



Registration of a Charge

Company Name: **CLEARLY SO LIMITED**

Company Number: **06686965**



Received for filing in Electronic Format on the: **20/07/2021**

XA95CN9D

Details of Charge

Date of creation: **01/07/2021**

Charge code: **0668 6965 0002**

Persons entitled: **OCTOPUS ADMINISTRATIVE SERVICES LIMITED
URSEL BARNES
BABU BANGARU
JAMES BRODERICK**

There are more than four persons entitled to the charge.

Brief description: **THE REGISTERED TRADEMARK "CLEARLYSO ATLAS"**

Contains fixed charge(s).

Contains floating charge(s) .

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

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

Certified by:

M BERREEN



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 6686965

Charge code: 0668 6965 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 1st July 2021 and created by CLEARLY SO LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th July 2021 .

Given at Companies House, Cardiff on 21st July 2021

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



Companies House



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

DATED 1 July 2021

(1) THE CHARGOR

and

**(2) THE PERSONS LISTED IN SCHEDULE 1
as Group Secured Lenders**

DEBENTURE

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THIS DEBENTURE is made on

1 July 2021

BETWEEN:

- (1) **CLEARLY SO LIMITED**, a private limited company incorporated under the laws of England and Wales under company number 06686965 (the "**Chargor**");
- (2) **THE PERSONS** listed in Schedule 1 (*The Group Secured Lenders*) (each a "**Group Secured Lender**" and together, the "**Group Secured Lenders**"); and
- (3) Upon accession, the "**Foundation Secured Lender**" and Raymond Maxwell.

IT IS AGREED:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed:

- (a) terms defined in, or construed for the purposes of, the Group Facility Agreement (as defined below), the Foundation Facility Agreement and/or the Maxwell Facility Agreement (as the context requires) have the same meanings when used in this Deed (unless the same are otherwise defined in this Deed); and
- (b) at all times the following terms have the following meanings:

"Account Bank" means any bank or other financial institution with which any Charged Account is maintained from time to time;

"Act" means the Law of Property Act 1925;

"Assigned Assets" means the Security Assets expressed to be assigned pursuant to clause 4.2 (*Security assignments*);

"Charged Accounts" means the accounts of the Chargor from time to time, including without limitation those accounts set out in Part 2 of Schedule 2 (*Details of Security Assets*) of this Deed, in each case, together with the debt or debts represented thereby;

"Charged Securities" means all shares owned by the Chargor in its Subsidiary incorporated in England and Wales, including but not limited to the shares specified in schedule 2 (*Details of Security Assets*);

"Collection Account" has the meaning given to that term in clause 10.2(a)(ii);

"Debt Document":

- (a) has the meaning given to the term "Finance Document" in the Group Facility Agreement; and
- (b) has the meaning given in each of the Further Facility Agreements to a term which is the same or substantially equivalent to the term "Finance Document" under and as defined in the Group Facility Agreement;

"Debenture Security" means the Security created or evidenced by or pursuant to this Deed;

"Declared Default" means:

- (a) an Event of Default (as defined in the Group Facility Agreement) which has resulted in the Group Secured Lenders exercising their rights under clause 11.7 (Acceleration) of the Group Facility Agreement; and
- (b) an event of default which has resulted in a Further Secured Lender exercising any of its rights under a provision which is the same or substantially equivalent to clause 11.7 of the Group Facility Agreement under the Foundation Facility Agreement or the Maxwell Facility Agreement as the case may be.

"Delegate" means any delegate, sub-delegate, agent, attorney or co-trustee appointed by the Majority Secured Lenders or by a Receiver;

"Foundation Facility Agreement" means a loan agreement, instrument or other agreement documenting a facility in an aggregate principal amount of £35,000 from Esmeé Fairbairn Foundation or one of its associated entities as lender to the Chargor as borrower;

"Foundation Secured Lender" means the lender under the Foundation Facility Agreement that has entered into a Secured Lender Accession Undertaking as the Foundation Secured Lender;

"Foundation Secured Lender Commitments" has the meaning given in the Foundation Facility Agreement to a term which is the same or substantially equivalent to the term "Commitment" under and as defined in the Group Facility Agreement, as the context requires.

"Further Facility Agreements" means the Foundation Facility Agreement and the Maxwell Facility Agreement.

