



Registration of a Charge

Company Name: **TUFFNELLS PARCELS EXPRESS LIMITED**

Company Number: **00319964**



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

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Details of Charge

Date of creation: **15/07/2021**

Charge code: **0031 9964 0056**

Persons entitled: **LEUMI ABL LIMITED**

Brief description: **ALL AND WHOLE THE SUBJECTS KNOWN AS AND FORMING 5 SOUTH FAULDS ROAD, CALDWELLSIDE INDUSTRIAL ESTATE, LANARK, LANARKSHIRE ML 11 7SR (NOTED ON THE TITLE SHEET AS PLOT 1A, CALDWELLSIDE INDUSTRIAL ESTATE, SOUTH FAULDS ROAD, LANARK) REGISTERED IN THE LAND REGISTER OF SCOTLAND UNDER TITLE NUMBER LAN200135.**

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **MORTON FRASER LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 319964

Charge code: 0031 9964 0056

The Registrar of Companies for England and Wales hereby certifies that a charge dated 15th July 2021 and created by TUFFNELLS PARCELS EXPRESS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th July 2021 .

Given at Companies House, Cardiff on 21st July 2021

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



Companies House



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

STANDARD SECURITY

by

TUFFNELLS PARCELS EXPRESS
LIMITED
(as Chargor)

in favour of

LEUMI ABL LIMITED
(as Lender)

re: 5 South Faulds Road, Caldwellside
Industrial Estate, Lanark ML11 7SR
(Title Number LAN200135)

2021

AM14/BW2/27184.00009

MORTON FRASER 
LAWYERS

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STANDARD SECURITY

by

TUFFNELLS PARCELS EXPRESS LIMITED, a company registered under the laws of England and Wales with company number 00319964 and having its registered office at Unit 1 Meadowhall Business Park, Carbrook Hall Road, Sheffield, England, S9 2EQ (the "**Chargor**");

in favour of

LEUMI ABL LIMITED, a company registered under the laws of England and Wales with company number 00620951 and having its registered office at 126 Dyke Road, Brighton, East Sussex, BN1 3TE (the "**Lender**").

INTRODUCTION

IT IS AGREED THAT:

1 Definitions

1.1 In this deed any words whose meaning is defined in the Agreement shall have the same meaning.

1.2 In this deed the following words shall have the meaning set out after each of them:

"Act" means the Conveyancing and Feudal Reform (Scotland) Act 1970 as amended by the Redemption of Standard Securities (Scotland) Act 1971 and any further amendment to it or re-enactment or replacement of it from time to time.

"Administrator" means any person appointed under Schedule B1 of the Insolvency Act 1986 to manage the Chargor's affairs, business and property.

"Agreement" means any receivable finance agreement or other agreement for the sale and purchase of Receivables and/or any other type of agreement between the Chargor and the Lender (including without limitation the Receivable Finance Agreement entered into between the Chargor and the Lender dated 30 September 2020) from time to time, and any amendments or alterations to it or them and any replacements for or supplements to the same, from time to time.

"Encumbrance" means any mortgage, charge, pledge, lien, standard security, hypothec, assignation, assignment, hypothecation, security interest, title retention, flawed asset agreement, preferential right, trust arrangement or other security arrangement, whether by law or agreement, or any right conferring a priority of payment.

"Enforcement Date" means the date on which:

- (a) the Lender receives from any person notice of intention to appoint an Administrator to the Chargor;
- (b) the Chargor requests the Lender to appoint an Administrator or any Receiver;
- (c) a petition is filed for the appointment of an Administrator in respect of the Chargor;
- (d) an application is made for the appointment of an Administrator in respect of the Chargor;
- (e) an application is made for an administration order in respect of the Chargor;

- (f) an Administrator is appointed in relation to the Chargor; or
- (g) a winding up order has been made or a resolution for winding up has been passed or a provisional liquidator has been appointed in respect of the Chargor.

"Environmental Laws" means all laws, directions and regulations and all codes of practice, circulars and guidance notes issued by any competent authority or agency (whether in the United Kingdom or elsewhere and whether or not having the force of law) concerning the protection of the environment or human health, including without limitation the conservation of natural resources, the production, storage, transportation, treatment, recycling or disposal of any waste or any noxious, offensive or dangerous substance or the liability of any person, whether civil or criminal, for any damage to or pollution of the environment or the rectification thereof or any related matters.

"Environmental Licence" means any permit, licence, authorisation, consent or other approval required by any Environmental Law.

