

MR01

Particulars of a charge



154948/39

A fee is payable with this form  
Please see 'How to pay' on the  
last page

You can use the WebFiling service to file this form online  
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☒ **What this form is for**  
You may use this form to register  
a charge created or evidenced by  
an instrument

☐ **What this form is NOT for**  
You may not use this form to  
register a charge where there is  
an instrument. Use form MR08

THURSDAY



A26 \*A2711Z9F\* 25/04/2013 #25  
COMPANIES HOUSE

This form **must be delivered to the Registrar for registration within 21 days** beginning with the day after the date of creation of the charge. If delivered outside of the 21 days it will be rejected unless it is accompanied by a court order extending the time for delivery.

You **must** enclose a certified copy of the instrument with this form. This will be scanned and placed on the public record.

**1** Company details

Company number 0 0 1 7 5 0 6 4

Company name in full Filofax Group Limited

1 2 For official use

→ **Filing in this form**  
Please complete in typescript or in  
bold black capitals

All fields are mandatory unless  
specified or indicated by \*

**2** Charge creation date

Charge creation date d1 d9 m0 m4 y2 y0 y1 y3

**3** Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees  
entitled to the charge

Name PNC Financial Services UK Ltd

Name

Name

Name

If there are more than four names, please supply any four of these names then  
tick the statement below

☐ I confirm that there are more than four persons, security agents or  
trustees entitled to the charge

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**Description**

Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security

**Continuation page**

Please use a continuation page if you need to enter more details

Description

Any patents, trademarks, service marks, designs, business names, copyrights, design rights, moral rights, inventions, confidential information, know-how and other intellectual property rights and interests whether registered or unregistered, including without limitation, the intellectual property rights and interests listed in part 4 of Schedule 3 (*Details of Security Assets*) of the Composite Guarantee and Debenture

5

**Fixed charge or fixed security**

Does the instrument include a fixed charge or fixed security over any tangible or intangible (or in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box

☒ Yes

☐ No

6

**Floating charge**

Is the instrument expressed to contain a floating charge? Please tick the appropriate box

☒ Yes Continue

☐ No Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☒ Yes

7

**Negative Pledge**

Do any of the terms of the charge prohibit or restrict the chargor from creating any further security that will rank equally with or ahead of the charge? Please tick the appropriate box

☒ Yes

☐ No

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**Trustee statement ①**

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

① This statement may be filed after the registration of the charge (use form MR06)

9

**Signature**

Please sign the form here

Signature

Signature

X *Squire Sanders (UK) LLP* X

This form must be signed by a person with an interest in the charge

MR01

Particulars of a charge



**Presenter information**

We will send the certificate to the address entered below. All details given here will be available on the public record. You do not have to show any details here but, if none are given, we will send the certificate to the company's Registered Office address.

Contact name Ben Williams

Company name Squire Sanders (UK) LLP

Address 7 Devonshire Square

Post town London

County/Region

Postcode E C 2 M 4 Y H

Country England

DX 136546 Bishopsgate 2

Telephone +44 (0)20 7655 1000



**Certificate**

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



**Checklist**

**We may return forms completed incorrectly or with information missing**

**Please make sure you have remembered the following**

- ☐ The company name and number match the information held on the public Register
- ☐ You have included a certified copy of the instrument with this form
- ☐ You have entered the date on which the charge was created
- ☐ You have shown the names of persons entitled to the charge
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- ☐ You have given a description in Section 4, if appropriate
- ☐ You have signed the form
- ☐ You have enclosed the correct fee
- ☐ Please do not send the original instrument, it must be a certified copy



**Important information**

**Please note that all information on this form will appear on the public record**



**How to pay**

**A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper.**

Make cheques or postal orders payable to 'Companies House'



**Where to send**

**You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below.**

**For companies registered in England and Wales**  
The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ  
DX 33050 Cardiff

**For companies registered in Scotland:**  
The Registrar of Companies, Companies House,  
Fourth floor, Edinburgh Quay 2,  
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF  
DX ED235 Edinburgh 1  
or LP - 4 Edinburgh 2 (Legal Post)

**For companies registered in Northern Ireland**  
The Registrar of Companies, Companies House,  
Second Floor, The Linenhall, 32-38 Linenhall Street,  
Belfast, Northern Ireland, BT2 8BG  
DX 481 N R Belfast 1



**Further information**

For further information, please see the guidance notes on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

**This form is available in an alternative format. Please visit the forms page on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)**



**FILE COPY**

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

Company number: 175064

Charge code: 0017 5064 0012

The Registrar of Companies for England and Wales hereby certifies that a charge dated 19th April 2013 and created by FILOFAX GROUP LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 25th April 2013.

DX

Given at Companies House, Cardiff on 30th April 2013



DATED

19 APRIL

2013

(1) PNC BUSINESS CREDIT  
a trading style of PNC FINANCIAL SERVICES UK LTD  
as PNC

- and -

(2) THE COMPANIES NAMED IN THIS DEED AS SECURITY OBLIGORS  
as Security Obligors

**COMPOSITE GUARANTEE AND  
DEBENTURE**

We hereby certify that this is a  
true and correct copy of the original

Dated 24/04/13

*Squire Sanders (UK) LLP*

SQUIRE SANDERS (UK) LLP  
7 DEVONSHIRE SQUARE  
LONDON  
EC2M 4YH

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THIS COMPOSITE GUARANTEE AND DEBENTURE is made on 19 APRIL 2013  
BETWEEN

- (1) PNC BUSINESS CREDIT a trading style of PNC FINANCIAL SERVICES UK LTD a company registered in England and Wales with the number 07341483 and having its registered office at 8-14 The Broadway, Haywards Heath, West Sussex, RH16 3AP ("PNC"), and
- (2) THE COMPANIES LISTED IN SCHEDULE 1 TO THIS DEED (the "Security Obligors" and each a "Security Obligor")

IT IS AGREED as follows

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed

- (a) terms defined in, or construed for the purposes of, the Master Facilities Agreement (as defined below) have the same meanings when used in this Deed (unless the same are otherwise defined in this Deed), and

- (b) the following terms have the following meanings

"**ABL Insurances**" means Inventory Insurances, P&M Insurances and Real Property Insurances and "**ABL Insurance**" means any policy of insurance falling within any of the definitions of Inventory Insurances, P&M Insurances and Real Property Insurances,

"**Act**" means the Law of Property Act 1925,

"**Assigned Assets**" means the Security Assets expressed to be assigned pursuant to clause 5.2 (*Security Assignments*),

"**Charged Investments**" means the Charged Securities and all present and future Securities Rights accruing to all or any of the Charged Securities,

"**Charged Securities**" means the Securities specified in part 3 of schedule 3 (*Details of Security Assets*),

"**Default**" has the meaning given to Potential Event of Default in the Master Facilities Agreement,

"**Guarantee**" means the guarantee and indemnity contained in clause 2 (*Guarantee and indemnity*) as extended by schedule 2 (*The Guarantee*),

"**Insurances**" means, save for the ABL Insurances and any policies of insurance which are held by law for the benefit of third parties, all policies of insurance (and all cover notes) which are at any time held by, or written in favour of, a Security Obligor or in which a Security Obligor from time to time has an interest,



**"Intellectual Property"** means all present and future Intellectual Property Rights,

**"Intellectual Property Rights"** means

- (a) any patents, trademarks, service marks, designs, business names, copyrights, design rights, moral rights, inventions, confidential information, know-how and other intellectual property rights and interests whether registered or unregistered, including without limitation, the intellectual property rights and interests listed in part 4 of Schedule 3 (*Details of Security Assets*), and
- (b) the benefit of all applications and rights to use such assets of each Security Obligor,

**"Intercreditor Deed"** means the intercreditor deed to be entered into on or around the date hereof between, amongst others, the Security Obligors, PNC and the Lender (as each defined therein),

**"Inventory Insurances"** means those policies of insurance (if any) specified in part 5 of schedule 3 (*Details of Security Assets*)) and any other policies of insurance which may replace those policies of insurance,