"Further Secured Lender" means a lender under the Foundation Facility Agreement or the Maxwell Facility Agreement that has entered into a Secured Lender Accession Undertaking as a Further Secured Lender;

"Group Facility Agreement" means the facility agreement dated the date of this Deed under which the Group Secured Lenders have made available £300,000 of facilities to the Chargor as borrower;

"Group Secured Lender" means each Lender under the Group Facility Agreement;

"Group Secured Lender Commitments" has the meaning given to the term "Commitment" in the Group Facility Agreement;

"Insurances" means all policies of insurance (and all cover notes) which are at any time held by or written in favour of the Chargor or in which the Chargor from time to time has an interest but excluding such policies of insurance to the extent that they relate to third party liabilities;

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

- (a) any patents, utility models, trademarks, service marks, designs, business names, copyrights, database rights, design rights, registered designs, domain names, moral rights, inventions, confidential information, trade secrets, knowhow and all other

intellectual property rights throughout the world and interests (which may now or in the future subsist), whether registered or unregistered; and

- (b) the benefit of all applications (and all goodwill associated with such applications) and rights to use such assets of each member of the Group, including all rights under any agreements relating to the use or exploitation of any such rights, which may now or in the future subsist;

"Majority Secured Lenders" means, at any time, those Secured Lenders whose Secured Lender Commitments at that time aggregate more than 66 2/3 per cent of the Total Secured Lender Commitments at that time;

"Material Property" means all Real Property other than any Short Leasehold Property;

"Maxwell Facility Agreement" means a loan agreement, instrument or other agreement documenting a facility in an aggregate principal amount of £20,000 from Raymond Maxwell as lender to the Chargor as borrower;

"Maxwell Secured Lender Commitments" has the meaning given in the Maxwell Facility Agreement to a term which is the same or substantially equivalent to the term "Commitment" under and as defined in the Group Facility Agreement, as the context requires;

"Party" means a party to this Deed;

"Real Property" means all estates and interests in freehold, leasehold and other immovable property (wherever situated) now or in future belonging to the Chargor, or in which the Chargor has an interest at any time (including the registered and unregistered land (if any) in England and Wales together with:

- (a) all buildings and fixtures (including trade fixtures) and fixed plant and machinery at any time thereon;
- (b) all easements, rights and agreements in respect thereof; and
- (c) the benefit of all covenants given in respect thereof;

"Receivables" means all present and future book debts and other debts, rentals, royalties, fees, VAT and monetary claims and all other amounts at any time recoverable or receivable by, or due or owing to, the Chargor (whether actual or contingent and whether arising under contract or in any other manner whatsoever) together with:

- (a) the benefit of all rights, guarantees, Security and remedies relating to any of the foregoing (including, without limitation, negotiable instruments, indemnities, reservations of property rights, rights of tracing and unpaid vendor's liens and similar associated rights); and
- (b) all proceeds of any of the foregoing;

"Receiver" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Security Assets appointed by the Majority Secured Lenders under this Deed;

"Related Rights" means, in relation to any Charged Securities:

- (a) all dividends, distributions and other income paid or payable on the relevant Charged Securities or on any asset referred to in paragraph (b) of this definition; and

- (b) all rights, monies or property accruing or offered at any time in relation to such Charged Securities whether by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise;

"Secured Lender" means, at any time, the Group Secured Lenders and the Further Secured Lenders at such time;

"Secured Lender Accession Undertaking" means an undertaking substantially in the form set out in Schedule 3 (*Form of Secured Lender Accession Undertaking*);

"Secured Obligations" means any present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or alone or in any other capacity whatsoever) of each member of the Group to the Secured Parties (or any of them) under or pursuant to any Debt Document (including all monies covenanted to be paid under this Deed);

"Secured Parties" means the Secured Lenders and any Receiver or Delegate;

"Security Assets" means all property and assets from time to time mortgaged, charged or assigned (or expressed to be mortgaged, charged or assigned) by or pursuant to this Deed;

"Security Period" means the period beginning on the date of this Deed and ending on the date on which:

- (a) all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full; and
- (b) no Secured Party has any further commitment, obligation or liability under or pursuant to the Debt Documents;

"Short Leasehold Property" means a leasehold property held by the Chargor now or in the future under a lease granted at a rack rate or which has an unexpired term of 15 years or less at the date of this Deed (or in the case of future acquired leasehold property, at the date of acquisition of such property by the Chargor).

"Total Secured Lender Commitments" means, at any time, the aggregate of the Group Secured Lenders Commitments, the Foundation Secured Lender Commitments and the Maxwell Secured Lender Commitments at that time.