"Event of Default" means in relation to the Chargor any event set out in clause 9.1.

"Group" means in relation to any company, that company, its Subsidiaries, its holding company (as defined in Section 1159 of the Companies Act 2006) and the Subsidiaries of that holding company.

"Insolvent" means the happening of any of the following events in relation to the Chargor:

- (a) a distress, diligence or execution being levied on or issued against the Property;
- (b) entering or seeking to enter into any formal scheme of arrangement of the Chargor's affairs or composition in satisfaction of the Chargor's debts with its creditors in accordance with the Insolvency Act 1986;
- (c) the Chargor taking any action for its winding up, dissolution or re-organisation (otherwise than for the purposes of an amalgamation or reconstruction while solvent on terms previously approved in writing by the Lender) or for the appointment of a Receiver, Administrative Receiver, Administrator, trustee or similar officer to or in respect of all or any part of the Chargor's revenue or assets;
- (d) a petition being presented or an order being made for the Chargor's winding up;
- (e) an administration order being made or applied for;
- (f) a court application being made for the appointment of a Receiver or such a Receiver being appointed;
- (g) a notice of intention to appoint an Administrator being given by a person or an Administrator being appointed;
- (h) a meeting of creditors being called for the Chargor's winding up or for any other purpose referred to in the Insolvency Act 1986;
- (i) a statutory demand under the Insolvency Act 1986 being served and not set aside within 21 days;

- (k) an encumbrancer taking possession of any part of the Chargor's undertaking or property;
- (l) entering into any informal arrangement or composition with or for the benefit of the Chargor's general body of creditors;
- (m) being unable to pay its debts as they become due;
- (n) being deemed insolvent under the Insolvency Act 1986;
- (o) taking any steps towards a Moratorium;
- (p) any other indebtedness due, owing or incurred by the Chargor is not paid when it becomes due, or becomes capable of being declared due and payable prior to its stated maturity for any reason.

"Lease" includes any lease, tenancy, letting, contractual licence, right to occupy, any document supplemental or collateral to any of them including any guarantee and any agreement to enter into any of them, in each case in relation to the Property or any part thereof and the expression tenant will be construed accordingly.

"Moratorium" means a moratorium coming into effect pursuant to Schedule A1 of the Insolvency Act 1986.

"Property" means ALL and WHOLE the subjects known as and forming 5 South Faulds Road, Caldwellside Industrial Estate, Lanark, Lanarkshire ML11 7SR (noted on the Title Sheet as Plot 1A, Caldwellside Industrial Estate, South Faulds Road, Lanark) registered in the Land Register of Scotland under Title Number LAN200135.

"Receivables" has the same meaning as in the Agreement.

"Receiver" includes a receiver and/or manager not being an administrative receiver (as defined in Section 29(2) of the Insolvency Act 1986).

"Remittances" means cash, cheques, bills of exchange, negotiable and non-negotiable instruments, letters of credit, orders, drafts, promissory notes, electronic payments and any other instruments, methods or forms of payment or engagement.

"Secured Liabilities" means both the Secured Monies and the obligations and liabilities in clause 3.

"Secured Monies" means all the monies which now or at any time in future may be owing due and/or payable (but remaining unpaid) by the Chargor to the Lender in any manner and for any reason on any account; Secured Monies include all such monies due by the Chargor, either alone or jointly with any other person or on any partnership account (even though the whole of any part of such monies is represented or secured by any mortgages, standard securities, guarantees, trust receipts, bills of exchange, leasing, hire or conditional sale agreements, assignments, agreements for discounting or factoring of Receivables or any other agreements or securities) and whether or not any of them have or has fallen due or become payable and whether or not default shall have been made in respect thereof; Secured Monies also means any of the following items, whether now or in the future:

- (a) all monies due or payable under the Agreement (if any) or by virtue of any guarantee or indemnity given by the Chargor to the Lender;
- (b) all advances which the Lender has made or shall make to the Chargor;

