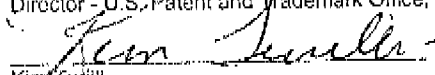


Atty. Docket: J732-001

CERTIFICATE OF FACSIMILE TRANSMISSION:

I hereby certify that this correspondence is being sent via facsimile to 703-306-5995 for recordal purposes to Box Assignment, Director - U.S. Patent and Trademark Office, Washington, D.C. 20231 on February 13, 2003.


 Kim Furrill
Dated: 2-13-03
**RECORDATION FORM COVER SHEET
PATENTS ONLY**
VIA FAX 703-306-5995**BOX ASSIGNMENT**

Director - U.S. Patent and Trademark Office
Washington, D.C. 20231

Please record the attached document(s) and return the Notice of Recordation, Via Fax, to **212-278-8687**.

- Name(s) of conveying party(ies):
Visergo Limited
- Name and address of receiving party(ies):
**GATX European Technology Ventures
Bond House
19/20 Woodstock Street
London W1R 1HF United Kingdom**
- Nature of Conveyance (i.e., Assignment, Merger, Name Change): Mortgage
Execution Date: January 31, 2003
- Application and/or Patent No(s):

<u>Application Serial No(s).</u>	<u>Letters Patent No(s).</u>
09/548,661	
09/548,662	
- Name and address of party to whom correspondence concerning document should be mailed:

NOTARO & MICHALOS P.C.
100 Dutch Hill Road
Suite 110
Orangeburg, New York 10962-2100
Telephone: (845) 359-7700
Telefax: (845) 359-7798

Customer No.: 21706

- Total number of applications and/or patents involved: 2
- Total Fee (37 C.F.R. 3.41/\$40.00 for each patent property): **\$80.00** (Charge to Deposit Account No. **14-1431**).
- The Commissioner is further authorized to charge any underpayment and/or credit any overpayment to Deposit Account No. **14-1431**.
- To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.



Peter C. Michalos
Reg. No. 28,643
Attorney for Applicant(s)

Dated: 2/13/03**PATENT**

DEED OF MORTGAGE ASSIGNMENT AND CHARGE

DATED 31 JANUARY 2003

BETWEEN:

MICROSOL HOLDINGS LIMITED AND OTHERS

AND

GATX EUROPEAN TECHNOLOGY VENTURES



MASON HAYES & CURRAN
SOLICITORS

6, Fitzwilliam Square,
DUBLIN 2.

Ph: 01 - 614 5000
Fax: 01 - 614 5001
<http://www.mhc.ie>
mail@mhc.ie

Ref: SMcN

DEED OF MORTGAGE ASSIGNMENT AND CHARGE dated 31 day of January 2003

BETWEEN

- (1) **MICROSOL HOLDINGS LIMITED** a company registered in Ireland under Borrower number 322415 the registered office of which is at 28 Enterprise Centre, Pearse Street, Dublin 2, **MICROSOL LIMITED** a company registered in Ireland under Borrower number 111881 the registered office of which is at 28 Enterprise Centre, Pearse Street, Dublin 2, **MICROSOL EUROPE LIMITED** a company registered in Ireland under company number 348525 having its registered office at Unit 28 Enterprise Centre, Pearse Street, Dublin 2 and **VISERGE LIMITED** a company registered in Ireland under Borrower number 163423 the registered office of which is at 28 Enterprise Centre, Pearse Street, Dublin 2 ("**the Borrowers**") and each a "**Borrower**" which expression includes each on a joint and several basis).
- (2) **GATX EUROPEAN TECHNOLOGY VENTURES** of Bond House 19/20 Woodstock Street, London W1R 1HF (the "**Lender**").

BACKGROUND:

- A. The Lender has agreed to make available to the Borrowers a term facility of up to €2,000,000 (two million Euro) subject to and upon the terms and conditions contained in the Loan Agreement (as defined below).
- B. As a condition precedent to and pursuant to the provisions of the Loan Agreement the Borrowers have agreed to enter into this Deed of Mortgage Assignment and Charge for the purpose of providing security to the Lender.

THIS DEED OF ASSIGNMENT, MORTGAGE WITNESSES as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 The following definitions apply in this Mortgage:

'Applications'

Any and all applications for the registration of Intellectual Property Rights which have been made as at the date of this Mortgage or are made at any time during the subsistence of this security by or on behalf of the Borrowers in any registry or office in any part of the world including without limitation those applications in those registries and offices which are listed in Schedule 1.

'Conveyancing Acts'

The expression "Conveyancing Act" means the Conveyancing and Law of Property Act, 1881, and the expression "the Conveyancing Acts" shall mean the Conveyancing and Law of Property Acts, 1881-1911.

'Derivative Materials'

Any and all materials of any description directly or indirectly derived from the Physical Materials whether the same are manufactured or created by or on behalf of the Borrowers or any Intellectual Property User or any other third party.