1.2 Interpretation

- (a) Unless a contrary indication appears, in this Deed the provisions of clause 1.2 (*Construction*) of the Group Facility Agreement (other than clause 1.2(d)) apply to this Deed as though they were set out in full in this Deed, except that references to *"this Agreement"* will be construed as references to this Deed.
- (b) Unless a contrary indication appears, any reference in this Deed to:
 - (i) the **"Chargor"**, any **"Group Secured Lender"**, any **"Further Secured Lender"**, any **"Secured Lender"** or any other **"Secured Party"** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
 - (ii) **"this Deed"**, the **"Group Facility Agreement"**, the **"Foundation Facility Agreement"**, the **"Maxwell Facility Agreement"** any other Debt Document or any other agreement or instrument is a reference to this Deed, the Group

Facility Agreement, the Foundation Facility Agreement, the Maxwell Facility Agreement that other Debt Document or that other agreement or instrument as amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally and even if any of the same increases the obligations of any member of the Group or provides for further advances);

- (iii) **"Secured Obligations"** includes obligations and liabilities which would be treated as such but for the liquidation, administration or dissolution of or similar event affecting any member of the Group; and
 - (iv) **"Declared Default"** is **continuing** if it has not been revoked or otherwise ceases to be continuing in accordance with the terms of the applicable Debt Documents.
- (c) Each undertaking of the Chargor (other than a payment obligation) contained in this Deed:
- (i) must be complied with at all times during the Security Period; and
 - (ii) is given by the Chargor for the benefit of the Secured Lenders and each other Secured Party.
- (d) The terms of the other Debt Documents, and of any side letters between any of the parties to them in relation to any Debt Document, are incorporated in this Deed to the extent required to ensure that any disposition of the Real Property contained in this Deed is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- (e) Notwithstanding anything to the contrary in this Deed (and without prejudice to the terms of any other Debt Document in relation to the requirement for the Secured Lenders to enter into documentation in relation to this Deed (including releases)), nothing in this Deed shall (or shall be construed to) prohibit, restrict or obstruct any transaction, matter or other step (or the Chargor taking or entering into the same) or dealing in any manner whatsoever in relation to any asset (including all rights claims, benefits, proceeds and documentation, and contractual counterparties in relation thereto) the subject of, (or expressed to be the subject of) this Deed and the security arising thereunder in each case if not prohibited by the Group Facility Agreement, the Foundation Facility Agreement, the Maxwell Facility Agreement or any other Debt Documents or otherwise consented to. The Secured Lenders shall promptly enter into such documentation and/or take such other action as is required by the Chargor (acting reasonably) in order to facilitate any such transaction, matter or other step, including by way of executing any confirmation, consent to dealing, release or other similar or equivalent document.
- (f) The Parties intend that this document shall take effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

1.3 Inconsistencies between this Deed and the Debt Documents

If there is any conflict or inconsistency between any provision of this Deed and any provision of the Group Facility Agreement and/or the Foundation Facility Agreement, and/or Maxwell Facility Agreement the provision of the Group Facility Agreement and/or the Foundation Facility Agreement and/or the Maxwell Facility Agreement shall prevail.

1.4 Third party rights

Save as expressly provided to the contrary in this Deed, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.

2. COVENANT TO PAY

2.1 Covenant to pay

- (a) The Chargor, as principal obligor and not merely as surety, covenants in favour of the Secured Parties that it will pay and discharge the Secured Obligations from time to time when they fall due.
- (b) Every payment by the Chargor of a Secured Obligation which is made to or for the benefit of a Secured Party to which that Secured Obligation is due and payable in accordance with the Debt Document under which such sum is payable to that Secured Party, shall operate in satisfaction to the same extent of the covenant contained in clause 2.1(a).

3. GRANT OF SECURITY

3.1 This Deed and the security

- (a) All Security and dispositions created or made by or pursuant to this Deed are created or made:
 - (i) in favour of the Secured Parties;
 - (ii) with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994; and
 - (iii) as continuing security for payment of the Secured Obligations.
- (b) Notwithstanding any provision of this Deed or any Debt Document, the provisions of this Deed and the Debt Documents including clause 3.1(a) above and the Security and dispositions hereunder are subject to a call option granted over shares in Catalyst Fund Management & Research Limited on 1 January 2014 (and to any exercise thereof) ("**Call Option**"). Nothing in this Deed or any Debt Document shall invalidate or conflict with the Call Option or its exercise by the grantee or holder thereof or the performance of the Borrower's obligations under the Call Option.

3.2 Qualifying floating charge

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to any floating charge created by or pursuant to this Deed (and each such floating charge is a qualifying floating charge for the purposes of the Insolvency Act 1986).

