the Seller (where the Seller is a limited liability partnership)  
(in the case of the power contained in paragraph 11 of this Schedule 5) or himself.



**Schedule 6**

**NOTICE DETAILS**

The Seller:

For the attention of:  
PROACTIVE INVESTORS LIMITED  
44A Shelbourne Road  
Bournemouth  
BH8 8QY

Fax number:

The Security Trustee:

For the attention of:  
BELVEDERE SECURITY LIMITED  
Belvedere House  
Basing View  
Basingstoke  
Hampshire  
RG21 4HG

Fax number:



## Schedule 7

### **ADDITIONAL TERMS OF SECURITY TRUST**

#### **1. SECURITY TRUSTEE'S REMUNERATION**

- 1.1. The Seller shall pay the Security Trustee remuneration for its services as Security Trustee as from the date of this Deed, such remuneration to be at such rate as may be from time to time agreed between the Seller and the Security Trustee. Such remuneration shall be payable upon the execution of this Deed.
- 1.2. In the event of the occurrence of an Event of Default, the Seller hereby agrees that the Security Trustee shall be entitled to be paid additional remuneration calculated at its normal hourly rates in force from time to time. In any other case if the Security Trustee considers it expedient or necessary or is requested by the Secured Parties to undertake duties which the Security Trustee deems to be of an exceptional nature or otherwise outside the scope of the normal duties of the Security Trustee hereunder the Seller shall pay to the Security Trustee such additional remuneration (together with any applicable VAT) which shall be calculated by reference to the Security Trustee's normal hourly rates in force from time to time.
- 1.3. The Seller shall in addition pay to the Security Trustee an amount equal to the amount of any VAT or similar tax chargeable in respect of its remuneration hereunder.
- 1.4. All amounts payable to the Security Trustee pursuant to paragraph 1.2 or any other general indemnity shall be payable by the Seller on the date specified in a demand by the Security Trustee; the rate of interest applicable to such payments shall be the rate specified by the Security Trustee as being its cost of funding and interest shall accrue: (a) in the case of payments made by the Security Trustee prior to the date of the demand, from the date on which the payment was made or such later date as specified in such demand; and (b) in the case of payments made by the Security Trustee on or after the date of the demand, from the date specified in such demand, which date shall not be a date earlier than the date such payments are made. All remuneration payable to the Security Trustee shall carry interest at such rate from the due date therefor.
- 1.5. Unless otherwise specifically stated in any discharge of this Deed the provisions of this paragraph 1 shall continue in full force and effect notwithstanding such discharge.

#### **2. SECURITY TRUSTEE'S POWERS AND OTHER PROVISIONS**

##### **2.1. Security Trustee's powers**

The Security Trustee shall have all the powers conferred on trustees by the Trustee Act 1925 and:

- 2.1.1. the Security Trustee may in relation to this Deed act on the opinion or advice of or information obtained from any lawyer, valuer, surveyor, banker, broker, auctioneer, accountant or other expert whether obtained by the Seller or by the Security Trustee or otherwise and shall not be responsible for any loss occasioned by so acting;
- 2.1.2. save as otherwise expressly provided in this Deed, the Security Trustee shall, as regards all trusts, powers, authorities and discretions vested in it by this Deed, have absolute and uncontrolled discretion as to their exercise and, provided it shall not have acted fraudulently, dishonestly or recklessly, it shall not be responsible for any loss, costs, damages or expenses that may result from the exercise or non-exercise thereof. In particular, it shall not be bound to act (whether at the request or direction of the Secured Parties or otherwise) under any of the provisions of this Deed unless the Security Trustee shall first be indemnified and/or secured and/or prefunded to its satisfaction against all proceedings, claims and demands to which the Security

Trustee may so become liable and all costs, charges and expenses which may be so incurred by the Security Trustee;

- 2.1.3. without prejudice to the right of indemnity by law given to trustees, the Security Trustee and every attorney, manager, agent, delegate or other person appointed by it under this Deed may indemnify itself out of the charged property and shall otherwise be indemnified by the Seller against all liabilities and expenses properly incurred by it or him in the execution of the powers and trusts of this Deed or of any powers, authorities or discretion vested in it or him pursuant to this Deed. This indemnity shall extend to all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in relation to this Deed. The Security Trustee may in priority to any payment to the Secured Parties retain and pay out of any monies in its hands on the trusts of this Deed the amount of any such liabilities and expenses and also the remuneration of the Security Trustee as provided in this Deed;
- 2.1.4. as between itself and the Secured Parties, the Security Trustee shall have full power to determine all questions and doubts arising in relation to any of the provisions of this Deed. Every such determination made in good faith (whether or not the same shall relate in whole or in part to the acts or proceedings of the Security Trustee under this Deed) shall be conclusive and binding on the Security Trustee and the Secured Parties;
- 2.1.5. any consent granted by the Security Trustee pursuant to this Deed may be granted on such terms and subject to such conditions (if any) as the Security Trustee may in its absolute discretion think fit and may be given retrospectively;
- 2.1.6. at any time and without the consent of the Secured Parties, the Security Trustee may concur with the Seller in making any modification to this Deed which, in the opinion of the Security Trustee, will not be materially prejudicial to the interests of the Secured Parties or which is to correct a manifest error, in which case the Seller shall promptly take all such reasonable steps as the Security Trustee may require; and
- 2.1.7. the Security Trustee may on such terms and subject to such conditions as to it shall seem fit:
  - 2.1.7.1. authorise or waive any proposed breach or any breach by the Seller or any of the terms of this Deed without prejudice to the rights of the Security Trustee in respect of any subsequent breach of any such terms; and
  - 2.1.7.2. determine that any event which constitutes (or which, with the giving of notice and/or lapse of time or any other matter would constitute) an event on the happening of which the Secured Liabilities shall have or may become immediately due and repayable shall not be treated as such for the purposes of this Deed, without prejudice to the rights of the Security Trustee in respect of any subsequent such event.