**"Master Facilities Agreement"** means the master facilities agreement dated on or around the date as this Deed and made between (1) PNC, (2) Charles Letts & Co Limited, (3) Filofax Limited, (4) FLB Group Limited, (5) FLB Properties Limited, (6) Charles Letts Group Limited, (7) Charles Letts (Holdings) Limited, (8) Charles Letts Properties Limited, (9) Letts Filofax Group Limited and (10) Filofax Group Limited, pursuant to which PNC has agreed to make certain accounts receivables facilities and certain asset based lending facilities available to the Obligors,

**"Non-Vesting A/R"** means Non-Vesting Domestic A/R and Non-Vesting Export A/R and **"Non-Vesting A/R"** means any one of them,

**"Non-Vesting Domestic A/R"** means any A/R (other than an Export A/R) purportedly assigned to PNC pursuant to the Master Facilities Agreement but which does not, for any reason, vest absolutely and effectively in PNC,

**"Non-Vesting Export A/R"** means any Export A/R purportedly assigned to PNC pursuant to the Master Facilities Agreement but which does not, for any reason, vest absolutely and effectively in PNC,

**"Other Proceeds"** means all and any monies paid to a Trust Account which are not the proceeds of A/R,

**"Other Receivables"** means, save for A/R, 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, any Security Obligor (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 Interests 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,

**"Party"** means a party to this Deed,

**"P&M Insurances"** means those policies of insurance (if any) specified in part 6 of schedule 3 (*Details of Security Assets*)) and any other policies of insurance which may replace those policies of insurance,

**"Real Property Insurances"** means those policies of insurance (if any) specified in part 7 of schedule 3 (*Details of Security Assets*)) and any other policies of insurance which may replace those policies of insurance,

**"Receiver"** means any receiver or receiver and manager appointed by PNC under this Deed,

**"Scottish Security Obligors"** means each of FLB Group Limited, FLB Properties Limited, Charles Letts & Co Limited, Charles Letts Group Limited and Letts Filofax Limited,

**"Secured Obligations"** means all 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 any member of the Group to PNC under or pursuant to any Finance Document (including all monies covenanted to be paid under this Deed), provided that no obligation or liability shall be included in the definition of "Secured Obligations" to the extent that, if it were so included, this Deed (or any part of it) would constitute unlawful financial assistance within the meaning of sections 151 and 152 of the Companies Act 1985,

**"Securities"** means all stocks, shares, debentures, bonds, warrants, coupons, negotiable instruments, certificates of deposit or other securities or "*investments*" (as defined in part II of schedule II to the Financial Services and Markets Act 2000 as in force at the date of this Deed),

**"Securities Rights"** means

- (a) all dividends, distributions and other income paid or payable on the relevant Securities or Charged Securities or on any asset referred to in paragraph (b) of this definition,
- (b) all rights, monies or property accruing or offered at any time in relation to such Securities or Charged Securities whether by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise,

**"Security"** means the Security Interests created by or pursuant to this Deed,

**"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,

- (b) the A/R Facility has been terminated according to its terms, and
- (c) PNC has no further commitment, obligation or liability under or pursuant to the Finance Documents,

**"Specified P&M"** means the P&M (if any) specified in part 2 of schedule 3 (*Details of Security Assets*), and

**"Specified Real Property"** means the estates and interests in freehold, leasehold and other immovable property (if any) specified in part 1 of schedule 3 (*Details of Security Assets*), together with

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

## 1.2 Interpretation

- (a) Unless a contrary indication appears, any reference in this Deed to
  - (i) an **"Obligor"**, the **"Real Property Obligor"** a **"Security Obligor"** or **"PNC"** shall be construed so as to include its successors in title, permitted assigns and permitted transferees,
  - (ii) **"this Deed"**, the **"Master Facilities Agreement"**, any other **"Finance Document"** or any other agreement or instrument shall be construed as a reference to this Deed, the Master Facilities Agreement, such other Finance Document or such other agreement or instrument as varied, 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) **"assets"** includes any present and future properties, revenues and rights of every description and includes uncalled capital,
  - (iv) an Event of Default that is **"continuing"** shall be construed as meaning an Event of Default that has not been remedied or waived in writing by PNC, to the satisfaction of PNC and any waiver given by PNC shall only apply to the specific occurrence of the specific event referred to in such waiver,
  - (v) **"including"** or **"includes"** means including or includes without limitation,
  - (vi) **"Secured Obligations"** includes obligations and liabilities which would be treated as such but for the liquidation or dissolution of or similar event affecting any member of the Group,
  - (vii) a provision of law is a reference to that provision as amended or re-enacted, and

- (viii) the singular includes the plural and vice versa
- (b) References to clauses, paragraphs and schedules are to be construed, unless otherwise stated, as references to clauses, paragraphs and schedules of and to this Deed and references to this Deed include its schedules
  - (c) Clause and schedule headings are for convenience only and shall not affect the construction of this Deed
  - (d) Each undertaking of any Security Obligor contained in this Deed must be complied with at all times during the Security Period
  - (e) The terms of the other Finance Documents and of any side letters between any of the parties thereto in relation to any Finance Document are incorporated in this Deed to the extent required to ensure that any disposition of the property contained in this Deed is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989
  - (f) If PNC reasonably considers that an amount paid by any Security Obligor to PNC under a Finance Document is capable of being avoided or otherwise set aside on the liquidation or administration of such Security Obligor, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed
  - (g) The liabilities and obligations of each Security Obligor under this Deed shall be joint and several. Each Security Obligor agrees to be bound by this Deed notwithstanding that any other Security Obligor which was intended to sign or be bound by this Deed did not so sign or is not bound by this Deed
  - (h) 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
  - (i) Where in connection with any legal jurisdiction outside England and Wales a word or phrase in this Deed has no precise counterpart, then this Deed shall be interpreted as if that word or phrase referred to the closest equivalent in the jurisdiction concerned
  - (j) This Deed is a Finance Document

### **1.3 Third party rights**

A person who is not a Party shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed

#### **1.4 Intercreditor Deed**

This Deed is subject to the Intercreditor Deed

### **2. GUARANTEE AND INDEMNITY**

#### **2.1 Guarantee and indemnity**

Each Security Obligor irrevocably and unconditionally jointly and severally

- (a) guarantees in favour of PNC the punctual performance by each member of the Group of all obligations of each member of the Group under the Finance Documents,
- (b) undertakes in favour of PNC that whenever a member of the Group does not pay any amount when due under, or in connection with, any Finance Document, such Security Obligor shall immediately on demand pay that amount as if it were the principal obligor, and
- (c) indemnifies PNC immediately on demand against any cost, loss or liability suffered by PNC, if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal. The amount of the cost, loss or liability shall be equal to the amount which PNC would otherwise have been entitled to recover

#### **2.2 Extension of guarantee**

The guarantee set out in this clause 2 (*Guarantee and Indemnity*) is given subject to and with the benefit of the provisions set out in schedule 2 (*The Guarantee*)

### **3. COVENANT TO PAY**

#### **3.1 Covenant to pay**

Each Security Obligor, as principal obligor and not merely as surety, covenants in favour of PNC that it will pay and discharge the Secured Obligations from time to time when they fall due and payable in accordance with the terms of the Finance Documents

#### **3.2 Default interest**

- (a) Any amount which is not paid under this Deed when due and payable shall, save to the extent that interest at such rate on such amount and for such period is charged pursuant to the Finance Documents relevant to that liability and itself constitutes part of the Secured Obligations, bear interest (both before and after judgment and payable on demand) from the due date until the date on which such amount is unconditionally and irrevocably paid and discharged in full on a daily basis at the rate and in the manner agreed in the Finance Document under which such amount is payable and, in the absence of such agreement, at the Default Rate from time to time
- (b) Default interest will accrue from day to day and will be compounded at such intervals as PNC states are appropriate

#### **4. GRANT OF SECURITY**

##### **4.1 Nature of security**

All Security Interests and dispositions created or made by or pursuant to this Deed are created or made

- (a) in favour of PNC,
- (b) with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 but with all covenants implied therein pursuant to that Act being subject to and qualified by reference to any Permitted Security, and
- (c) as continuing security for payment of the Secured Obligations