4. FIXED SECURITY

4.1 Fixed charges

The Chargor charges and agrees to charge all of its present and future right, title and interest in and to the following assets which are at any time owned by it or in which it from time to time has an interest:

- (a) by way of first fixed charge:
 - (i) any Material Property and all interests in Material Property;
 - (ii) all licences to enter upon or use land and the benefit of all other agreements relating to land; and
 - (iii) the proceeds of sale of all Real Property;
- (b) by way of first fixed charge all plant and machinery and the benefit of all contracts, licences and warranties relating to the same;
- (c) by way of first fixed charge:
 - (i) the Collection Accounts and all monies at any time standing to the credit of the Collection Accounts; and
 - (ii) all other accounts of the Chargor with any bank, financial institution or other person at any time (not charged by clause 4.1(c)(i) and all monies at any time standing to the credit of such accounts,

in each case, together with all interest from time to time accrued or accruing on such monies, any investment made out of such monies or account and all rights to repayment of any of the foregoing;
- (d) by way of first fixed charge, the Intellectual Property;
- (e) to the extent that any Assigned Asset is not effectively assigned under clause 4.2 (*Security assignments*), by way of first fixed charge such Assigned Asset;
- (f) by way of first fixed charge (to the extent not otherwise charged or assigned in this Deed):
 - (i) the benefit of all licences, consents, agreements and Authorisations held or used in connection with the business of the Chargor or the use of any of its assets; and
 - (ii) any letter of credit issued in favour of the Chargor and all bills of exchange and other negotiable instruments held by it; and
- (g) by way of first fixed charge all of the goodwill and uncalled capital of the Chargor.

4.2 Security assignments

- (a) The Chargor assigns and agrees to assign absolutely (subject to a proviso for reassignment on redemption) all of its present and future right, title and interest in and to:
 - (i) all Insurances and all claims under the Insurances and all proceeds of the Insurances; and
 - (ii) all other Receivables (not assigned under clause 4.2(a)(i)).

4.3 Notice of assignment and/or charge

Upon 10 Business Days' written notice by the Majority Secured Lenders at any time after the occurrence of a Declared Default which is continuing, the Chargor will:

- (a) in respect of the Charged Accounts deliver a notice of charge in usual form (to be determined by the Majority Secured Lenders acting reasonably) to the Account Bank, and
- (b) in respect of each of its Insurances, deliver a notice of assignment in usual form (to be determined by the Majority Secured Lenders acting reasonably) to the provider of each such insurance.

5. FLOATING CHARGE

The Chargor charges and agrees to charge by way of first floating charge all of its present and future assets and undertaking (wherever located and not otherwise effectively charged by way of fixed mortgage or charge or assigned pursuant to clause 4.1 (*Fixed charges*), clause 4.2 (*Security assignments*) or any other provision of this Deed) excluding the shares subject to the Call Option.

6. CONVERSION OF FLOATING CHARGE

6.1 Conversion by notice

The Majority Secured Lenders may, by written notice to the Chargor, convert the floating charge created under this Deed into a fixed charge as regards all or any of the assets of the Chargor specified in the notice if a Declared Default has occurred and is continuing.

6.2 Part A1 Moratorium

- (a) The floating charge created under this Deed by the Chargor shall not convert into a fixed charge solely by reason of a moratorium being obtained under Part A1 of the Insolvency Act 1986 (or anything done with a view to obtaining such a moratorium (including any preliminary decision or investigation)) in respect of the Chargor.
- (b) Clause 6.2(a) does not apply to a floating charge created under this Deed which falls within any of the categories described in section A52(4) of the Insolvency Act 1986.

6.3 Automatic conversion

The floating charge created under this Deed shall (in addition to the circumstances in which the same will occur under general law) automatically convert into a fixed charge:

- (a) in relation to any material Security Asset which is subject to a floating charge if the Chargor creates any Security (other than a Permitted Security or otherwise as permitted by the Debt Documents) on or over the relevant Security Asset without the prior consent of the Majority Secured Lenders; and
- (b) over all Security Assets of the Chargor which are subject to a floating charge if an administrator is appointed in respect of the Chargor or the Secured Lenders receive notice of intention to appoint such an administrator (as contemplated by the Insolvency Act 1986).

6.4 Partial conversion

The giving of a notice by the Majority Secured Lenders pursuant to clause 6.1 (*Conversion by notice*) in relation to any asset or class of assets of the Chargor shall not be construed as a waiver or abandonment of the rights of the Majority Secured Lenders to serve similar notices in respect of any other asset or class of assets or of any other right of the Majority Secured Lenders and/or the other Secured Parties.

7. CONTINUING SECURITY

7.1 Continuing security

The Debenture Security is continuing and will extend to the ultimate balance of the Secured Obligations regardless of any intermediate payment or discharge in whole or in part. This Deed shall remain in full force and effect as a continuing security for the duration of the Security Period.

7.2 Additional and separate security

This Deed is in addition to, without prejudice to, and shall not merge with, any other right, remedy, guarantee or Security which the Secured Lenders and/or any other Secured Party may at any time hold for any Secured Obligation.

7.3 Right to enforce

This Deed may be enforced against the Chargor without the Secured Lenders and/or any other Secured Party first having recourse to any other right, remedy, guarantee or Security held by or available to it or any of them.