'Equipment'

Any capital equipment, equipment, machinery, plant, office equipment, computer equipment acquired in the ordinary course of business in connection with the business of any of the Borrowers.

'Event of Default'

Any event of default pursuant to the provisions of the Loan Agreement and/or any event of default or breach of warranty or non-performance by the Borrowers of any of the undertakings warranties and/or obligations on the part of the Borrowers contained in this Mortgage.

'Facility Documents'

Shall have the meaning ascribed to it in the Loan Agreement.

'Group' shall have the meaning ascribed to it in the Loan Agreement.

'Insurance'

Means all contracts and policies of insurance and re-insurance of any kind taken out or, as the context requires, to be taken out and maintained by or on behalf of any Borrower or in which any Borrower has an interest.

'Insurance Proceeds'

Means all proceeds of insurance payable to or received by any Borrower (whether by way of claims, return premiums, ex-gratia payments or otherwise) but excluding for the avoidance of doubt, liability of any Borrower for third party claims to the extent that those proceeds are applied directly to discharge a liability of any Borrower to a third party.

'Intellectual Property Rights'

Any and all other rights of copyright, design, right, know-how, patent, registered design right, service mark, trade mark, computer software and any other intellectual property rights of any description whatever which are now vested in, assigned to or licensed to the Borrowers or which have been acquired by or created by the Borrowers prior to the date of this Mortgage or are acquired by or created by or assigned to or licensed to or vested in the Borrowers at any time during the subsistence of this security including without limitation those intellectual property rights short particulars of which are contained in Schedule 2 including specifically all goodwill associated

with such Intellectual Property Rights but excluding all other goodwill of the Borrowers.

'the Lender'

The expression "the Lender" shall include successors and assigns and the holders for the time being of this Mortgage.

'Loan Agreement'

The loan agreement in connection with a loan facility of up to €2,000,000 of even date between the Lender and the Borrowers and any and all schedules and exhibits attached to it or incorporated in it by reference and any and all ancillary and connected agreements and documents and/or in each case any variation amendment or extension thereof or supplement thereto from time to time.

'Materials'

The Physical Materials and/or the Derivative Materials.

'Mortgage'

This Deed of Mortgage Assignment and Charge and any and all schedules to it.

'Permitted security Interest'

Shall have the meaning ascribed to it in the Loan Agreement.

'Perpetuity Period'

The period starting today and ending on the date that is 18 years after the date of the death of the last survivor of the lineal descendants of His Britannic Majesty King George V living today.

'Planning Acts'

The Local Government (Planning and Development) Acts, 1963 to 1999 and Planning and Development Act 2000 and all Regulations made thereupon.

'Property'

The property and assets intended to be mortgaged, charged and assigned hereby by the Borrowers.

'Physical Materials' and 'Materials'

Every item of material, whether physical or otherwise of any description or type whatever in or in respect of which Intellectual Property Rights may subsist and in respect of each such item the original copy or version or variant owned by produced by or delivered to or obtained by the Borrowers and any rejected and/or surplus materials associated or connected with or forming part of the foregoing which shall include without limitation any and all log books designs sketches calculations diagrams computations source codes models prototypes apparatus substances trials samples by-products chemicals biological and/or genetic material computer programs photographs books and other records in any medium films sound recordings electronic data and any other material of any description whatever in which Intellectual Property Rights may be incorporated.

'Receiver'

Any receiver or manager or administrative receiver of the Borrowers.

'Secured Property'

All the property assets and rights of the Borrowers mortgaged charged assigned or licensed (or which may at any time become mortgaged charged assigned or licensed) by or pursuant to this Mortgage and includes any part of or interest in any of the same.

'Secured Sums'

Any and all moneys obligations and liabilities, arising under or pursuant to the Facility Documents as defined in the Loan Agreement, now or in the future due owing or incurred to the Lender by the Borrowers whether actually or contingently and whether alone or jointly with any other person and whether as principal or surety and whether on any current or other account or otherwise including without limitation principal interest fees costs damages or otherwise and references to the Secured Sums include references to any of such sums.

'subsidiary' and 'holding company' shall have the meaning ascribed to them in Section 155 of the Companies Act, 1963 and 'subsidiaries' shall be construed accordingly.

'Trade Marks'

Any trade mark or service mark now owned or acquired by the Borrower or owned or acquired by the Borrower at any time during the subsistence of this security irrespective of whether or not any such mark is registered.

