

DATED

4 July 2008

RENT DEPOSIT DEED

relating to

**UNITS A B C AND D
CLIVEMONT ROAD
CORDWALLIS INDUSTRIAL ESTATE
MAIDENHEAD
BERKSHIRE SL6 7FW**

between

MAIDENHEAD INDUSTRIAL ESTATES LIMITED

and

RAPIDSWITCH LIMITED

Date

4

of

July

2008

PARTIES

- (1) Maidenhead Industrial Estates Limited incorporated and registered in England and Wales with company number 660031 whose registered office is at 14 Craufurd Rise Maidenhead Berkshire SL6 7LX (**Landlord**).
- (2) RapidSwitch Limited incorporated and registered in England and Wales with company number 4535693 whose registered office is at 3 Beacon Mews South Road Weybridge Surrey KT13 9DZ (**Tenant**).

BACKGROUND

- (A) This deed is supplemental and collateral to the Lease.
- (B) The Landlord is entitled to the immediate reversion of the Lease.
- (C) The residue of the Term is vested in the Tenant.

AGREED TERMS

1. INTERPRETATION

1.1 The definitions in this clause apply in this deed.

Account: a separate, designated interest bearing deposit account in which to hold the Deposit at the Bank in the name of the Landlord.

Bank: The Royal Bank of Scotland plc and its successors and assigns or such other reputable bank or building society in England or Wales as the Landlord may from time to time nominate.

Default: any failure by the Tenant to:

- (a) pay the whole or any part of the Rents and any other sums reserved by the Lease on the due dates for payment prescribed by the Lease, and in respect of the annual rent only whether formally demanded or not;
- (b) observe and perform any tenant covenant contained or referred to in the Lease including the reinstatement of the Property at the end of the Lease Term howsoever determined; and
- (c) make good to the Landlord any reasonable and proper expense, cost, loss, damage or liability on the part of the Tenant arising from the determination of the Lease before the end of the Term whether by forfeiture or the disclaimer of the Lease by any liquidator or trustee in bankruptcy of the Tenant.

Deposit: means the Initial Deposit, the Further Deposit and any other sums from time to time standing to the credit of the Account.

Expenses: any reasonable and proper expenses, costs, losses, damages or other liabilities arising from either forfeiture or disclaimer of the Lease by any liquidator or trustee in bankruptcy of the Tenant including (but not limited to) the following costs and expenses:

- (a) the reasonable costs and expenses payable to legal advisers, surveyors and accountants for advice in connection with such forfeiture or disclaimer;
- (b) the reasonable costs and expenses for marketing the Property for reletting purposes for no more than four months from forfeiture or disclaimer
- (c) mesne profits from the date of forfeiture or disclaimer until the date of possession by the Landlord;
- (d) a sum of rent at an annual rate equal to the amount payable by the Tenant under the Lease immediately before the date of forfeiture or disclaimer, in respect of the period beginning on the date that possession is obtained until the earlier of the date on which the Property is relet and the expiry of six months from the date that possession is obtained;
- (e) the reasonable fees and expenses payable to any agents or surveyors in connection with the reletting or attempted reletting of the Property; and
- (f) the reasonable costs and expenses payable to legal advisers in connection with the reletting of the Property.

Initial Deposit: means the sum of seventy two thousand eight hundred and fifty pounds (£72,850).

Further Deposit: means the sum of fifty eight thousand seven hundred and fifty pounds (£58,750).

Interest: means any interest accruing on the Deposit.

Lawful Assignment: an assignment of either the whole of the Property demised by the Lease or a Permitted Part of the Property (other than an assignment in breach of the terms of the Lease).

Lease: the lease of the Property dated 4 of July 2008 and made between the Landlord and the Tenant and including all documents supplemental or collateral to that lease except this deed.

Property: Units A B C and D Clivemont Road Cordwallis Industrial Estate Maidenhead Berkshire as more particularly described in and demised by the Lease.

Rents: any sums reserved as rent under the Lease.

Term: has the meaning ascribed to it in the Lease.

VAT: value added tax chargeable under the Value Added Tax Act 1994 or any similar replacement or additional tax.