## 2.2. Expenditure of funds

Nothing contained in this Deed shall require the Security Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties or exercise of its rights and powers, authority or discretion unless and until it shall have received in form and substance satisfactory to it such indemnification and/or security (whether by way of payment in advance or otherwise) for all Costs (including legal fees and disbursements) which it will or may pay, expend or will or may reasonably be expected to incur or be exposed to in complying with the instructions or directions of the Secured Parties or in taking any such other action (and, for the avoidance of doubt, nothing contained in this Deed shall require the Security Trustee to expend or risk its own funds or otherwise incur any financial liability and the Security Trustee shall not be obliged to do or omit to do anything, including entering into any transaction or incurring any liability (including, without limitation, giving its

own indemnity to any Administrator or Receiver or becoming a mortgagee in possession) unless the Security Trustee's liability is limited in a manner satisfactory to it).

**2.3. Failure to show degree of care and diligence**

- 2.4. If the Security Trustee has failed to show the degree of care and diligence reasonably required of it under this Deed, nothing in this paragraph 2 shall exempt the Security Trustee from or indemnify it against any liability for breach of trust or any liability which by virtue of any rule of law would otherwise attach to it in respect of any fraud, dishonesty or recklessness of which it is proven to be guilty in relation to its duties under this Deed.

**2.5. Appointment of agent**

In the conduct of the trust business, instead of acting personally, the Security Trustee may employ and pay an agent to transact or concur in transacting any business and to do or concur in doing all acts required to be done by the Security Trustee, including the receipt and payment of money. Any trustee for the time being of this Deed being a person engaged in any profession or business shall be entitled to all usual professional and other charges, in addition to disbursements for business transacted and acts done by him or his firm or employer in connection with the trusts of this Deed in connection with matters arising in connection with this Deed, including matters which might or should have been attended to in person by a trustee not being engaged in any profession or business.

**2.6. Security Trustee's discretions**

The Security Trustee may:

- 2.6.1. assume unless it has, in its capacity as Security Trustee for the Secured Parties, received actual notice in writing to the contrary, that (a) no Event of Default has occurred and (b) the Seller is not in breach of or default under this Deed and (c) any right, power, authority or discretion vested by this Deed in any person has not been exercised; and
- 2.6.2. engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts whose advice or services may at any time seem necessary, expedient or desirable and shall not be bound to supervise such persons or be responsible for any loss occasioned by so acting, provided that the Security Trustee has exercised reasonable care in selecting any such persons. The Seller shall indemnify the Security Trustee in respect of any costs incurred by the Security Trustee in this regard.

**2.7. Excluded obligations**

Notwithstanding anything to the contrary expressed or implied in this Deed, the Security Trustee shall not:

- 2.7.1. be under any obligation to supervise or monitor the proceedings or acts of any persons or be in any way responsible for any liability incurred by reason of any misconduct, omission or default on the part of any other party;
- 2.7.2. be bound to account to any other party for any sum or the profit element of any sum received by it for its own account;
- 2.7.3. be bound to disclose to any other person (i) any confidential information or (ii) any other information if disclosure would or might in its reasonable opinion constitute a breach of any law or be a breach of fiduciary duty;
- 2.7.4. be under any obligations other than those which are specifically provided for in this Deed;



2.7.5. carry out any regulated activities for the purposes of the Financial Services and Markets Act 2000 ("FSMA"), unless it is exempt or authorised to do so under the FSMA; or

2.7.6. be liable for any failure, omission or defect in perfecting or protecting its rights under this Deed, or the priority of the security constituted in this Deed including, without limitation, failure:

2.7.6.1. to notify any person of the execution of any document;

2.7.6.2. to obtain any licence, consent or other authority for the execution, delivery, validity, legality, performance, enforceability or admissibility in evidence of the Transaction Security or any part thereof;

2.7.6.3. to take any steps to perfect its title to any property or to render this Deed effective or to secure the creation of any ancillary security under the laws of any jurisdiction, register, file or record this Deed in accordance with any legal requirement in any jurisdiction and/or give notice to any person of the execution of this Deed; or

2.7.6.4. to require any further assurances in relation to this Deed.