1.2 Interpretation

In this Mortgage, unless the context otherwise requires, references to:

- 1.2.1 persons include references to natural persons, firms, partnerships, companies, corporations, associations, organisations and trusts (in each case whether or not having a separate legal personality);
- 1.2.2 documents, instruments and agreements (including, without limitation, this Mortgage and any document referred to in this Mortgage) are references to such documents, instruments and agreements as modified, amended, varied, supplemented or novated from time to time;
- 1.2.3 receivers are references to receivers of whatsoever nature including, without limitation, receivers and managers and administrative receivers;
- 1.2.4 the terms the "Lender" and the "Receiver" include, where the context so admits, references to any delegate of any such person;
- 1.2.5 a party to this Mortgage include references to its successors, transferees and permitted assigns;

1.2.6 recitals, clauses and schedules are references to recitals to this Mortgage, clauses of this Mortgage and schedules to this Mortgage; and references to this Mortgage include its schedules;

1.2.7 paragraphs are references to paragraphs of the schedule in which the references appear;

1.2.8 statutory provisions (where the context so admits and unless otherwise expressly provided) are construed as references to those provisions as respectively amended, consolidated, extended or re-enacted from time to time, and to any orders, regulations instruments or other subordinate legislation made under the relevant statute; and

1.2.9 a time of day is a reference to Dublin time.

1.3 Loan Agreement defined terms

Unless otherwise defined in this Mortgage, terms defined in the Loan Agreement bear the same meaning in this Mortgage.

1.4 Conflict with Loan Agreement

If there is any conflict between the provisions of this Mortgage and the provisions of the Loan Agreement, the provision which is more onerous on the Chargeor shall prevail.

2. COVENANT TO PAY

2.1 Each Borrower hereby covenants with the Lender to pay and discharge to the Lender on demand the Secured Sums and covenants to guarantee to the Lender the payment and discharge of the Secured Sums on a full indemnity basis.

2.2 Interest

If any liability referred to in 2.1 becomes due (whether upon the making of a demand or otherwise) the Borrowers shall pay to the Lender interest on such sums (after as well as before judgment) at the rate and upon the terms set out in clause 7.1 and 7.2 of the Loan Agreement.

3. CREATION OF SECURITY

3.1 The Borrowers as beneficial owners TO THE INTENT that the mortgage charges and assignments herein shall be a continuing security for the payment to the Lender of the Secured Sums and the performance of the obligations and the observance of the warranties and undertakings of the Borrowers under or pursuant to this Mortgage and the Loan Agreement the Borrowers hereby:

3.1.1 Intellectual Property Rights

ASSIGN AND CHARGE to the Lender by way of first fixed charge all Intellectual Property Rights current and prospective owned by the Borrowers or in which the Borrowers have an interest and all rights of whatsoever nature in and relating to the Intellectual property Rights now or hereafter belonging to it, including without limitation, the property referred to in Schedule 2 and the Applications referred to in Schedule 1. To the extent that any such Intellectual Property Rights or Applications are not capable of being charged (whether by reason of lack of any necessary third party's consent or otherwise) the charge purported to be effected by this clause 3.1.1 shall operate as an assignment of all of the Borrowers' right title and interest in and to the Intellectual Property Rights and the Applications and of all damages, compensation, remuneration, profit, royalties, fees, rents or income which the Borrowers may derive therefrom or be awarded or entitled to in respect thereof, as continuing security for the payment, discharge and performance of the Secured Sums;

3.1.3 Undertaking to Hold in Trust

UNDERTAKE to hold upon trust for the Lender absolutely the entire interest of the Borrowers in and to all those Intellectual Property Rights which cannot be charged or assigned by the Borrowers together with the entire benefit of such rights including without limitation all proceeds money and other rights and benefits to which the Borrowers are beneficially entitled in respect of the exercise of such Intellectual Property Rights. Notwithstanding the Assignment and Charge of the Intellectual Property Rights and the Applications to the Lender, the Borrowers will have the right to license components of their Intellectual Property Rights (in the ordinary course of business) in connection with joint ventures and corporate collaborations **PROVIDED THAT** any material transaction in excess of €50,000 shall require the prior written consent of the Lender;

3.1.4 Physical Material

CHARGE such part of the Physical Materials now in existence in favour of the Lender by way of first fixed charge;

3.1.5 **CHARGE** such part of the Physical Materials not yet in existence but created or acquired by the Borrowers after the date of this Mortgage in favour of the Lender by way of first equitable charge;

3.1.6 Mortgage of Unregistered Land

HEREBY GRANT CONVEY ASSIGN TRANSFERS and DEMISES unto the Lender **ALL THAT AND THOSE** the lands hereditaments and premises vested in it, including those specified in Schedule 3 other than:-

- (i) the parts thereof the ownership of which is registered in the Land Registry pursuant to the provisions of the Registration of Title Act 1964; and
- (ii) those lands hereditaments and premises of leasehold tenure in respect of which the consent of the lessor, being required for a sub-demise, is not forthcoming at the date hereof;

together with all buildings fixtures (including trade fixtures) and fixed plant and machinery from time to time thereon TO HOLD the same as to so much thereof as is of freehold tenure (including that held under a fee farm grant) unto the Lender in fee simple and as to so much thereof as is of leasehold tenure unto the Lender for the residue or residues of the respective terms of years for which the Borrowers now hold the same less the last three days of each such term subject to the proviso for redemption herein contained;