##### **4.2 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)

#### **5. FIXED SECURITY AND ASSIGNMENT**

##### **5.1 Fixed charges**

As security for payment of the Secured Obligations, each Security Obligor 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 legal mortgage the Specified Real Property,
- (b) by way of first fixed charge
  - (i) all Real Property and all interests in Real Property not charged by clause 5 1(a),
  - (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 other than Specified Real Property,
- (c) by way of first fixed charge all Specified P&M,
- (d) by way of first fixed charge the benefit of all contracts, licences and warranties relating to the Specified P&M,
- (e) by way of first fixed charge all P&M (not charged by clauses 5 1(a), 5 1(b) or 5 1(c)) and the benefit of all contracts, licences and warranties relating to the same,

- (f) by way of first fixed charge
  - (i) all computers, vehicles, office equipment and other equipment (not charged by clause 5 1(c)), and
  - (ii) the benefit of all contracts, licences and warranties relating to the same,

other than any which are for the time being part of any Security Obligor's Inventory,

- (g) by way of first fixed charge the Charged Securities,
- (h) by way of first fixed charge all Securities Rights from time to time accruing to the Charged Securities;
- (i) by way of first fixed charge all rights which a Security Obligor may have at any time against any clearance or settlement system or any custodian in respect of any Charged Securities,
- (j) by way of first fixed charge all Securities (not charged by clause 5 1(g)),
- (k) by way of first fixed charge (A) all Securities Rights from time to time accruing to those Securities and (B) all rights which such Security Obligor may have at any time against any clearance or settlement system or any custodian in respect of any Securities,
- (l) in respect of the Obligor only, by way of first fixed charge all Non-Vesting Domestic A/R and their proceeds now or in the future owing to the Obligor,
- (m) in respect of the Obligor only, by way of first fixed charge all Related Rights relating to any Non-Vesting Domestic A/R,
- (n) in respect of the Obligor only, by way of first fixed charge all Non-Vesting Export A/R and their proceeds now or in the future owing to the Obligor,
- (o) in respect of the Obligor only, by way of first fixed charge all Related Rights relating to any Non-Vesting Export A/R,
- (p) in respect of the Obligor only, by way of first fixed charge all Other Proceeds,
- (q) by way of first fixed charge the Intellectual Property (if any) specified in part 4 of schedule 3 (*Details of Security Assets*) and the proceeds of sale of any such Intellectual Property,
- (r) by way of first fixed charge all Intellectual Property (if any) not charged by clause 5 1(q),
- (s) to the extent that any Assigned Asset is not effectively assigned under clause 5 2 (*Security Assignments*), by way of first fixed charge, such Assigned Asset,
- (t) 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 such Security Obligor or the use of any of its assets, and
- (ii) any letter of credit issued in favour of such Security Obligor and all bills of exchange and other negotiable instruments held by it, and
- (u) by way of first fixed charge all of the goodwill and uncalled capital of such Security Obligor

**5.2** The fixed security created by this Deed does not extend to any asset situated outside England and Wales or the rights to which are governed by any law other than the laws of England and Wales to the extent that and for so long as any such fixed security would be unlawful under the laws of the jurisdiction in which such asset is situated

### **5.3 Security assignments**

Each Security Obligor assigns and agrees to assign absolutely (subject to a proviso for reassignment on redemption) all its present and future right, title and interest in and to

- (a) the proceeds of the sale of any Specified Real Property,
- (b) the proceeds of the sale of any Specified P&M,
- (c) the proceeds of the sale of any Charged Securities,
- (d) the proceeds of the sale of any Intellectual Property specified in part 4 of schedule 3 (*Details of Security Assets*),
- (e) the Inventory Insurances, all claims under the Inventory Insurances and the proceeds of the Inventory Insurances,
- (f) the P&M Insurances, all claims under the P&M Insurances and the proceeds of the P&M Insurances,
- (g) the Real Property Insurances, all claims under the Real Property Insurances and the proceeds of the Real Property Insurances,
- (h) the Insurances, all claims under the Insurances and all proceeds of the Insurances,
- (i) Other Receivables (not assigned under clauses 5 3(a) to 5 3(h) (inclusive) above

To the extent that any Assigned Asset described in clauses 5 3(a) to 5 3(i) inclusive is not assignable, the assignment which that clause purports to effect shall operate as an assignment of all present and future rights and claims of such Security Obligor to any proceeds of an Assigned Asset



#### **5.4 Assigned Assets**

PNC is not obliged to take any steps necessary to preserve any Assigned Asset, or to make any enquiries as to the nature or sufficiency of any payment received by it pursuant to this Deed

#### **5.5 Intellectual Property Rights**

Each Security Obligor undertakes to PNC that, in respect of all its Intellectual Property Rights which are charged pursuant to clause 5 1(q) (*Fixed Charges*) that it will not at any time challenge PNC's enforcement of such charges on the basis of the *lex situs* of those Intellectual Property Rights

### **6. FLOATING CHARGE**

As security for payment of the Secured Obligations, each Security Obligor (other than the Scottish Security Obligors) charges and agrees to charge by way of first floating charge all of its present and future

- (a) assets and undertaking (wherever located) which are not effectively charged by way of first fixed mortgage or charge or assigned pursuant to clause 5 1 (*Fixed charges*), clause 5 2 (*Security assignments*) or any other provision of this Deed, and
- (b) (whether or not effectively so charged or assigned) heritable property and all other property and assets in Scotland

### **7. CONVERSION OF FLOATING CHARGE**

#### **7.1 Conversion by notice**

PNC may, by written notice to a Security Obligor (other than a Scottish Security Obligor), convert the floating charge created under this Deed into a fixed charge as regards all or any of the assets of such Security Obligor specified in the notice if

- (a) an Event of Default has occurred and is continuing, or
- (b) PNC (acting reasonably) considers any Security Assets (whether or not those specified in the notice) to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy

#### **7.2 Small companies**

The floating charge created under this Deed by any Security Obligor shall not convert into a fixed charge solely by reason of a moratorium being obtained under the Insolvency Act 2000 (or anything done with a view to obtaining such a moratorium) in respect of such Security Obligor

#### **7.3 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 Security Asset which is subject to a floating charge if
  - (i) such Security Obligor creates (or attempts or purports to create) any Security Interest on or over the relevant Security Asset without the prior written consent of PNC, or
  - (ii) any third party levies or attempts to levy any distress, execution, attachment or other legal process against any such Security Asset, and
- (b) over all Security Assets of a Security Obligor which are subject to a floating charge if an Administrator is appointed in respect of such Security Obligor or PNC receives notice of intention to appoint such an Administrator

#### **7.4 Partial conversion**

The giving of a notice by PNC pursuant to clause 7.1 (*Conversion by notice*) in relation to any class of assets of any Security Obligor shall not be construed as a waiver or abandonment of the rights of PNC to serve similar notices in respect of any other class of assets or of any other right of PNC

### **8. CONTINUING SECURITY**

#### **8.1 Continuing security**

The 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 Secured Obligations for the duration of the Security Period.

#### **8.2 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 Interest which PNC may at any time hold for any Secured Obligation.

#### **8.3 Right to enforce**

This Deed may be enforced against each or any Security Obligor without PNC first having recourse to any other right, remedy, guarantee or Security Interest held by or available to it.

### **9. LIABILITY OF SECURITY OBLIGORS RELATING TO SECURITY ASSETS**

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

## **10. ACCOUNTS**

No monies at any time standing to the credit of any account (of any type and however designated) of any Security Obligor with PNC or in which any Security Obligor has an interest (and no rights and benefits relating thereto) shall be capable of being assigned to any third party other than where such assignment constitutes Permitted Security

## **11. REPRESENTATIONS**

### **11.1 General**

Each Security Obligor makes the representations and warranties set out in this clause 11 to PNC

### **11.2 No Security Interests**

Its Security Assets are, or when acquired will be, beneficially owned by such Security Obligor free from any Security Interest other than

- (a) as created by this Deed, and
- (b) as permitted by the Master Facilities Agreement

### **11.3 No avoidance**

This Deed creates the Security Interests which it purports to create and is not liable to be avoided or otherwise set aside on the liquidation or administration of any Security Obligor or otherwise

### **11.4 Ownership of Security Assets**

Each Security Obligor is the sole legal and beneficial owner of all the Security Assets identified against its name in schedule 3 (*Details of Security Assets*) except in respect of those Charged Securities (if any) which are held by a nominee for a Security Obligor, in which case such Security Obligor is the beneficial owner only of such Charged Securities