8. LIABILITY OF CHARGOR RELATING TO SECURITY ASSETS

Notwithstanding anything contained in this Deed or implied to the contrary, the Chargor remains liable to observe and perform all conditions and obligations assumed by it in relation to the Security Assets. No Secured Party is under an obligation to perform or fulfil any such condition or obligation or to make any payment in respect of any such condition or obligation.

9. REPRESENTATIONS

9.1 General

The Chargor makes the representations and warranties set out in this clause 9 to the Secured Lenders and to each other Secured Party on the date of this Deed.

9.2 Ownership of Security Assets

The Chargor is the sole legal and beneficial owner of all of the Security Assets identified against its name in schedule SCHEDULE 2: (*Details of Security Assets*).

9.3 Charged Securities

The Charged Securities listed in part 1 of schedule SCHEDULE 2: (*Details of Security Assets*) are:

- (a) fully paid and constitute the entire share capital owned by the Chargor in the relevant company and constitute the entire issued share capital of each such company; and

- (b) subject to the Call Option.

10. UNDERTAKINGS BY THE CHARGOR

10.1 Negative pledge and Disposals

The Chargor shall not or agree to do any of the following:

- (a) create or permit to subsist any Security or Quasi-Security on any Security Asset other than as created by this Deed or a Permitted Security or otherwise as permitted by a Debt Document; or
- (b) sell, transfer, lease, lend or otherwise dispose of (whether by a single transaction or a number of transactions and whether related or not and whether voluntarily or involuntarily) the whole or any part of its interest in any Security Asset (other than under the Call Option or in respect of assets charged under clause 5 (*Floating Charge*) in the ordinary course of trading), except as not prohibited by any Debt Documents or with the consent of the Majority Secured Lenders.

10.2 Dealings with and realisation of Receivables and Collection Accounts

- (a) The Chargor shall:
 - (i) following the occurrence of a Declared Default which is continuing collect all Receivables in the ordinary course of trading as agent for the Secured Parties;
 - (ii) following the occurrence of a Declared Default which is continuing, promptly upon receipt pay all monies which it receives in respect of the Receivables into any account held with an Account Bank over which the Chargor has granted Security to the Secured Parties pursuant to the terms of this Deed (each such account together with all additions to or renewals or replacements thereof (in whatever currency) being (following a Declared Default which is continuing) a "**Collection Account**"), and
 - (iii) following the occurrence of a Declared Default which is continuing pending such payment, hold all monies so received upon trust for the Secured Parties.
- (b) Following the occurrence of a Declared Default which is continuing the Chargor shall deal with the Receivables (both collected and uncollected) and the Collection Accounts in accordance with this Deed.

10.3 Charges over Collection Accounts

If the right of the Chargor to withdraw the proceeds of any Receivables standing to the credit of a Collection Account results in the charge over that Collection Account being characterised as a floating charge, that will not affect the nature of any other fixed security created by the Chargor under this Deed on any of its outstanding Receivables.

10.4 Charged Securities - protection of security

- (a) Subject to clause 10.4(b) below, the Chargor shall, after the occurrence of a Declared Default which is continuing, on request by the Majority Secured Lenders, by way of security for the Secured Obligations:

- (i) deposit with the individual Secured Lender notified to them by the Majority Secured Lenders all certificates and other documents of title or evidence of ownership to the Charged Securities and their Related Rights; and
- (ii) execute and deliver to the individual Secured Lender notified to them by the Majority Secured Lenders:
 - (A) instruments of transfer in respect of the Charged Securities (executed in blank and left undated); and/or
 - (B) such other documents as the Majority Secured Lenders shall reasonably require to enable each of them (or their nominees) to be registered as the owner of or otherwise to acquire a legal title to the Charged Securities and their Related Rights (or to pass legal title to any purchaser).
- (b) The Chargor shall have no obligation under clause 10.4(a) above until the grantee or then holder of the Call Option has confirmed in writing to the Secured Lenders that the Call Option has expired or will not be exercised.

10.5 Rights of the Chargor in respect of Charged Securities

- (a) Unless a Declared Default has occurred and is continuing and the Floating Charged has been converted into a fixed charge, the Chargor shall be entitled to:
 - (i) receive and retain all dividends, distributions and other monies paid on or derived from its Charged Securities; and
 - (ii) exercise all voting and other rights and powers attaching to its Charged Securities.

11. WHEN SECURITY BECOMES ENFORCEABLE

11.1 When enforceable

The Debenture Security shall become immediately enforceable upon the occurrence of a Declared Default which is continuing.

11.2 Enforcement Instructions

Subject to the Debenture Security having become enforceable in accordance with its terms, the Majority Secured Lenders may enforce or refrain from enforcing the Debenture Security as they see fit.