3.1.7 Nominal Reversion

- (i) PROVIDED THAT the Borrowers hereby DECLARE that in respect of all or any leasehold lands, hereditaments and premises they shall stand possessed of the reversion or respective reversions hereby reserved of the term or several terms of years for which the same are held in trust for the Lender (subject to any equity of redemption subsisting hereunder) and shall dispose of the same as the Lender may direct;
- (ii) hereby AUTHORISE the Lender to appoint a new trustee or trustees of such reversion or respective reversions in place of the Borrowers or any trustee or trustees appointed under this power as if it, he or they were incapable of acting in the trusts hereby declared;
- (iii) hereby irrevocably APPOINT the secretary for the time being of the Lender the Attorney of the Borrowers to assign the said reversion or respective reversions in the name of the Borrowers and on its behalf to such trustee or trustees subject to such equity of redemption (if any) as may for the time being be subsisting as aforesaid and to execute and do all deeds, documents and acts necessary or proper for that purpose; and
- (iv) hereby ACKNOWLEDGE that upon any sale or foreclosure of such of the Property and for the purpose of vesting the said nominal reversion in the purchaser or any other person entitled to the derivative term of years hereby granted or in some trustee on his behalf the Lender may by deed appoint such purchaser or other person entitled as aforesaid or any other person or persons to be a new trustee or new trustees of the said nominal reversion in place of the Borrowers whether consenting or not and to vest the said nominal reversion in the person or persons so appointed freed and discharged from all right or equity of redemption;

3.1.8 Charge of Certain Leasehold Land

As registered owner, or as the case may be the person entitled to be registered owner, hereby CHARGES in favour of the Lender as a first fixed charge so much of the lands hereditaments and premises vested in it including those specified in Schedule 3 as are of leasehold tenure in respect of which the consent of the lessor, being required for a sub-demise, is not forthcoming on the date hereof, together with all buildings, fixtures (including trade fixtures) and fixed plant and machinery from time to time thereon;

3.1.9 Charge of Other Land

Hereby CHARGE as a first fixed charge in favour of the Lender all other (if any) freehold and leasehold lands hereditaments and premises now vested in it (whether or not registered) together with all buildings, fixtures, (including trade fixtures) and fixed plant and machinery from time to time thereon;

3.1.10 Charge of Future Land

Hereby CHARGE as a first fixed charge in favour of the Lender all future freehold and leasehold lands hereditaments and premises of the Borrowers together with all buildings, fixtures including trade fixtures and fixed plant and machinery from time to time thereon;

3.1.11 Charge of Registered Land

As registered owner or as person entitled to be registered as owner the Borrowers hereby CHARGE as a first fixed charge in favour of the Lender so much of the lands hereditaments and premises vested in it including those specified in the Schedule 3 as is the ownership of which is registered in the Land Registry or is or will at any time be required to be or happen to be so registered pursuant to the provisions of the Registration of Title Act 1964 or any other Act or Rule together with all buildings, fixtures, (including trade fixtures) and fixed plant and machinery from time to time thereon;

3.1.12 Assignment of Rights

Hereby ASSIGN unto the Lender (subject to the proviso for redemption herein) the benefit of:

- (i) any covenant agreement, acknowledgement or undertaking for road-making or for the payment of road charges or other private street improvement or drainage expenses in respect of the Property (or documents of title thereto) or any indemnity against payment of such charges or expenses;
- (ii) any other covenant agreement undertaking charge right remedy or indemnity in relation to the Property or any rent payable thereout or charge thereon;

- (iii) all rights of the Borrowers to be paid or receive compensation under any Statute by reason of any compulsory acquisition requisitioning or other exercise of compulsory powers in relation to the Property or assets or any refusal withdrawal or modification of planning permission or approval relative thereto or any control or limitation imposed upon or affecting the use of the Property and so that the production hereof to the authority or person liable to pay such compensation shall be a sufficient authority to it or him to pay all such sums to the Lender;

and the Borrowers hereby APPOINT the Lender irrevocably (but subject to the proviso for redemption herein) to be the attorney of the Borrowers in its name and on its behalf:

- (i) to claim assess agree recover and receive any such compensation; and
(ii) to exercise any such right or to give any such notice or counter-notice concerning the Property as by or under any statute the Borrowers may be entitled to exercise or give against or to any local or other competent or appropriate authority;

3.1.13 ASSIGNMENT

The Borrowers hereby ASSIGN (subject to the proviso for redemption herein) and CHARGE in favour of the Lender by way of first fixed charge:

3.1.13.1 all the Borrower's present and future fixed and moveable plant, machinery, vehicles, equipment, computers, fixtures, implements and utensils (including stock in trade);

3.1.13.2 all stocks, shares, bonds, warrants, bearer instruments, options and securities of any kind whatsoever whether marketable or otherwise and all other interests including but not limited to loan capital, debentures, debenture stocks or other obligations in any company, firm, consortium or entity wheresoever situate including all allotments, accretions, offers, rights, benefits or advantages whatsoever at any time accruing, offered or arising in respect of or incidental to the same and all stocks, shares, rights, money or property accruing thereto or offered at any time by way of rights, conversion, redemption, bonus, preference, option or otherwise in respect thereof;

3.1.13.3 all their present and future benefits, right, title and interest in the Insurance maintained or effected now or hereafter by it and all Insurance Proceeds.