### **11.5 No proceedings pending or threatened**

Each Security Obligor hereby gives the representation set out at paragraph 6(h) of Schedule 1 (*Common Terms*) of the Master Facilities Agreement as if the same were set out in this Deed, save that the reference to the Obligor is a reference to the relevant Security Obligor

### **11.6 Charged Securities**

- (a) All Securities (including any Charged Securities) are fully paid
- (b) If any Charged Securities are listed in part 3 of schedule 3 (*Details of Security Assets*) those Charged Securities constitute the entire share capital owned by each Security Obligor in the relevant company

### **11.7 Time when representations made**

- (a) All the representations and warranties in this clause 11 are made by each Security Obligor on the date of this Deed and are also deemed to be made by each Security Obligor on the date of each Notification
- (b) Each representation or warranty deemed to be made after the date of this Deed shall be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made

## **12. UNDERTAKINGS BY SECURITY OBLIGORS**

### **12.1 Master Facilities Agreement**

On the Commencement Date, and until the end of the Security Period, each Security Obligor hereby

- (a) gives the warranties and representations set out at paragraphs 6(a) to 6(f) inclusive, 6(i), 6(k), 6(l) and 6(o) of schedule 1 (*Common terms*) of the Master Facilities Agreement,
- (b) gives the covenants set out at paragraph 7 of schedule 1 (*Common terms*) of the Master Facilities Agreement, and
- (c) gives the undertakings set out at paragraphs 8(a) to 8(c) inclusive, 8(f), 8(g) and 8(k) of schedule 1 (*Common terms*) of the Master Facilities Agreement,

as if the same were set out in this Deed mutatis mutandis and (save for the reference to "Obligor" in paragraph 8(f)(ii)) references in those paragraphs to the "Obligor" are deemed to be references to the relevant Security Obligor and references to "this Deed" are deemed to be references to this Deed

### **12.2 Restrictions on dealing**

No Security Obligor shall do or agree to do any of the following without the prior written consent of PNC

- (a) create or permit to subsist any Security Interest on any Security Assets except a Security Interest which is permitted by the Master Facilities Agreement,
- (b) sell, transfer, lease, lend or otherwise dispose of (whether by a single transaction or a number of transactions and whether related or not) the whole or any part of its interest in any Security Asset except for the sale at full market value of stock in trade in the usual course of trading as conducted by such Security Obligor at the Commencement Date or as permitted by the Master Facilities Agreement

### **12.3 Security Assets generally**

Each Security Obligor shall

- (a) permit PNC (or its designated representatives), on reasonable written notice

(i) access during normal office hours to any documents and records relating to the Security Assets which PNC may reasonably require, and

(ii) to inspect, take extracts from, and make photocopies of, the same,

and to provide (at the expense of the Obligor), such clerical and other assistance which PNC may reasonably require to do this,

(b) notify PNC of every material notice, order, application, requirement or proposal given or made by any competent authority

(i) in relation to any Security Asset specified in schedule 3 (*Details of Security Assets*), as soon as practicable upon receipt, and

(ii) within 14 days of receipt of every material notice, order, application, requirement or proposal given or made in relation to any Security Assets other than Security Asset specified in schedule 3 (*Details of Security Assets*)

and (if required by PNC) immediately provide it with a copy of the same and either (A) comply with such notice, order, application, requirement or proposal or (B) make such objections to the same as PNC may approve **PROVIDED ALWAYS** that notices in respect of limb (a) of the definition of Securities Rights shall be dealt with in accordance with clause 12 3(b)(i) above following the exercise by PNC of its rights in accordance with clause 12 7(b)(*Rights in respect of Charged Securities and Securities Rights*),

(c) duly and punctually pay all rates, rents, Taxes, and other outgoings owed by it in respect of the Security Assets (save to the extent the same are being disputed in good faith) where failure to do so has or is reasonably likely to have a Material Adverse Effect, and

(d) in addition to any provisions of the Master Facilities Agreement or this Deed relating to specific Security Assets

(i) comply in all material respects with all obligations in relation to the Security Assets under any present or future law, regulation, order or instrument or under any bye-laws, regulations or requirements of any competent authority or other approvals, licences or consents,

(ii) comply with all material covenants and obligations affecting the Security Assets (or their manner of use),

(iii) not, except with the prior written consent of PNC, enter into any onerous or materially restrictive obligation affecting any Security Asset,

(iv) provide PNC with all information which it may reasonably request in relation to the Security Assets, and

(v) not do, cause or permit to be done anything which may in any material way depreciate, jeopardise or otherwise prejudice the value

or marketability of any Security Asset (or make any omission which has such an effect)

#### **12.4 Specified P&M**

Each Security Obligor undertakes that it is the owner, with full title guarantee (subject to any Permitted Security), of the Specified P&M listed by its name in schedule 3 (*Details of Security Assets*) and in relation to that Specified P&M, that it shall at all times comply with paragraphs 6(b)(i), 6(b)(iii), 6(b)(iv), 6(f)(i), 6(g)(i) of schedule 4 (*P&M Facility terms and conditions*) to the Master Facilities Agreement as if those paragraphs were set out in this Deed mutatis mutandis and references in those paragraphs and the definitions used in those paragraphs to the "Obligor" are deemed to be references to the relevant Security Obligor

#### **12.5 Specified Real Property**

Each Security Obligor undertakes that it is the owner, with full title guarantee, of the Specified Real Property listed by its name in schedule 3 (*Details of Security Assets*) and in relation to that Specified Real Property, that it shall at all times comply with paragraphs 6(c)(i), 6(e), 6(f), 6(g)(i) of schedule 5 (*Real Property Facility terms and conditions*) to the Master Facilities Agreement as if those paragraphs were set out in this Deed mutatis mutandis and references in those paragraphs and the definitions used in those paragraphs to the "Obligor" are deemed to be references to the relevant Security Obligor

#### **12.6 Charged Securities**

- (a) In relation to any Charged Securities, each Security Obligor shall, immediately, or as otherwise agreed by PNC in its sole discretion, upon execution of this Deed or (if later), as soon as is practicable after its acquisition of any such Charged Securities in certificated form, by way of security for the Secured Obligations
  - (i) deposit with PNC or, as PNC may direct, all certificates and other documents of title or evidence of ownership to such Charged Securities and their Securities Rights, and
  - (ii) execute and deliver to PNC pre-stamped instruments of transfer in respect of such Charged Securities (executed in blank and left undated) and/or such other documents as PNC shall require to enable it (or its nominees) to be registered as the owner of or otherwise to acquire a legal title to such Charged Securities and their Securities Rights (or to pass legal title to any purchaser)
- (b) In relation to any Charged Securities, each Security Obligor shall
  - (i) promptly give notice to any custodian of any agreement with such Security Obligor in respect of any such Charged Securities and all present and future Securities Rights accruing to all or any of such Charged Securities, in a form PNC may require, and
  - (ii) use its reasonable endeavours to ensure that the custodian acknowledges that notice in a form PNC may require

- (c) Without prejudice to the rest of this clause 12.6, PNC may, at the expense of the relevant Security Obligor, take whatever action is required for the dematerialisation or rematerialisation of any Charged Securities and all present and future Securities Rights accruing to all or any of such Charged Securities
- (d) Each Security Obligor shall promptly pay all material calls or other material payments which may become due in respect of Charged Securities and all present and future Securities Rights accruing to all or any of such Charged Securities, save to the extent such calls or payments are being contested in good faith
- (e) Each Security Obligor shall as soon as practicable following a request from PNC comply with the provisions of this clause 12.6 in relation to any Securities other than the Charged Securities and their Securities Rights

#### **12.7 Rights in respect of Securities Charged Securities and Securities Rights**

- (a) Until the security constituted by this Deed is enforced, each Security Obligor shall be entitled to
  - (i) receive and retain all dividends, distributions and other monies paid on or derived from its Securities and its Charged Securities, and
  - (ii) exercise all voting and other rights and powers attaching to its Securities and its Charged Securities, provided that it must not do so in a manner which (A) has the effect of changing the terms of the Securities or the Charged Securities (or any class of them) or of any Securities Rights which would have an adverse effect on the value of the Charged Securities taken as a whole or (B) which is prejudicial to the interests of PNC having regard to the value of the Security Assets taken as a whole
- (b) At any time following the occurrence of an Event of Default which is continuing, PNC may complete the instrument(s) of transfer for all or any Securities or Charged Securities on behalf of any Security Obligor in favour of itself or such other person as it may select
- (c) At any time when any Securities or Charged Securities are registered in the name of PNC or its nominee, PNC shall be under no duty to
  - (i) ensure that any dividends, distributions or other monies payable in respect of such Securities or Charged Securities are duly and promptly paid or received by it or its nominee, or
  - (ii) verify that the correct amounts are paid or received, or
  - (iii) take any action in connection with the taking up of any (or any offer of any) Securities Rights in respect of or in substitution for any such Securities or Charged Securities