11.3 Manner of enforcement

If the Debenture Security is being enforced pursuant to clause 11.2 (Enforcement Instructions), the Majority Secured Lenders may enforce the Debenture Security in such manner (including, without limitation, the selection of any administrator (or any analogous officer in any jurisdiction) of the Chargor to be appointed by the Majority Secured Lenders) as they see fit.

11.4 Statutory powers

The power of sale and other powers conferred by section 101 of the Act (as amended or extended by this Deed) shall be immediately exercisable upon and at any time after the occurrence of any Declared Default which is continuing.

12. ENFORCEMENT OF SECURITY

12.1 General

For the purposes of all rights and powers implied by statute, Secured Obligations are deemed to have become due and payable on the date of this Deed. Sections 93 and 103 of the Act shall not apply to the Debenture Security.

12.2 Powers of Secured Lenders

- (a) At any time after the Debenture Security becomes enforceable (or if so requested by the Chargor by written notice at any time), the Majority Secured Lenders may without further notice (unless required by law):
 - (i) appoint any person (or persons) to be a receiver, receiver and manager or administrative receiver of all or any part of the Security Assets and/or of the income of the Security Assets; and/or
 - (ii) appoint or apply for the appointment of any person who is appropriately qualified as administrator of the Chargor; and/or
 - (iii) exercise all or any of the powers conferred on mortgagees by the Act (as amended or extended by this Deed) and/or all or any of the powers which are conferred by this Deed on a Receiver, in each case without first appointing a Receiver or notwithstanding the appointment of any Receiver.
- (b) The Secured Lenders are not entitled to appoint a Receiver in respect of any Security Assets of the Chargor which are subject to a charge which (as created) was a floating charge solely by reason of a moratorium being obtained under Part A1 of the Insolvency Act 1986 (or anything done with a view to obtaining such a moratorium, including any preliminary decision or investigation) in respect of the Chargor, unless the floating charge falls within any of the categories described in section A52(4) of the Insolvency Act 1986.

12.3 Privileges

- (a) Each Receiver and the Secured Lenders are entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers when such receivers have been duly appointed under the Act, except that section 103 of the Act does not apply.

12.4 No liability

- (a) Neither the Secured Lenders, any other Secured Party nor any Receiver or Delegate shall be liable (A) in respect of all or any part of the Security Assets or (B) for any loss or damage which arises out of the exercise of its or his respective powers under and in accordance with this Deed (unless such loss or damage is caused by its or his gross negligence or wilful misconduct).
- (b) Without prejudice to the generality of clause 12.4(a), neither the Secured Lenders any other Secured Party nor any Receiver or Delegate shall be liable, by reason of entering into possession of a Security Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

12.5 Protection of third parties

No person (including a purchaser) dealing with the Secured Lenders or any Receiver or Delegate will be concerned to enquire:

- (a) whether the Secured Obligations have become payable;
- (b) whether any power which the Secured Lenders or the Receiver is purporting to exercise has become exercisable;
- (c) whether any money remains due under any Debt Document; or
- (d) how any money paid to the Secured Lenders or to the Receiver is to be applied.

13. RECEIVER

13.1 Removal and replacement

The Majority Secured Lenders may from time to time remove any Receiver appointed by them (subject, in the case of an administrative receivership, to section 45 of the Insolvency Act 1986) and, whenever they may deem appropriate, may appoint a new Receiver in the place of any Receiver whose appointment has terminated.

13.2 Multiple Receivers

If at any time there is more than one Receiver of all or any part of the Security Assets and/or the income of the Security Assets, each Receiver shall have power to act individually (unless otherwise stated in the appointment document).

13.3 Remuneration

Any Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Majority Secured Lenders (or, failing such agreement, to be fixed by the Majority Secured Lenders).

13.4 Payment by Receiver

Only monies actually paid by a Receiver to the Secured Lenders in relation to the Secured Obligations shall be capable of being applied by the Secured Lenders in discharge of the Secured Obligations.

13.5 Agent of Chargor

Any Receiver shall be the agent of the Chargor in respect of which it is appointed. The Chargor shall (subject to the Companies Act 2006 and the Insolvency Act 1986) be solely responsible for his acts and defaults and for the payment of his remuneration. No Secured Party shall incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

14. POWERS OF RECEIVER

Any Receiver shall have:

- (a) all the powers which are conferred on the Secured Lenders by clause 12.2 (*Powers of Secured Lenders*);

- (b) all the powers which are conferred by the Act on mortgagees in possession and receivers appointed under the Act;
- (c) (whether or not he is an administrative receiver) all the powers which are listed in schedule 1 of the Insolvency Act 1986; and
- (d) all powers which are conferred by any other law conferring power on receivers.