3.1.14 Uncalled Capital and Goodwill

The Borrowers hereby CHARGE in favour of the Lender as a first fixed charge all the Borrowers' uncalled capital for the time being and the Borrowers present and future goodwill;

3.1.15 Floating Charge

Hereby CHARGE in favour of the Lender by way of first floating charge in favour of the Lender without prejudice to the mortgages charges and assignments hereinbefore contained (i) all of the undertaking assets property and business of the Borrowers whatsoever and wheresoever, both present and future and all rights assets and property of the Borrowers now owned or at any time acquired by the Borrowers during the continuance of this security including without limitation bank accounts, cash, book debts and all goodwill of the company whether now in existence or are created in future and without prejudice to the fixed mortgages charges and assignments hereinbefore contained and, (ii) the undertaking, assets and business of the Borrowers hereby purportedly subject to fixed mortgages, charges and assignments, to the extent that the mortgages charges and assignments therein may, notwithstanding the intention of the parties as evidenced herein, be construed not to constitute effective mortgages fixed charges or assignments PROVIDED THAT with regard to any material acquisitions of Equipment of €50,000 or more, the prior written consent of the Lender shall be required to any Security that the Borrowers propose granting to the financial parties.

3.1.16 Assent to Registration of Charges

The Borrowers hereby ASSENT to the registration of the Mortgages hereby created as burdens on the property so mortgaged and charged and to any other registration which the Lender may lawfully obtain and consents to the use of the Land Certificate(s) or certificates evidencing ownership (if issued) thereto for such purposes;

3.1.17 Continuing Security

The Borrowers hereby acknowledge that:

- (i) this Mortgage shall be a continuing security notwithstanding any settlement of account or other matter or thing whatsoever and shall extend to cover any sums of money which shall for the time being constitute the balance due from the Borrowers to the Lender whether as principal, debtor or as surety and in particular (but without prejudice to the generality of the foregoing) shall not be considered satisfied by any intermediate repayment or satisfaction of all or any of the monies and liabilities hereby secured and shall continue in full force and effect until final repayment in full and total satisfaction of all monies and liabilities hereby secured;

- (ii) if upon such final repayment there shall exist any right on the part of the Borrowers or any other person to draw funds or otherwise which, if exercised, would or might cause the Borrowers to become actually or contingently liable to the Lender whether as principal debtor or as surety for another person then the Lender shall be entitled to retain this Mortgage and all rights remedies and powers conferred thereby and the Property and the Intellectual Property Rights held by the Borrowers for so long as shall or might (in the reasonable opinion of the Lender) be necessary to secure the discharge of such actual or contingent liability as aforesaid;
- (iii) if any demand is made by the Lender hereunder the said monies shall immediately upon the amount thereof being ascertained become due and shall be paid and discharged to the Lender and all provisions hereof shall apply accordingly;
- (iv) the rule in *Clayton's Case* shall not apply to any payments made by the Borrowers to the Lender nor to any facilities afforded or advances made by the Lender to the Borrowers;
- (v) the Lender shall be at liberty from time to time to give time for the payment of any bill or bills of exchange promissory note or other security or securities which may have been discounted for and received in account for the Borrowers or on which the Borrowers shall or may be liable to drawer or endorser or otherwise to a party or parties thereto or liable thereon as the Lender shall in its discretion think fit without in any way releasing the Borrowers or affecting the security hereby created;

3.1.18 Additional Security

The Borrowers hereby acknowledge that this Mortgage shall be in addition to and shall not operate so as in any way to prejudice or affect any other security which the Lender may now or at any time hereafter hold for or in respect of the monies and liabilities hereby secured or any part thereof nor shall any such other security or any lien to which the Lender may be otherwise entitled or the liability of any person not party hereto for all or any part of the monies and liabilities hereby secured be in any way prejudiced or affected by this Mortgage and further the Lender shall have full power at its discretion to give time for payment to or make any other arrangement with any such person without prejudice to the liability of the Borrowers hereunder;

3.1.19 Proviso for Redemption

PROVIDED THAT if all moneys and liabilities herein covenanted to be paid and discharged have been paid and discharged, the Lender shall at the request and cost of the Borrowers execute such documents and do all such deeds, acts and things as may be necessary to release the security hereby created.