## **12.8 Dealings with and realisation of Non-Vesting A/R and Other Proceeds**

- (a) The Obligor shall only deal with Non-Vesting A/R and the proceeds thereof and the Related Rights thereto in accordance with the Master Facilities Agreement
- (b) The Obligor agrees that the Other Proceeds shall be dealt with as if they were the proceeds of A/R assigned or purportedly assigned to PNC in accordance with the terms of the Master Facilities Agreement

## **12.9 Intellectual Property**

Unless the relevant Intellectual Property is of minor importance to the Group each Security Obligor shall

- (a) do all acts as are reasonably practicable to maintain, protect and safeguard (including, without limitation, registration with all relevant authorities) its Intellectual Property and not discontinue the use of any of its Intellectual Property,
- (b) take all such reasonable steps, including the commencement of legal proceedings, as may be necessary to safeguard and maintain the validity, reputation, integrity, registration or subsistence of its Intellectual Property, and
- (c) in relation to any Intellectual Property other than that specified in part 4 of schedule 3 (*Details of Security Assets*), and to the extent that such Intellectual Property is registerable at the UK Intellectual Property Office, comply with the obligations under clause 21.2 (*Specific Security*).

## **12.10 Proceeds of the sale of certain Charged Securities, Specified P&M, Real Property and Intellectual Property**

The Security Obligors undertake to deal with the proceeds of sale of the Security Assets referred to at clauses 5.2(a) to (d) inclusive in accordance with the terms of the Master Facilities Agreement or otherwise, in accordance with the terms of any consent issued by PNC to a Security Obligor in relation to any such Security Asset

## **12.11 Insurance**

In relation to any ABL Insurance, the Security Obligor listed in part 5, part 6 or part 7 of schedule 3 (*Details of Security Assets*) as holding the relevant ABL Insurance shall at all times comply with the following provisions of the Master Facilities Agreement as if the same were set out in this Deed

- (a) in relation to Inventory Insurance, paragraphs 6(i) to 6(m) inclusive of schedule 3 (*Inventory Facility terms and conditions*) to the Master Facilities Agreement,
- (b) in relation to the P&M Insurance, paragraphs 6(h) to 6(l) inclusive of schedule 4 (*P&M Facility terms and conditions*) to the Master Facilities Agreement, and



- (c) in relation to Real Property Insurance, paragraphs 6(h) to (l) inclusive of schedule 5 (*Real Property Facility terms and conditions*) to the Master Facilities Agreement,

and references to the "Obligor" in those paragraphs and the definitions used in those paragraphs are deemed to be references to the relevant Security Obligor

### **13. POWER TO REMEDY**

#### **13.1 Power to remedy**

If at any time a Security Obligor does not comply with any of its obligations under this Deed within any applicable grace periods, PNC (without prejudice to any other rights arising as a consequence of such non-compliance) shall be entitled (but not bound) to rectify that default. The relevant Security Obligor irrevocably authorises PNC and its employees and agents by way of security to do all things (including entering the property of such Security Obligor) which are necessary to rectify that default.

#### **13.2 Mortgagee in possession**

The exercise of the powers of PNC under this clause 13 shall not render it liable as a mortgagee in possession.

#### **13.3 Monies expended**

The relevant Security Obligor shall pay to PNC on demand any monies which are expended by PNC in exercising its powers under this clause 13, together with interest at the Default Rate from the date on which those monies were expended by PNC (both before and after judgment) until such payment and otherwise in accordance with clause 3.2 (*Default interest*).

### **14. WHEN SECURITY BECOMES ENFORCEABLE**

#### **14.1 When enforceable**

This Security shall become immediately enforceable upon the giving of notice by PNC to the Security Obligors of the occurrence of an Event of Default and shall remain so for so long as such Event of Default is continuing.

#### **14.2 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 Event of Default and for so long as such Event of Default is continuing.

#### **14.3 Enforcement**

After this Security has become enforceable, PNC may in its absolute discretion enforce all or any part of the Security in such manner as it sees fit.

## **15. ENFORCEMENT OF SECURITY**

### **15.1 General**

For the purposes of all powers implied by statute, the 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 Security. The statutory powers of leasing conferred on PNC are extended so as to authorise PNC to lease, make agreements for leases, accept surrenders of leases and grant options as PNC may think fit and without the need to comply with section 99 or 100 of the Act.

### **15.2 Powers of PNC**

- (a) At any time after the Security becomes enforceable, PNC may without further notice (unless required by law)
  - (i) (or if so requested by any Security Obligor by written notice at any time may) appoint any person or persons to be a receiver or receiver and manager 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 a Security Obligor, 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, and/or
  - (iv) exercise (in the name of any Security Obligor and without any further consent or authority of such Security Obligor) any voting rights and any powers or rights which may be exercised by the person(s) in whose name the Charged Investments are registered, or who is the holder of any of them
- (b) PNC is not entitled to appoint a Receiver in respect of any Security Assets of any Security Obligor which are subject to a charge which (as created) was a floating charge solely by reason of a moratorium being obtained under the Insolvency Act 2000 (or anything done with a view to obtaining such a moratorium) in respect of such Security Obligor

### **15.3 Redemption of prior mortgages**

At any time after the Security has become enforceable, PNC may

- (a) redeem any prior Security Interest against any Security Asset, and/or
- (b) procure the transfer of that Security Interest to itself, and/or
- (c) settle and pass the accounts of the holder of any prior Security Interest and any accounts so settled and passed shall be conclusive and binding on each Security Obligor

All principal, interest, costs, charges and expenses of and incidental to any such redemption and/or transfer shall be paid by the relevant Security Obligor to PNC on demand

#### **15.4 Privileges**

Each Receiver and PNC is 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

#### **15.5 No liability**

- (a) Neither PNC nor any Receiver shall be liable (i) in respect of all or any part of the Security Assets or (ii) for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, its or his respective powers (unless such loss or damage is caused by its or his gross negligence or wilful misconduct)
- (b) Without prejudice to the generality of clause 15.5(a), neither PNC nor any Receiver 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

#### **15.6 Protection of third parties**

No person (including a purchaser) dealing with PNC or any Receiver or its or his agents will be concerned to enquire

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

### **16. RECEIVER**

#### **16.1 Removal and replacement**

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

#### **16.2 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)

### **16.3 Remuneration**

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

### **16.4 Payment by Receiver**

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

### **16.5 Agent of Security Obligors**

Any Receiver shall be the agent of the Security Obligor in respect of which it is appointed. Such Security Obligor 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. PNC shall incur no liability (either to such Security Obligor or to any other person) by reason of the appointment of a Receiver or for any other reason.