15. APPLICATION OF PROCEEDS

15.1 Application

All amounts from time to time received or recovered by the Secured Parties in connection with the realisation or enforcement of all or any part of the Debenture Security shall be held by the Secured Parties to apply them at any time as the Secured Parties (in their discretion) see fit, to the extent permitted by applicable law (and subject to the provisions of this clause 15.1), in the following order of priority:

- (a) in discharging any sums owing to any Receiver or any Delegate;
- (b) in discharging all reasonable costs and expenses incurred by any Secured Lender in connection with any realisation or enforcement of the Debenture Security taken in accordance with the terms of this Agreement;
- (c) in payment or distribution to the Secured Lenders for application towards the discharge of the Secured Obligations pro rata to the Total Secured Lender Commitments of each Secured Lender; and
- (d) the balance, if any, in payment or distribution to the Chargor.

15.2 Appropriation

- (a) Subject to clause 15.1 (*Application*), the Secured Lenders shall apply all payments received in respect of the Secured Obligations in reduction of any part of the Secured Obligations in any order or manner which they may determine.
- (b) Any such appropriation shall override any appropriation by the Chargor.

16. SET OFF

A Secured Lender may set off any matured obligation due from the Chargor under the Debt Documents against any matured obligation owed by the Secured Lenders to the Chargor, regardless of the place of payment, booking branch or currency of either obligation.

17. DELEGATION

Each of the Secured Lenders and any Receiver may delegate, by power of attorney to any person, any right, power or discretion exercisable by them under this Deed upon any terms (including power to sub-delegate) which it may think fit.

18. FURTHER ASSURANCES

Clause 10.3 (*Further Assurance*) of the Facility Agreement shall apply to this Deed mutatis mutandis as if set out in full herein.

19. POWER OF ATTORNEY

The Chargor, by way of security, irrevocably and severally appoints the Secured Lenders, each Receiver and any Delegate to be its attorney to take any action once the Debenture Security has become enforceable which the Chargor is obliged to take under this Deed. The Chargor ratifies and confirms whatever any attorney properly does in accordance with its appointment under this clause.

20. CHANGES TO THE PARTIES

20.1 Chargor

The Chargor may not assign any of its rights or obligations under this Deed.

20.2 Secured Lenders

No Secured Lender may assign any of its rights or obligations under this Deed.

20.3 Secured Lender Accession Undertaking

In order for a person to be a "Further Secured Lender" and a "Secured Lender" for the purposes of this Deed, the creditor in respect of the Foundation Facility Agreement and/or the Maxwell Facility Agreement shall accede to this Deed as a Further Secured Lender and a Secured Lender in relation to its Further Facility Agreement by executing a Secured Lender Accession Undertaking.

21. NOTICES

21.1 Communications in writing

Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by letter.

21.2 Addresses

The address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed is, in the case of each Party, that identified with its signature block in the Group Facility Agreement or any substitute address or department or officer as the Party may notify to the other by not less than five Business Days' notice.

21.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address.
- (b) Any communication or document which becomes effective, in accordance with paragraph (a) above, after 5:00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

21.4 Notification of address

Each Party shall notify the other Party promptly upon changing its address.

21.5 Electronic communication

- (a) Any communication to be made between any two Parties under or in connection with this Deed may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two Parties:
 - (i) notify each other in writing of their electronic mail address(es) (but not more than two such addresses) and/or any other information required to enable the transmission of information by that means; and
 - (ii) notify each other of any change to their address(es) or any other such information supplied by them by not less than five Business Days' notice.
- (b) The electronic mail address(es) set out against the name of each Party in their signature block are notified in writing as that Party's electronic mail address(es) for the purposes of clause 21.5(a)(i).
- (c) Any such electronic communication as specified in paragraph (a) above made between any two Parties will be effective only when actually received (or made available) in readable form.
- (d) Any electronic communication which becomes effective, in accordance with paragraph (c) above, after 5:00 p.m. in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Deed shall be deemed only to become effective on the following day.
- (e) Any reference in this Deed to a communication being sent or received shall be construed to include that communication being made available in accordance with this clause 21.5.

21.6 English language

Any notice or document given or provided under or in connection with this Deed must be in English.

22. PARTIAL INVALIDITY

All the provisions of this Deed are severable and distinct from one another and if at any time any provision is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of any 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.

23. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of any Party, any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise, or the exercise of any other right or remedy. The rights and remedies provided are cumulative and not exclusive of any rights or remedies provided by law.

24. AMENDMENTS AND WAIVERS

Any provision of this Deed may be amended in writing by the Secured Lenders and the Chargor. Any breach of this Deed by the Chargor may be waived before or after it occurs only if the

Majority Secured Lenders so agree in writing. Any breach of this Deed by the Secured Lenders or any of them may be waived before or after it occurs only if the Chargor so agrees in writing.