Subject to the final repayment to the Lender of the Secured Sums the Lender shall at the request and cost of the Borrowers discharge this security and re-assign and license back to the Borrowers all Intellectual Property Rights assigned or licensed to the Lender pursuant to this Mortgage and otherwise re-transfer the Secured Property.

3.1.20 Negative Pledge

The Borrowers shall not create or permit to subsist any mortgage or charge or Security Interest whatsoever (except for any Permitted Security Interest) over the whole or any part of any Secured Property charged by or pursuant to this Mortgage and the Borrowers shall not permit any lien in any case or in any manner to arise on or affect any part of the same either in priority to or pari passu with the charge created by this Mortgage and so that the Borrowers shall not have any power without the consent of the Lender to part with or dispose of any part of the Secured Property, goodwill and/or Derivative Materials without the prior consent of the Lender and otherwise than in the ordinary course of the Borrowers' business by way of sale at not less than market value.

4. COVENANTS BY THE BORROWERS TO PROTECT PROPERTY

The Borrowers hereby covenants with the Lender that the Borrowers shall at all times:

4.1 Compliance with Agreements

Comply with the terms of this Mortgage, the Facility Documents and any other security documentation;

4.2 Other Security

Not create or permit to subsist any mortgage or charge other than in favour of the Lender ranking in priority to or pari passu with the mortgages, charges and assignments hereby created;

4.3 Further Assurance

4.3.1 From time to time within the Perpetuity Period do, execute, acknowledge and deliver all and every such further deeds, conveyances, assignments, demises, mortgages, charges, documents and assurances as are necessary or advisable or as the Lender may in its sole discretion require for the purpose of giving the Lender a valid first, fixed and specific mortgage or charge or floating charge or other security upon all property and assets of the Borrowers and the Intellectual Property Rights of the Borrowers owned or hereafter acquired by the Borrowers and for the better granting, conveying, assigning, transferring, demising or charging the same to the Lender for the purpose herein set forth and for conferring upon the Lender such power of sale and other powers over the said property and assets and Intellectual Property Rights as are hereby expressed to be conferred;

4.3.2 The Borrowers undertake that they shall at the request of the Lender execute any and all forms of assignment and necessary accompanying documentation required for the perfection of the security purportedly hereby created including but not limited to such further form of assignment or other document as may be necessary or considered appropriate by the Lender;

4.3.3 If any Intellectual Property Right is challenged or is not permitted to be registered or steps are taken to have it removed from any relevant register, the Borrowers undertake to provide the Lender on demand all information advice and reasonable and necessary assistance in procuring the registration and/or dealing with defeating or reducing the effect of any objection or challenge.

4.3.4 Without prejudice to the generality of the provisions of clauses 4.3.1, 4.3.2 and 4.3.3 the Borrowers undertake to do any and all acts including without limitation the commencement of any legal proceedings or other process including the resistance to any objection or the objection to any registration or any competing registration of rights which acts shall be in the name of the Borrowers and/or the Lender as the Lender may reasonably require and the execution of any and all documents in such manner and at such location as may be required by the Lender in its sole discretion in order to protect perfect and enforce any of the rights granted or assigned or charged or intended to be granted or assigned or charged to the Lender pursuant to this Mortgage. As security for the performance by the Borrowers of the Borrowers' obligations pursuant to this Mortgage. If the Borrowers shall have failed following 14 days' notice from the Lender to execute any document or perform any act required pursuant to this Mortgage the Lender shall have the right to do so in the place and stead of the Borrowers as the lawfully appointed attorney of the Borrowers and the Borrowers undertakes and warrant that the Borrowers shall confirm and ratify and be bound by any and all of the actions of the Lender pursuant to this Clause and such authority and appointment shall take effect as an irrevocable appointment pursuant to section 20 of the Powers of Attorney Act 1996.

4.4 Notify Acquisition of Property

Immediately notify the Lender in writing of (1) any assets, freehold or leasehold lands hereditaments and premises or rights therein which may at any time hereafter be acquired by the Group; (2) any applications for registration and any grant of registration of Intellectual Property Rights and if requested to do so by the Lender from time to time, make entries in any appropriate public register (in Ireland or elsewhere) of the Borrowers Intellectual Property Rights and those owned by the Group which record the existence of this mortgage; (3) Intellectual Property Rights including reasonable particulars thereof and will within the Perpetuity Period if so required in writing by the Lender execute and perfect any grant, conveyance, assignment, transfer, demise or charge of the same as and by way of a first fixed charge and/or specific mortgage to and in favour of the Lender in a form manner and content to be specified by the Lender.

4.5 Subsidiaries

Not incorporate or create or permit to be incorporated or created any subsidiaries of the Borrowers or subsidiaries of the holding company of the Borrowers without the prior written consent of the Lender (such consent not to be unreasonably withheld).