## **17. POWERS OF RECEIVER**

### **17.1 General powers**

Any Receiver shall have

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

### **17.2 Additional powers**

In addition to the powers referred to in clause 17.1 (*General powers*), a Receiver shall have the following powers

- (a) to take possession of, collect and get in all or any part of the Security Assets and/or income in respect of which he was appointed,
- (b) to manage the Security Assets and the business of any Security Obligor as he thinks fit,
- (c) to redeem any security and to borrow or raise any money and secure the payment of any money in priority to the Secured Obligations for the purpose of the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise,
- (d) to sell or concur in selling, leasing or otherwise disposing of all or any part of the Security Assets in respect of which he was appointed without the need to observe the restrictions imposed by section 103 of the Act. Fixtures may be

severed and sold separately from the Real Property containing them, without the consent of any Security Obligor. The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration (and the amount of such consideration may be dependent upon profit or turnover or be determined by a third party). Any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit,

- (e) to alter, improve, develop, complete, construct, modify, refurbish or repair any building or land and to complete or undertake or concur in the completion or undertaking (with or without modification) of any project in which any Security Obligor was concerned or interested before his appointment (being a project for the alteration, improvement, development, completion, construction, modification, refurbishment or repair of any building or land),
- (f) to carry out any sale, lease or other disposal of all or any part of the Security Assets by conveying, transferring, assigning or leasing the same in the name of the relevant Security Obligor and, for that purpose, to enter into covenants and other contractual obligations in the name of, and so as to bind, such Security Obligor,
- (g) to take any such proceedings (in the name of any of the relevant Security Obligors or otherwise) as he shall think fit in respect of the Security Assets and/or income in respect of which he was appointed (including proceedings for recovery of rent or other monies in arrears at the date of his appointment),
- (h) to enter into or make any such agreement, arrangement or compromise as he shall think fit,
- (i) to insure, and to renew any insurances in respect of, the Security Assets as he shall think fit (or as PNC shall direct),
- (j) to appoint and employ such managers, officers and workmen and engage such professional advisers as he shall think fit (including, without prejudice to the generality of the foregoing power, to employ his partners and firm),
- (k) to form one or more Subsidiaries of any Security Obligor, and to transfer to any such Subsidiary all or any part of the Security Assets,
- (l) to operate any rent review clause in respect of any Real Property in respect of which he was appointed (or any part thereof) and to apply for any new or extended lease, and
- (m) to
  - (i) give valid receipts for all monies and to do all such other things as may seem to him to be incidental or conducive to any other power vested in him or necessary for the realisation of any Security Asset,
  - (ii) exercise in relation to each Security Asset all such powers and rights as he would be capable of exercising if he were the absolute beneficial owner of the Security Assets, and

- (iii) use the name of any Security Obligor for any of the above purposes

## **18. APPLICATION OF PROCEEDS**

### **18.1 Application**

All monies received by PNC or any Receiver after the Security has become enforceable shall (subject to the rights and claims of any person having a security ranking in priority to the Security) be applied as provided for in the Intercreditor Deed

### **18.2 Contingencies**

If the Security is enforced at a time when no amounts are due under the Finance Documents (but at a time when amounts may become so due), PNC or a Receiver may pay the proceeds of any recoveries effected by it into a blocked suspense account

## **19. SET-OFF**

### **19.1 Set-off**

- (a) PNC may (but shall not be obliged to) set off any obligation (contingent or otherwise under the Finance Documents or which has been assigned to PNC) against any obligation (whether or not matured) owed by PNC to the Security Obligor, regardless of the place of payment, booking branch or currency of either obligation

- (a) If the obligations are in different currencies, PNC may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off

- (b) If either obligation is unliquidated or unascertained, PNC may set off in an amount estimated by it in good faith to be the amount of that obligation

### **19.2 Time deposits**

Without prejudice to clause 19.1(*Set-off*) if any time deposit matures on any account which any Security Obligor has with PNC at a time when

- (a) this Security has become enforceable, and

- (b) no Secured Obligation is due and payable,

- (c) such time deposit shall automatically be renewed for such further maturity as PNC in its absolute discretion considers appropriate unless PNC otherwise agrees in writing

## **20. DELEGATION**

Each of PNC and any Receiver may delegate, by power of attorney (or in any other manner) to any person, any right, power or discretion exercisable by it under this Deed upon any terms (including power to sub-delegate) which it may think fit. Neither PNC nor any Receiver shall be in any way liable or responsible to any

Security Obligor for any loss or liability arising from any act, default, omission or misconduct on the part of any such delegate or sub-delegate

## **21. FURTHER ASSURANCES**

### **21.1 Further action**

Each Security Obligor shall, at its own expense, promptly take whatever action PNC or a Receiver may require for

- (a) creating, perfecting or protecting the Security Interests intended to be created by this Deed, and
- (b) facilitating the realisation of any Security Asset or the exercise of any right, power or discretion exercisable by PNC or any Receiver or any of its or his delegates or sub-delegates in respect of any Security Asset,

including the execution of any transfer, conveyance, assignment or assurance of any property whether to PNC or to its nominees, the giving of any notice, order or direction and the making of any registration which in any such case PNC may reasonably think necessary

### **21.2 Specific security**

Without prejudice to the generality of clause 21.1 (*Further action*), each Security Obligor shall forthwith at the request of PNC execute a legal mortgage, charge, assignment, assignation or other security over any Security Asset which is subject to or intended to be subject to any fixed security created by this Deed in favour of PNC (including any arising or intended to arise pursuant to clause 7 (*Conversion of floating charge*)) in such form as PNC may require

## **22. POWER OF ATTORNEY**

Each Security Obligor, once the security created by this Deed has become enforceable, by way of security, irrevocably and severally appoints PNC, each Receiver and any of its or his delegates or sub-delegates to be its attorney to take any action which such Security Obligor is obliged to take under this Deed, including under clause 21 (*Further assurances*). Each Security Obligor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause

## **23. PAYMENTS**

### **23.1 Payments**

Subject to clause 23.2 (*Gross-up*), all payments to be made by a Security Obligor in respect of this Deed shall be made

- (a) in immediately available funds to the credit of such account as PNC may designate, and

- (b) without (and free and clear of, and without any deduction for or on account of)
  - (i) any set-off or counterclaim, or
  - (ii) except to the extent compelled by law, any deduction or withholding for or on account of Tax

### **23.2 Gross-up**

If any Security Obligor is compelled by law to make any deduction or withholding from any sum payable under this Deed to PNC, the sum so payable by such Security Obligor shall be increased so as to result in the receipt by PNC of a net amount equal to the full amount expressed to be payable under this Deed

### **23.3 Master Facilities Agreement**

Without prejudice to the provisions of clause 2 (*Guarantee and indemnity*) and each Security Obligor's obligations in accordance with this Deed, PNC may at any time after the security created by this Deed has become enforceable discharge a Security Obligor's obligation to make payment of any sums due by a Security Obligor to PNC by debiting such sum to any account held by PNC in relation to the Obligor or the Real Property Obligor

## **24. STAMP DUTY**

Each Security Obligor shall

- (a) pay all present and future stamp, registration and similar Taxes or charges which may be payable, or determined to be payable, in connection with the execution, delivery, performance or enforcement of this Deed or any judgment given in connection therewith, and
- (b) indemnify PNC and any Receiver on demand against any and all costs, losses or liabilities (including, without limitation, penalties) with respect to, or resulting from, its delay or omission to pay any such stamp, registration and similar Taxes or charges

## **25. COSTS AND EXPENSES**

### **25.1 Transaction and amendment expenses**

Each Security Obligor shall promptly on demand pay to PNC the amount of all reasonable costs, charges and expenses (including, without limitation, reasonable legal fees, valuation, accountancy and consultancy fees (and any VAT or similar Tax thereon)) properly incurred by PNC in connection with

- (a) the negotiation, preparation, printing, execution, registration, perfection and completion of this Deed, the Security or any document referred to in this Deed, or
- (b) any actual or proposed amendment or extension of, or any waiver or consent under, this Deed



## **25.2 Enforcement and preservation costs**

Each Security Obligor shall promptly on demand pay to PNC and any Receiver the amount of all costs, charges and expenses (including (without limitation) legal fees (and any VAT or similar Tax thereon)) properly incurred by any of them in connection with the enforcement, exercise or preservation (or the attempted enforcement, exercise or preservation) of any of their respective rights under this Deed or any document referred to in this Deed or the Security (including all remuneration of the Receiver)

## **26. CURRENCIES**

### **26.1 Conversion**

All monies received or held by PNC or any Receiver under this Deed may be converted from their existing currency into such other currency as PNC or the Receiver considers necessary to cover the obligations and liabilities comprised in the Secured Obligations in that other currency at the Spot Rate of Exchange. Each Security Obligor shall indemnify PNC against all costs, charges and expenses incurred in relation to such conversion. Neither PNC nor any Receiver shall have any liability to any Security Obligor in respect of any loss resulting from any fluctuation in exchange rates after any such conversion.

### **26.2 Currency indemnity**

No payment to PNC (whether under any judgment or court order or in the liquidation, administration or dissolution of any Security Obligor or otherwise) shall discharge the obligation or liability of any Security Obligor in respect of which it was made, unless and until PNC shall have received payment in full in the currency in which the obligation or liability was incurred and, to the extent that the amount of any such payment shall on actual conversion into such currency fall short of such obligation or liability expressed in that currency, PNC shall have a further separate cause of action against any Security Obligor and shall be entitled to enforce the Security to recover the amount of the shortfall.