Working Day: means a day which is not Saturday, Sunday, a bank holiday or a public holiday in England and Wales.

- 1.2 References to the **Landlord** include a reference to the person entitled for the time being to the immediate reversion of the Lease.
- 1.3 The obligations of the **Tenant** under this deed are personal to the entity named as the Tenant in this deed.
- 1.4 The expression **tenant covenant** has the meaning given to it by the Landlord and Tenant (Covenants) Act 1995.
- 1.5 Unless otherwise specified, reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate laws for the time being in force or made under it.
- 1.6 A reference to laws in general is to all local, national and directly applicable supra-national laws in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any subordinate laws for the time being in force made under them and all orders, notices, codes of practice and guidance made under them.
- 1.7 A **person** includes a corporate or unincorporated body.
- 1.8 Except where a contrary intention appears, a reference to a clause is a reference to a clause of this deed.
- 1.9 Clause headings do not affect the interpretation of this deed.

2. DEPOSIT

- 2.1 The Landlord acknowledges receipt of the Initial Deposit from the Tenant and undertakes to place the Initial Deposit in the Account as soon as reasonably possible, but in any event within five Working Days of the Account being opened by the Bank and to provide to the Tenant written evidence from the Bank of such deposit into the Account.
- 2.2 The Tenant covenants to pay the Landlord the Further Deposit on commencement of those alterations to the Property referred to as the Phase 2 Works in the Licence for Alterations between the Landlord and the Tenant dated 4 of July 2008 and on payment of the Further Deposit the Landlord undertakes to place the Further Deposit in the Account as soon as reasonably possible, but in any event within five Working Days after receipt of payment and to provide to the Tenant written evidence from the Bank of such deposit into the Account

- 2.3 The Landlord undertakes to hold the Deposit on trust for the Tenant in accordance with, and subject to, the terms of this deed.

3. LANDLORD'S POWERS AND DUTIES

- 3.1 The Landlord is not obliged to secure any particular rate of Interest.
- 3.2 The Landlord as trustee will not be liable to the Tenant for any loss to the Deposit or any loss of Interest arising from any act or default made in good faith unless such loss arises from the wilful default or negligence of the Landlord.

4. INTEREST

- 4.1 Except where this deed otherwise provides, any Interest earned on the Deposit will accrue to the Tenant and the Landlord will pay Interest quarterly to the Tenant, as soon as reasonably possible after the Interest is credited to the Landlord until further notice.
- 4.2 The Landlord may revoke and/or suspend the instruction to the Bank to pay Interest to the Tenant where the Tenant is in Default or the Lease is forfeited or disclaimed.
- 4.3 The Landlord will be entitled (but not obliged) to withhold such sums from any Interest accruing on the Deposit as represent any tax that may lawfully be due and to pay such sums to the appropriate tax authority.
- 4.4 In circumstances where the Landlord does not elect to withhold any sums pursuant to clause 4.3, the Tenant will indemnify the Landlord on demand against all tax payable in respect of any Interest accruing on the Deposit which has been paid to the Tenant.

5. WITHDRAWALS

- 5.1 Following any Default if the Tenant has failed to make payment to the Landlord within 14 days after the payment has become due under the Lease the Landlord will be entitled to withdraw from the Deposit such proportion of the Deposit as may be reasonably necessary to make good any such Default.
- 5.2 The Landlord may make withdrawals from the Deposit as often as necessary and will not be required to give any prior notice to the Tenant where the Tenant is in Default.
- 5.3 The Landlord will be entitled to withdraw from the Deposit an amount equal to any reasonable costs, outgoings, losses, damages and expenses (and any VAT on them) properly incurred by the Landlord and arising from any Default or the lawful exercise by the Landlord of its rights and obligations contained or referred to in either the Lease or this deed.

- 5.4 The Landlord shall give written notice to the Tenant within five Working Days following each and every withdrawal specifying the amount of the withdrawal, the date of the withdrawal and the invoice or liability to which the withdrawal relates.