4.6 Not Dispose of Business

Not sell, transfer, licence or otherwise dispose of the whole (or any part which the Lender in its absolute discretion shall consider material to the business of the Borrowers) of its business, undertaking, property or assets or, except in the ordinary course of its business, its stocks;

4.7 Dealings with Book Debts

4.7.1 Except by getting in the same in the usual course of trading; not transfer, factor, discount, sell, release, licence, compound, subordinate, defer or otherwise dispose of or vary the terms of any book debts or other debts or moneys for the time being due, owing or payable to it nor purport to charge assign or otherwise deal or dispose with the same other than to the Lender or without the Lender's consent such consent not to be unreasonable withheld; and

4.7.2 forthwith remit from time to time any "relevant amount" as defined in section 1001 of the Taxes Consolidation Act, 1997 or any amendments thereto, on or before the due date for payment thereof and shall, if requested by the Lender, furnish statements to the Lender on the last working day of every month in each year setting out the relevant amount due at that date;

4.8 Keep Property in Repair

Keep all buildings for the time being comprised in its undertaking, property and assets and all plant and machinery and apparatus in, upon or about the same and used for the purpose of or in connection with its business in such state of repair and in such working order and condition as it shall from time to time consider proper for the purpose of the efficient and economic carrying on of its business and permit the Lender or any person as they shall from time to time in writing for that purpose appoint to enter into and upon the said buildings to view the state and condition thereof and of all such plant, machinery and apparatus as aforesaid;

4.9 Notify Notices and Proceedings

If a notice is served affecting the Property or any part thereof or if any proceedings are commenced affecting the same in a matter of material importance immediately give full particulars thereof to the Lender;

4.10 Trade at Arms Length

Not enter into any contract or transaction except in the ordinary course of business and upon an arms length basis or whereby it would receive less than a fair commercial price

for any of its property rights products or services or pay more than a fair commercial price for any goods or services supplied to it (less customary trade discounts and allowances in such case);

4.11 Trade Properly

Carry on and conduct and procure that any subsidiary of the Borrowers and the Borrowers shall carry on and conduct their business in a proper and efficient manner and not make any substantial alterations in the nature of its business;

4.12 Keep Accounts

Keep proper books of account and shall allow such persons as the Lender from time to time in writing for that purpose appoints access to the same at all reasonable times during business hours to examine such books of account and investigate the Borrowers' affairs and the Borrowers shall furnish such persons with such information as they shall require and the Borrowers shall pay the reasonable costs charges and expenses of and incidental to any such examination and investigations;

4.13 Not Borrow

Not borrow or agree to borrow any moneys whatsoever or enter into any new arrangement to borrow additional funds secured by existing mortgages or charges other than in favour of the Lender without the consent of the Lender and save with respect to borrowing allowed by the Loan Agreement;

4.14 Not Lend or Guarantee

Not make any loan or advance or give any guarantee (save in the ordinary course of business) or provide any credit (other than trade credit granted in the normal course of business) or enter into any similar arrangement;

4.15 Not Alter Buildings

Not, without the previous consent in writing of the Lender, which consent shall not be unreasonably withheld, remove or destroy any of the buildings, fixed machinery or any structure whatsoever now or hereafter owned by it unless the same is worn out or rendered unfit for use or unless such removal or destruction is with a view immediately to replacing the same by other property of a more useful or convenient character and of at least equal value or utility;

4.16 Perform Obligations of Title

4.16.1 Do, observe and perform all its material obligations and all matters and things necessary or expedient to be done, observed and performed under or by virtue of every lease, licence, fee farm grant, agreement or other instrument relating to the Property and every other lease, licence, fee farm grant and agreement to which the Borrowers are party so as to preserve, protect and maintain all the rights of the Borrowers thereunder;

4.16.2 not suffer or permit any default for which any of the same may be terminated or as a result of which any party thereto may be relieved of any liability or obligation thereunder but on the contrary will exercise and enforce from time to time all its rights and remedies thereunder; and

4.16.3 if and when entitled to do so, renew and preserve all such leases, licences, fee farm grants and agreements so long as the same shall have utility or commercial value and on the expiration or termination of any thereof will use its best endeavours to obtain new leases, licences, fee farm grants or agreements as the case may be on the most favourable terms available so long as the same shall have utility or commercial value;

4.17 Not Lease

4.17.1 Not exercise the statutory powers of leasing or agreeing to lease or accepting or agreeing to accept surrenders conferred by section 18 of the Conveyancing Act without the prior written consent of the Lender;

4.17.2 Not without such consent either in the purported exercise of the said statutory powers or otherwise agree to grant or accept or agree to accept a surrender of any lease, licence or tenancy of the Property or any part thereof; and

4.17.3 not without such consent as aforesaid sell, convey, assign or transfer the Property or any interest therein or any part thereof and not part with possession or occupation of the Property or any part thereof without such consent;

4.18 Comply with Planning Acts

Use all the Property only for purposes for the time being authorised as the permitted use or user thereof under or by virtue of the Planning Acts and not carry out any development within the meaning of the Planning Acts without first obtaining such permission or approval as may be required under or by virtue of the Planning Acts;