25. COUNTERPARTS

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

26. RELEASE

Upon the expiry of the Security Period (but not otherwise) the Secured Lenders and/or the Secured Parties shall, at the request and cost of the Chargor, take whatever action is necessary to release or re-assign (without recourse or warranty) the Security Assets from the Debenture Security.

27. GOVERNING LAW

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

28. ENFORCEMENT AND JURISDICTION

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a "**Dispute**").
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

IN WITNESS of which this Deed has been duly executed by the Chargor as a deed and duly executed by the Secured Lenders and has been delivered on the first date specified on page 1 of this Deed by the Chargor.

SCHEDULE 1: THE GROUP SECURED LENDERS

Jonathan Adams

Babu Bangaru

Ursel Barnes

Jamie Broderick

Malcolm Gloak

Octopus Administrative Services Limited

Nic Humphries

Chris Parsons

Brian Rusling

Reto Wey

SCHEDULE 2: DETAILS OF SECURITY ASSETS

Charged Securities

Chargor	Name of company in which shares are held	Class of shares held	Number of shares held	Issued share capital
Clearly So Limited	Catalyst Fund Management & Research Limited	Ordinary shares of £1 each	1,000	1,000
Clearly So Limited	Catalyst Fund Management & Research Limited	Preference shares of £1 each	145,000	145,000
Clearly So Limited	Catalyst Fund Management & Research Limited	Deferred shares of £1 each	312,500	312,500

Bank Accounts

Name of Chargor	Name of institution at which account is held	Account Number	Sort Code
Clearly So Limited	[REDACTED]	[REDACTED]	[REDACTED]
Clearly So Limited	[REDACTED]	[REDACTED]	[REDACTED]

SCHEDULE 3: FORM OF SECURED LENDER ACCESSION UNDERTAKING

To: The Chargor and Group Secured Lenders

From: [Further Secured Lender]

This Undertaking is made on [date] by [*insert full name of Further Secured Lender*] (the “**Acceding Party**”) in relation to the debenture (the “**Debenture**”) dated [●] between Clearly So Limited as Chargor and the Group Secured Lenders (each as defined in the Debenture). Terms defined in the Debenture shall, unless otherwise defined in this Undertaking, bear the same meanings when used in this Undertaking.

In consideration of the Acceding Party being accepted as a Further Secured Lender and a Secured Party for the purposes of the Debenture, the Acceding Party confirms that, as from [*date*], it intends to be party to the Debenture as a Further Secured Lender and as a Secured Party and undertakes to perform all the obligations expressed in the Debenture to be assumed by a Further Secured Lender and a Secured Lender and agrees that it shall be bound by all the provisions of the Debenture as if it had been an original party to the Debenture.

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

THIS UNDERTAKING has been entered into as delivered on the date stated above.

Acceding Secured Lender

[*insert full name of Further Secured Lender*]

By:

Address:

Accepted by the Chargor

Date:

EXECUTION PAGES

THE CHARGOR

EXECUTED as a deed, but not delivered until the)
first date specified on page 1, by **CLEARLY SO**)
LIMITED acting by a director)

Rod Schwartz, director

Witness signature: _____

Witness name: _____

Witness address: _____

Email addresses of Clearly So Limite

[REDACTED]

THE SECURED LENDERS

SIGNED by
JONATHAN ADAMS

[REDACTED]

Email:

[REDACTED]

SIGNED by
BABU BANGARU

A large black rectangular redaction box covering the signature area.

Ema

A black rectangular redaction box covering the email address.

SIGNED by
URSEL BARNES

[REDACTED]

Email

[REDACTED]

SIGNED by
JAMIE BRODERICK

[REDACTED]

Email [REDACTED]

SIGNED by
MALCOLM GLOAK



Email 

SIGNED by
NIC HUMPHRIES

[REDACTED]

Ema

[REDACTED]

SIGNED by
CHRISTOPHER PARSONS

[REDACTED]

Ema

[REDACTED]

SIGNED by
BRIAN RUSLING

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Email

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SIGNED by
RETO WEY

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Email

A black redaction mark covering the email address.

SIGNED on behalf of
OCTOPUS ADMINISTRATIVE SERVICES LIMITED



By: **CHRIS HULATT**

Title: **DIRECTOR**

Email: 

EXECUTION PAGES

THE CHARGOR

EXECUTED as a deed, but not delivered until the)
first date specified on page 1, by CLEARLY SO)
LIMITED acting by a director)

[REDACTED]
Rod Schwartz, director

Witness signature

Witness name:

Witness address:

[REDACTED]
ANNE-MARIE HUBB.

Email addresses of Clearly So Limited