## **2.8. Exclusion of Security Trustee's Liability**

Unless (and only to the extent) caused directly by its fraud, dishonesty or recklessness, the Security Trustee shall not accept responsibility or be liable for:

2.8.1. any losses to any person or any liability arising as a result of it taking or refraining from taking any action in relation to this Deed or otherwise;

2.8.2. the exercise of, or the failure to exercise, any judgement, discretion or power given to it by or in connection with this Deed or any other agreement, arrangement or document entered into, made or executed in anticipation of, pursuant to or in connection with this Deed;

2.8.3. any shortfall which arises on the enforcement of this Deed and in any event the Security Trustee shall not be responsible for consequential losses.

## **2.9. No proceedings**

No party (other than the Security Trustee) may take any proceedings against any officer, employee or agent of the Security Trustee in respect of any claim it might have against the Security Trustee or in respect of any act or omission of any kind by that officer, employee or agent and any officer, employee or agent of the Security Trustee may rely on this paragraph 2.9 subject to paragraph 2.12.

## **2.10. Insurance by the Security Trustee**

The Security Trustee shall not be under any obligation to insure any of the secured property. The Security Trustee shall not be a party to any insurance policy and shall not be responsible for any loss which may be suffered by any person as a result of the lack of or inadequacy of any such insurance. The Security Trustee shall not be required to insure against any loss, liability, expense, demand, cost claim or proceedings incurred by reason of the misconduct, omission or default on the part of any person appointed by it under this Deed.

## **2.11. Refrain from illegality**

Notwithstanding anything else contained in this Deed or any other documents, the Security Trustee may refrain from doing anything which would or might in its opinion be contrary to

any law of any jurisdiction or any directive or regulation of any agency of any state or which would or might otherwise render it liable to any person and may do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.

**2.12. Disapplication of section 1 of the Trustee Act 2000**

The duty of care that applies to a trustee under Section 1 of the Trustee Act 2000 shall not apply to the Security Trustee. Where there are inconsistencies between the Trustee Acts and the provision of this Deed, the provision of this Deed shall, to the extent allowed by law, prevail and, in the case of any such inconsistency with the Trustee Act 2000, the provisions of this Deed shall constitute a restriction or exclusion for the purposes of that Act.

**3. RESIGNATION**

3.1. The Security Trustee may resign and appoint a successor by giving notice to the Seller and the Secured Parties.

3.2. The Security Trustee's resignation notice shall only take effect upon (i) the appointment of a successor, (ii) the transfer of all of the transaction security to that successor and (iii) the successor confirming its agreement to be bound by the provisions of this Deed and any other related agreements to which the Security Trustee is a party.

3.3. Upon the appointment of a successor, the retiring Security Trustee shall be discharged from any further obligation in respect of this Deed but shall remain entitled to the benefit of paragraph 2 of this Schedule. Its successor, the Secured Parties and the Seller shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original party.

**4. DELEGATION / ADDITIONAL SECURITY TRUSTEE**

4.1. The Security Trustee may, at any time, delegate by power of attorney or otherwise to any person for any period all or any of the rights, powers and discretions vested in it by any of this Deed.

4.2. The delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions as the Security Trustee may think fit in the interests of the Secured Parties and it shall not be bound to supervise, or be in any way responsible for any loss incurred by reason of any misconduct or default on the part of any delegate or sub-delegate if in each case, the Security Trustee shall have exercised reasonable care in the selection of the delegate.

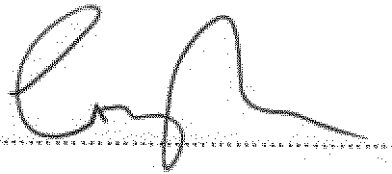
4.3. Furthermore, the Security Trustee may at any time appoint (and subsequently remove) any person to act as a separate Security Trustee or as a co-Security Trustee jointly with it (i) if it considers that appointment to be in the interests of the Secured Parties or (ii) for the purposes of conforming to any legal requirements, restrictions or conditions which the Security Trustee deems to be relevant or (iii) for obtaining or enforcing any judgment in any jurisdiction, and the Security Trustee shall give prior notice to the Seller of any such appointment.

4.4. Any person so appointed (subject to the terms of this Deed) shall have the rights, powers and discretions (not exceeding those conferred on the Security Trustee by this Deed) and the duties and obligations as are conferred or imposed by the instrument of appointment.

4.5. Any costs and expenses incurred by the Security Trustee in exercising its rights under this paragraph 4 shall be borne by the Seller.



EXECUTED as a DEED  
(but not delivered until the date hereof)  
by PROACTIVE INVESTORS LIMITED  
acting by CRAIG RIBTON,  
a director, in the presence of:



Witness Signature



Witness Name:

NICOLA BROWN

Witness Address:

40 RIVERVIEW HEIGHTS

27 BERMONDSEY WALL WEST

LONDON SE16 4TN

Witness Occupation

FINANCIAL CONTROLLER

EXECUTED as a DEED  
(but not delivered until the date hereof)  
by BELVEDERE SECURITY LIMITED  
(as Security Trustee for the Secured Parties)  
in the presence of:



Witness Signature



Witness Name:

Rebecca de Jong

Witness Address:

Belvedere House

Basing View

Basingstoke RG21 4HG

Witness Occupation

Credit Administrator