4.19 Notify Planning Notices

Within seven days after the receipt of any notice or proposal for a notice or order or proposal for an order given, issued or made to the Borrowers by a Planning Authority under or by virtue of the Planning Acts in respect of the Property give full particulars thereof to the Lender and if so required by the Lender produce the same and also without delay take all reasonable or necessary steps to comply with such notice or order and also at the request of the Lender make or join with the Lender in making such application, appeal or representations against or in respect of any proposal for such notice or order as the Lender may deem expedient;

4.20 Not Share Property or Assets

Not grant any licence nor assign underlet nor part with nor share the possession of the Property without the prior written consent of the Lender;

4.21 Pay Rates

Pay or cause to be paid all rents, taxes, rates, assessments, impositions, costs and outgoings whether governmental, municipal or otherwise, imposed upon or payable in respect of the Property or any part thereof as and when the same shall become payable and also punctually pay and discharge or cause to be paid and discharged all debts and obligations to or in respect of persons employed by the Borrowers or which by law may have priority over any mortgage charge or assignment hereby created;

4.22 Procure Tenants' Compliance with Leases

Ensure the due performance and observance by every lessee or tenant for the time being of the Property or any part thereof of all his obligations under any lease or any part thereof and will not release or vary or agree to release or vary any of the terms of any such lease or tenancy or exercise any power to determine or extend the same without the prior consent in writing of the Lender;

4.23 Not Register Unregistered Land

Procure that the Borrowers shall not be registered under the Registration of Title Act 1964 as owner or proprietor of any freehold or leasehold land or any subsidiary interest therein comprised in the Property and not now or when acquired by the Borrowers so registered or any part thereof without the consent in writing of the Lender and the costs incurred by the Lender in lodging from time to time a caution against first registration of or dealing with the said land shall be deemed to be costs properly incurred by it hereunder and money secured hereby;

4.24 Not Acquire Encumbered Property

Not acquire any property or assets subject to any charge or encumbrance;

4.25 Give Notice of General Meetings

Give at least seven working days notice to the Lender of the holding of any general meetings of the Borrowers and of the general nature of the matters to be considered thereat and allow the duly authorised representative of the Lender to attend and speak but not to vote at all such general meetings;

4.26 Not alter Memorandum and Articles

Not alter its Memorandum or Articles of Association in any respect in any manner which in the Lender's opinion may prejudice the Lender;

4.27 Immediately to notify the Lender of any material loss theft damage or destruction to the Secured Property, the Materials and/or breach of the Intellectual Property Rights or any part of them.

- 4.28 Promptly to pay all taxes fees licence duties registration charges insurance premiums and other outgoings in respect of the Secured Property Intellectual Property Rights and the Materials or any part of any of them.
- 4.29 To obtain all necessary certificates licences permits and authorisations from time to time required for the protection of the Intellectual Property Rights and for the manufacture and use of the Materials and not to do or permit to be done any act or omission which might result in the Materials or their manufacture or use contravening any rules and regulations for the time being in force.
- 4.30 To do all in the Borrowers' power to protect and preserve the Intellectual Property Rights and to preserve the Materials and the Secured Property in the best possible condition.
- 4.31 To observe and perform at all times throughout the continuance of this security all obligations and warranties on the part of the Borrowers under or pursuant to the Loan Agreement which shall be deemed to be repeated in this Mortgage for the benefit of the Lender.
- 4.32 Not to create extend or permit to exist or be created or extended any transfer assignment mortgage charge lien pledge encumbrance or security on or over or affecting the Secured Property, the Intellectual Property Rights the Materials or any other right or property assigned or charged under this Mortgage without the prior written consent of the Lender it being an express warranty on the part of the Borrowers that no part of such property is at present the subject of any such mortgage charge lien pledge encumbrance or other security interest other than a Permitted Security Interest.
- 4.33 Not to permit any registration of any Intellectual Property Rights to be abandoned or to be cancelled or to lapse and to make timely application for any renewals which may be available other than with the consent of the Lender.
- 4.34 Not to permit or suffer any third party which is not a member of the Group to use any of the Trade Marks or use any similar mark or name or permit the Trade Mark registration to be the subject of a successful claim of abandonment as a result of non-use.
- 4.35 Forthwith after becoming aware of the same notify the Lender immediately in writing of the occurrence of any Event of Default.
- 4.36 The Borrowers shall procure that any company which may be or become the direct or indirect holding company or direct or indirect subsidiary of the Borrowers or any subsidiary of any holding company of any of the Borrowers from time to time at any time during the subsistence of this Mortgage shall provide in favour of the Lender such security in such form as the Lender may in its discretion provide and shall execute any security documents whatsoever that the Lender may require.
- 4.37 Not to permit any subsidiary of the Borrowers to issue any shares except to the Borrowers themselves or to one of their other wholly owned subsidiaries.