## **27. INDEMNITY**

**27.1** Each Security Obligor shall indemnify PNC, any Receiver and any attorney, agent or other person appointed by PNC under this Deed and PNC's officers and employees (each an "**Indemnified Party**") on demand against any cost, loss, liability or expense (however arising) properly incurred by any Indemnified Party as a result of or in connection with

- (a) anything done or omitted in the exercise or purported exercise of the powers contained in this Deed,
- (b) any breach by any Security Obligor of any of its obligations under this Deed

**27.2** Each Security Obligor shall indemnify PNC, any Receiver and any attorney, agent or other person appointed by PNC under this Deed and PNC's officers and employees (each an "**Indemnified Party**") on demand against any reasonable cost, loss, liability or expense (however arising) properly incurred by any Indemnified Party as a result of or in connection with

- (a) the Security Assets or the use or occupation of them by any person (including any Environmental Claim)

## **28. MISCELLANEOUS**

### **28.1 Appropriation and suspense account**

- (a) Subject to the Intercreditor Deed, PNC may apply all payments received in respect of the Secured Obligations in reduction of any part of the Secured Obligations as it thinks fit. Any such appropriation shall override any appropriation by any Security Obligor.
- (b) All monies received, recovered or realised by PNC under, or in connection with, this Deed may at the discretion of PNC be credited to a separate interest bearing suspense account for so long as PNC determines (with interest accruing thereon at such rate, if any, as PNC may determine for the account of the relevant Security Obligor) without PNC having any obligation to apply such monies and interest or any part thereof in or towards the discharge of any of the Secured Obligations.

### **28.2 New accounts**

If PNC receives, or is deemed to be affected by, notice, whether actual or constructive, of any subsequent Security Interest (other than Permitted Security) affecting any Security Asset and/or the proceeds of sale of any Security Asset or the Guarantee ceases to continue in force, it may open a new account or accounts for any Security Obligor. If it does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received such notice. As from that time all payments made to PNC will be credited or be treated as having been credited to the new account and will not operate to reduce any amount of the Secured Obligations.

### **28.3 Changes to the Parties**

- (a) No Security Obligor may assign any of its rights under this Deed.
- (b) PNC may assign or transfer all or any part of its rights under this Deed. Each Security Obligor shall, immediately upon being requested to do so by PNC, enter into such documents as may be necessary or desirable to effect such assignment or transfer.

### **28.4 Memorandum and articles**

Each Security Obligor certifies that the Security does not contravene any of the provisions of the memorandum or articles of association of that Security Obligor.

## **28.5 Tacking**

If the Obligor or the Real Property Obligor has been provided with a Real Property Facility the following provisions shall apply

- (a) PNC shall perform its obligations under the Master Facilities Agreement (including any obligation to make available further advances)
- (b) This Deed secures advances already made and further advances to be made

## **28.6 The Land Registry**

If the Obligor or the Real Property Obligor has been provided with a Real Property Facility the following provisions shall apply

- (a) Each Security Obligor shall apply to the Chief Land Registrar (and consents to such an application being made by or on behalf of PNC) for a restriction in the following terms to be entered on the Register of Title relating to any Real Property which has been charged pursuant to Clause 5 (*Fixed Charges*) registered at the Land Registry (or any unregistered land subject to first registration) and against which this Deed may be noted

*"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [◆] 2013 in favour of PNC Business Credit a trading style of PNC Financial Services UK Limited referred to in the charges register or, if appropriate, signed on such proprietor's behalf by its secretary or conveyancer "*

- (b) Each Security Obligor
  - (i) authorises PNC to make any application which PNC reasonably deems appropriate for the designation of this Deed, the Master Facilities Agreement or any other Finance Document as an exempt information document under rule 136 of the Land Registration Rules 2003,
  - (ii) shall use its best endeavours to assist with any such application made by or on behalf of PNC, and
  - (iii) shall notify PNC in writing promptly following it receiving notice of any person's application under rule 137 of the Land Registration Rules 2003 for the disclosure of this Deed, the Master Facilities Agreement or any other Finance Document, following its designation as an exempt information document
- (c) No Security Obligor shall make any application under rule 138 of the Land Registration Rules 2003 for the removal of the designation of any such document as an exempt information document
- (d) Each Security Obligor shall promptly make all applications to and filings with the Land Registry which are necessary under the Land Registration Rules to protect the Security

- (e) No Security Obligor shall, without the prior written consent of PNC, permit any person to be or become registered under the Land Registration Act 2002 as the proprietor of a Security Asset who is not so registered under the Land Registration Act 2002 at the date of this Deed or, in the case of Real Property acquired after the date of this Deed, at the date of such acquisition

#### **28.7 Amendments and waivers**

Any provision of this Deed may be amended only if PNC and the Security Obligors so agree in writing and any breach of this Deed may be waived before or after it occurs only if PNC so agrees in writing. A waiver given or consent granted by PNC under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

#### **28.8 Calculations and certificates**

A certificate of PNC specifying the amount of any Secured Obligation due from a Security Obligor (including details of any relevant calculation thereof) shall be prima facie evidence of such amount against each Security Obligor in the absence of manifest error.

#### **28.9 Waiver, rights and remedies**

No failure to exercise, nor any delay in exercising, on the part of PNC, 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.

### **29. NOTICES**

#### **29.1 Communications in writing**

- (a) The provisions of paragraphs 24(a) to 24(c) inclusive of schedule 1 (*Common Terms*) of the Master Facilities Agreement shall apply to this Deed as if the same were set out in this Deed, provided that
- (b) reference to "**each Party**" shall be deemed to be references to each party to this Deed, and
- (c) references to the "**Obligor**" shall be deemed to be references to each Security Obligor.

#### **29.2 Electronic communications**

No communication to be made under this Deed shall be made electronically.

### **30. 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

**31. RELEASE**

Upon the expiry of the Security Period (but not otherwise) PNC shall, at the request and cost of the Security Obligors, take whatever action is necessary to release or re-assign (without recourse or warranty) the Security Assets from the Security

**32. 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

**33. GOVERNING LAW**

This Deed is governed by English law

**IN WITNESS** of which this Deed has been duly executed by each Security Obligor as a deed and duly executed by PNC and has been delivered on the first date specified on page 1 of this Deed

## **SCHEDULE 1**

### **Security Obligors**

<b>Company name</b>	<b>Company number</b>	<b>Registered Office</b>
Charles Letts & Co Limited	SC007315	16 Charlotte Square, Edinburgh, EH2 4DF
Filofax Limited	01891062	Level 13, The Broadgate Tower, Primrose Street, London, EC2A 2EW
Charles Letts Group Limited	SC147317	16 Charlotte Square, Edinburgh, EH2 4DF
Charles Letts (Holdings) Limited	00386906	Level 13, The Broadgate Tower, Primrose Street, London, EC2A 2EW
Filofax Group Limited	00175064	Level 13, The Broadgate Tower, Primrose Street, London, EC2A 2EW
Letts Filofax Group Limited	SC206359	16 Charlotte Square, Edinburgh, EH2 4DF
FLB Properties Limited	SC304477	16 Charlotte Square, Edinburgh, EH2 4DF
FLB Group Limited	SC295049	16 Charlotte Square, Edinburgh, EH2 4DF

## **SCHEDULE 2**

### **The Guarantee**

#### **1. Continuing guarantee**

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Security Obligor under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part

#### **2. Reinstatement**

If any payment by a Security Obligor, or any discharge given by PNC (whether in respect of the obligations of any Security Obligor or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event

- (a) the liability of each Security Obligor under this Deed shall continue as if the payment, discharge, avoidance or reduction had not occurred, and
- (b) PNC shall be entitled to recover the value or amount of that security or payment from each Security Obligor, as if the payment, discharge, avoidance or reduction had not occurred

#### **3. Waiver of defences**

The obligations of each Security Obligor under this Deed will not be affected by an act, omission, matter or thing which, but for this Deed, would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to it or to PNC) including