6. TOP UP OF THE DEPOSIT

- 6.1 Without prejudice, and in addition, to the Tenant's other obligations in this deed, the Tenant will pay to the Landlord such sum(s) as shall be necessary to ensure that the Deposit is not less than the Initial Deposit and, if payment has been made in accordance with clause 2.2, the Further Deposit combined, within ten Working Days after each occasion upon which the Landlord serves notice in writing on the Tenant that the Landlord has made a withdrawal from the Account pursuant to clause 5.4.
- 6.2 In the event that the Tenants issued ordinary share capital falls below the sum of £50,000 the Tenant will pay to the Landlord a sum of one pound £1 for every pound that its ordinary share capital falls below £50,000 forthwith and this payment shall be held in accordance with the terms of this deed shall become part the Deposit and shall be administered accordingly.
- 6.3 The Landlord undertakes to place any monies paid to it pursuant to this clause 6 into the Account as soon as reasonably possible, but in any event within five Working Days following receipt and to provide to the Tenant written evidence from the Bank of such deposit into the Account.

7. REPAYMENT OF THE DEPOSIT

- 7.1 Subject to the rights of the Landlord under this deed, the Landlord will pay the Deposit to the Tenant within the earlier of:
- (a) no later than two months after the date of the expiry or sooner determination of the Term; and
 - (b) five Working Days after the date of a Lawful Assignment of the whole of the Property by the Tenant.
- 7.2 In the event of an assignment of a Permitted Part of the Property (as defined in the Lease) under the terms of the Lease the Landlord (acting in good faith) shall pay to the Tenant such proportion of the Deposit as is reasonable in the circumstances (to be determined by the Landlord's Surveyor in the event of dispute), this requirement to be incorporated in to the Licence to Assign provided by the Landlord in connection with said assignment of a Permitted Part.
- 7.3 The Landlord will be entitled to retain from the Deposit such proportion of the Deposit as may reasonably be necessary to make good any Default before paying the balance of the Deposit to the Tenant under either clause 7.1 or clause 7.2.

- 7.4 This deed terminates at the time mentioned in clause 7.1 and termination does not affect rights and remedies of one party against the other which have then already accrued.
- 7.5 On the termination of this deed the Landlord will pay the Deposit to the Tenant (subject to clause 7.3 applying) pursuant to clause 7.1.

8. SALE OF REVERSION

The Tenant will not unreasonably withhold consent to a request made by the Landlord under section 8 of the Landlord and Tenant (Covenants) Act 1995 for a release from all or any of the covenants in this deed falling to be complied with by the Landlord provided always that the Landlord shall procure the transfer of the Deposit to the Landlord's successor and seek to procure that the Landlord's successor shall deposit the Deposit in a Bank and observe and perform the covenants in this deed falling to be complied with by the Landlord and hold the Deposit on trust for the Tenant.

9. THE RIGHT OF RE-ENTRY IN THE LEASE

The right of re-entry in the Lease will be exercisable if any covenant or condition contained in this deed falling to be complied with by the Tenant is breached, as well as if any of the events stated in the provision for re-entry in the Lease occur.

10. INDEMNITY

The Tenant will make good to the Landlord on demand and indemnify the Landlord against all losses, damages, costs, expenses and claims arising from any breach of the terms of this deed.

11. NOTICES

Any notice given pursuant to this deed must be in writing and must be delivered by hand, or sent by pre-paid first class post, or registered post or by any other means permitted by the Lease. A correctly addressed notice sent by pre-paid first class post will be deemed to have been delivered at the time at which it would have been delivered in the normal course of the post.

12. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

No term of this deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party.

13. JURISDICTION

The parties to this agreement irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction over any claim or matter arising under or in connection with this deed.

14. GOVERNING LAW

This deed will be governed by and construed in accordance with the law of England and Wales.

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

Signed as a deed by MAIDENHEAD
INDUSTRIAL ESTATES LIMITED acting by

.....
[SIGNATURE OF FIRST DIRECTOR]
Director

.....
[SIGNATURE OF SECOND DIRECTOR OR
SECRETARY]
[Director/Secretary]

Signed as a deed by RAPIDSWITCH LIMITED
acting by

.....
[SIGNATURE OF FIRST DIRECTOR]
Director

.....
[SIGNATURE OF SECOND DIRECTOR OR
SECRETARY]
[Director/Secretary]