- (c) any indebtedness now or hereafter to be incurred by the Lender for the Chargor or at the Chargor's request, including all monies which the Lender shall pay or become liable to pay for or on account of the Chargor or any other person at the Chargor's request or order or under the Chargor's authority, either alone or jointly with any other person and whether or not by any of the following:
 - (i) the Lender making direct advances; or
 - (ii) the Lender drawing, accepting, endorsing, paying or discounting any Remittance; or
 - (iii) the Lender entering into any bond, guarantee, indemnity or letter of credit; or
 - (iv) the Lender confirming orders; or
 - (v) the Lender otherwise accepting any other liability for the Chargor or on the Chargor's behalf;
- (d) all monies which the Lender can charge to the Chargor and all costs charges and expenses incurred by the Lender following default in payment of any such monies or of breach by the Chargor of any of the provisions of this deed;
- (e) the charges of surveyors and/or solicitors instructed by the Lender in connection with any part of the Property;
- (f) all costs and charges and expenses which the Lender may from time to time incur in:
 - (i) stamping, perfecting, registering or enforcing this security; or
 - (ii) the negotiations for the preparation and execution of this deed, and the Agreement or any guarantee, indemnity, priority arrangement, waiver or consent in respect of them; or
 - (iii) obtaining payment or discharge of Secured Monies; or
 - (iv) paying any rent, rates, taxes or outgoings for the Property; or
 - (v) insuring, repairing, maintaining, managing or realising any part of the Property; or
 - (vi) the preservation or exercise of any rights under or in connection with this deed or any attempt to do so; or
 - (vii) giving a discharge or release of this security; or
 - (viii) dealing with or obtaining advice about any other matter or question arising out of or in connection with this deed with the intention that the Lender shall be afforded a full complete and unlimited indemnity against all costs, charges and expenses paid or incurred by it and whether arising directly or indirectly in respect of this security or of any other security held by us for the Secured Monies;
- (g) all monies expended by any attorney appointed under clause 8.2 in exercising his powers;

- (h) interest on all monies due and owing to the Lender at such rate as may from time to time be payable pursuant to any agreement or arrangement relating thereto.

"Standard Conditions" means the standard conditions specified in Schedule 3 to the Act and any lawful variation to them operative for the time being.

"Subsidiary" means

- (a) a subsidiary within the meaning of Section 1159 of the Companies Act 2006; and
- (b) unless the context otherwise requires, a subsidiary undertaking within the meaning of Section 1162 of the Companies Act 2006.

"Termination Event" means any of the events listed as a "Termination Event" in the Agreement.

2 Interpretation

2.1 In the construction and interpretation of this deed:

- 2.1.1 the singular shall include the plural and vice versa; reference to one gender shall include a reference to any other genders;
- 2.1.2 references to persons shall be treated as including individuals, firms, partnerships, corporations, organs of government, whether local, national or supra national and any other entity recognised by law;
- 2.1.3 references to any Act of Parliament shall be treated as including each Act as amended, modified or re-enacted from time to time and all rules, regulations, orders and subordinate legislation made in accordance with it;
- 2.1.4 references to clauses and to schedules are to those in this deed;
- 2.1.5 where the Chargor has an obligation to carry out an act then the Chargor shall be fully responsible for the costs and expenses of doing so;
- 2.1.6 where the Lender acts in accordance with this deed the Chargor will indemnify the Lender against all costs and expenses incurred;
- 2.1.7 where any discretion is vested in the Lender it shall be treated as an absolute discretion;
- 2.1.8 each of the provisions of this deed shall be severable and distinct from one another;
- 2.1.9 references to this deed and other documents referred to in it include any supplemental or collateral document to each of them or which is entered into pursuant to each of them and any document varying, supplementing, novating or replacing the same from time to time;
- 2.1.10 references to this security shall be treated as reference to the security created by this deed;
- 2.1.11 headings to clauses are for reference only and shall not affect the interpretation of this deed;

- 2.1.12 the meaning of general words introduced by the word other or the word otherwise shall not be limited by reference to any preceding word or enumeration indicating a particular class of acts, matters or things;
- 2.1.13 all and any references to the "Lender" shall, where the context admits include the Lender's officers, agents and representatives;
- 2.1.14 the words "other" and "otherwise" are not to be construed ejusdem generis with any foregoing words where a wider construction is possible;
- 2.1.15 the words "including" and "in particular" are to be construed as being by way of illustration or emphasis only and shall not take effect as limiting the generality of any foregoing words;
- 2.1.16 a Termination Event is "continuing" if it has not been remedied or waived.

3 Undertaking to Pay

The Chargor undertakes to the Lender

- 3.1 to pay the Secured Monies, which are now or shall be due, owing and payable to the Lender, in accordance with the terms of the transaction, security, instrument or other obligation giving rise to the Chargor's indebtedness to the Lender, including those under the Agreement; and
- 3.2 to discharge all obligations and liabilities, whether actual, accruing or contingent, now or in the future due, owing or incurred to the Lender by the Chargor, in whatever currency denominated and on whatever account and howsoever arising, whether alone or jointly and in whatever style, name or form and whether as principal or surety.