- (a) any time, waiver or consent granted to, or composition with, any Security Obligor or other person,
- (b) the release of any other Security Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group,
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Security Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security,
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of a Security Obligor or any other person,
- (e) any amendment, novation, supplement, extension (whether of maturity or otherwise), restatement or replacement (in each case, however fundamental and of any nature whatsoever including, without limitation, which results in any increase in any amount due or owing under any Finance Document or in the rate of interest or any other sum payable under any Finance Document) of a Finance Document or any other document or security,
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security, or

- (g) any insolvency, administration or similar proceedings

**4. Immediate recourse**

Each Security Obligor waives any right it may have of first requiring PNC to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Security Obligor under this schedule 2. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

**5. Appropriations**

Subject to the Intercreditor Deed, until all amounts which may be or become payable during the Security Period by the Security Obligors under or in connection with the Finance Documents have been irrevocably paid in full, PNC may

- (a) refrain from applying or enforcing any other monies, security or rights held or received by PNC in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Security Obligor shall be entitled to the benefit of the same, and
- (b) hold in an interest-bearing suspense account any monies received from any Security Obligor or on account of any Security Obligor's liability under this schedule 2

**6. Deferral of guarantors' rights**

Until all amounts which may be or become payable during the Security Period by the Security Obligors under, or in connection with, the Finance Documents have been irrevocably paid in full and unless PNC otherwise directs, no Security Obligor will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents

- (a) to be indemnified by a Security Obligor,
- (b) to claim any contribution from any other guarantor of any Security Obligor's obligations under the Finance Documents, and/or
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of PNC under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by PNC

**7. Additional security**

This guarantee is in addition to, and is not in any way prejudiced by, any other guarantee or security at the date of this guarantee or subsequently held by PNC



### SCHEDULE 3

#### Details of Security Assets

##### Part 1 - Specified Real Property

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##### Part 2 - Specified P&M





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##### Part 3 - Charged Securities

Security Obligor	Name of company in which shares are held	Class of shares held	Number of shares held	Issued share capital
Letts Filofax Group Limited	Filofax Group Limited	Ordinary Shares of £0.05 each	25,124,059	£1,256,202.95
Filofax Group Limited	Filofax Limited	Ordinary Shares of £1.00	100	£100.00
Charles Letts Group Limited	Charles Letts (Holdings) Limited	Ordinary Shares of £1.00 each	4,685,321	£4,685,321.00

##### Part 4 - Intellectual Property

Intellectual Property					
Proprietor	Mark	Number	Nice Class	Filing Date	Territory
Charles Letts & Co Limited	LETTS	UK00000675369	16	14/12/1948	UK
	LETTS TIMEPLAN	UK00000930314	16	03/09/1968	UK
		UK00001051870	16	09/09/1975	UK

	LETTS OF LONDON	UK00001181712	16	14/09/1982	UK
		UK00001307283	16	14/04/1987	UK
	LETTS OF LONDON	UK00001436151	18	15/08/1990	UK
	LETTS	UK00001437864	16	22/08/1990	UK
		UK00001437866	16	22/08/1990	UK
	LETTS	UK00002021443	09	23/05/1995	UK
	LETTS	UK00002187227	09, 38, 41	27/01/1999	UK
	LETTS BACK TO BASICS	UK00002229296	09, 35, 38, 41	13/04/2000	UK
		UK00002471059	16, 18	31/10/2007	UK
Filofax Limited	MICROFILE	UK00001231292	18	30/11/1984	UK
Filofax Group Limited	FILOFAX	UK00000518187	16	27/11/1930	UK
	DESKFAX	UK00001190961	16	23/02/1983	UK
	FILOFAX	UK00001229054	16, 18	29/10/1984	UK
	STYLOFAX	UK00001277831	18	04/09/1986	UK
		UK00001532865	16, 18	13/04/1993	UK
	CLIPBOOK	UK00002631851	16, 18,	16/08/2012	UK

		(Application Published)	42		
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**Part 5 – Inventory Insurances**

<b>Security Obligor</b>	<b>Insurer</b>	<b>Insured risks</b>	<b>Policy number</b>
FLB Group Limited and Subsidiaries	Zurich Commercial	Property Damage	135/400/LR400354

**Part 6 - P&M Insurances**

<b>Security Obligor</b>	<b>Insurer</b>	<b>Insured risks</b>	<b>Policy number</b>
FLB Group Limited and Subsidiaries	Royal & Sun Alliance	Computers	12-COS-0000001095
FLB Group Limited and Subsidiaries	Zurich Commercial	Property Damage	135/400/LR400354

**Part 7 - Real Property Insurances**

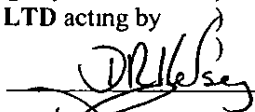
<b>Security Obligor</b>	<b>Insurer</b>	<b>Insured risks</b>	<b>Policy number</b>
FLB Group Limited and Subsidiaries	Zurich Commercial	Property Damage	135/400/LR400354

## EXECUTION PAGE

PNC

Executed as a deed, but not delivered until the )  
first date specified on page 1, by PNC )  
BUSINESS CREDIT a trading style of PNC )  
FINANCIAL SERVICES UK LTD acting by )

Authorised Signatory



DAVID KELSEY

Authorised Signatory



DAVID HARRISON

Address: 8-14 The Broadway, Haywards Heath, West Sussex RH16 3AP

Facsimile No: 01444 475849

Attention: The Directors, PNC Business Credit

## THE SECURITY OBLIGORS

Executed as a deed, but not delivered until the  
first date specified on page 1, by CHARLES  
LETTS & CO LIMITED acting by

Director

\_\_\_\_\_

Director/Secretary

\_\_\_\_\_

Address: 16 Charlotte Square, Edinburgh, EH2 4DF

Facsimile No:

Attention:

**EXECUTION PAGE**

**PNC**

Executed as a deed, but not delivered until the )  
first date specified on page 1, by **PNC** )  
**BUSINESS CREDIT** a trading style of **PNC** )  
**FINANCIAL SERVICES UK LTD** acting by )  
)

Authorised Signatory \_\_\_\_\_

Authorised Signatory \_\_\_\_\_

**Address:** 8-14 The Broadway, Haywards Heath, West Sussex RH16 3AP

**Facsimile No:** 01444 475849

**Attention:** The Directors, PNC Business Credit

**THE SECURITY OBLIGORS**

Executed as a deed, but not delivered until the  
first date specified on page 1, by **CHARLES**  
**LETTES & CO LIMITED** acting by:

Director  \_\_\_\_\_

Director\Secretary  \_\_\_\_\_

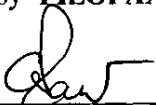
**Address:** 16 Charlotte Square, Edinburgh, EH2 4DF

**Facsimile No.**

**Attention.**

Executed as a deed, but not delivered until the first date specified on page 1, by **FILOFAX LIMITED** acting by

Director



Director/Secretary



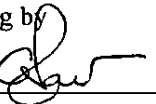
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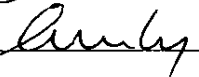
**Attention:**

Executed as a deed, but not delivered until the first date specified on page 1, by **CHARLES LETTS GROUP LIMITED** acting by

Director



Director/Secretary



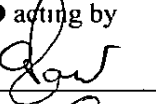
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**Facsimile No:**

**Attention:**

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Director



Director/Secretary



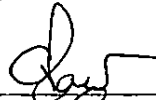
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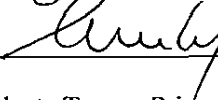
**Attention:**

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Director



Director\Secretary



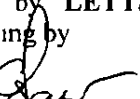
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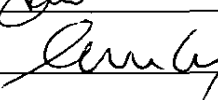
**Attention:**

Executed as a deed, but not delivered until the first date specified on page 1, by **LETTS FILOFAX GROUP LIMITED** acting by

Director



Director\Secretary



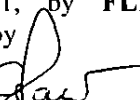
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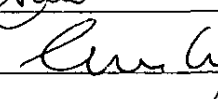
**Attention:**

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Director



Director\Secretary



**Address:** 16 Charlotte Square, Edinburgh, EH2 4DF

**Facsimile No:**

**Attention:**

Executed as a deed, but not delivered until the  
first date specified on page 1, by **FLB GROUP  
LIMITED** acting by

Director

  
\_\_\_\_\_

Director\Secretary

  
\_\_\_\_\_

**Address:** 16 Charlotte Square, Edinburgh, EH2/4DF

**Facsimile No:**

**Attention:**