4 Standard Security

As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor hereby grants in favour of the Lender a standard security over the Property.

5 Variation of Standard Conditions

- 5.1 The Standard Conditions shall apply to this deed and shall be varied and extended firstly in accordance with the terms of this deed and secondly in accordance with the terms of the Agreement.
- 5.2 In the event of any conflict between the terms of the Standard Conditions and the terms of this deed and the Agreement the terms of this deed and the Agreement shall (so far as permitted by law) prevail.
- 5.3 Standard Condition 7 shall be varied to the effect that Lender shall not be required to give any notice of its exercise of the right of entry referred to in Standard Condition 7(2).

6 General Undertakings

6.1 *Negative pledge*

Unless otherwise agreed in writing by the Lender, the Chargor shall not create, grant, incur or permit to subsist any Encumbrance over the whole or any part of the Property.

6.2 *Disposals*

The Chargor shall not sell, assign, transfer or otherwise dispose of, or purport or agree to dispose of, the whole or any part of the Property without the Lender's consent.

6.3 *Compliance with laws*

The Chargor shall comply in all material respects with all laws, statutes, directives and regulations (including Environmental Laws) concerning the Property and all notices, codes of practice and other requirements having the force of law which are applicable to it.

6.4 *Consents*

The Chargor shall ensure that all consents and all documents, registrations, licences and other matters and things required by the Lender to perfect this deed are produced, executed, obtained or made as required by the Lender in accordance with this deed.

6.5 *Documents of title*

The Chargor shall deposit with the Lender all deeds and documents of title from time to time relating to the Property.

6.6 *Failure to comply*

6.7 If the Chargor fails to comply with any of its obligations and undertakings under this deed, the Lender may (and is hereby irrevocably authorised to) take such action (at the cost of the Chargor) as the Lender considers appropriate or desirable to ensure or procure compliance with such obligations.

7 *Property Undertakings*

7.1 *Management*

The Chargor shall procure that the Property is properly managed in accordance with the usual principles of good estate management.

7.2 *Title*

7.2.1 The Chargor must exercise its rights and comply in all respects with any title condition, stipulation or obligation (restrictive or otherwise) at any time affecting the Property.

7.2.2 The Chargor may not agree to any amendment, supplement, waiver, surrender or release of any title condition, stipulation or obligation (restrictive or otherwise) at any time affecting the Property.

7.2.3 The Chargor must promptly take all such steps as may be necessary or desirable to enable this security to be registered, where appropriate, at the Land Register of Scotland.

7.3 *Leases*

7.3.1 The Chargor may not without first obtaining the consent in writing of the Lender:

7.3.1.1 grant or agree to grant any new Lease;

7.3.1.2 agree to any amendment, supplement, extension, waiver, surrender, renunciation or release in respect of any Lease;

- 7.3.1.3 exercise any right to break, determine or extend any Lease;
- 7.3.1.4 commence any irritancy proceedings in respect of any Lease;
- 7.3.1.5 grant any licence or right to use or occupy all or any part of the Property;
- 7.3.1.6 consent to any sublease or assignation of any tenant's interest under any Lease; or
- 7.3.1.7 agree to any change of use under, or (except where required to do so under the terms of the relevant Lease) rent review in respect of, any Lease.

7.3.2 The Chargor must:

- 7.3.2.1 diligently collect or procure to be collected all rental income;
- 7.3.2.2 exercise its rights and comply with its obligations under each Lease; and
- 7.3.2.3 use its reasonable endeavours to ensure that each tenant complies with its obligations under each Lease,

in a proper and timely manner.

7.3.3 The Chargor must supply to the Lender each Lease, each amendment, supplement or extension to a Lease and each document recording any rent review in respect of a Lease promptly upon entering into the same.

7.3.4 Each Lease must be in form and substance satisfactory to the Lender (acting reasonably).

7.4 *Maintenance*

The Chargor must ensure that all buildings, plant, machinery, fixtures and fittings on the Property are maintained in good and substantial repair and condition and, as appropriate, in good working order.

7.5 *Outgoings*

The Chargor will punctually pay all outgoings payable in respect of the Property and will promptly produce the receipts for them to the Lender upon reasonable request.

7.6 *Development*

7.6.1 The Chargor may not without first obtaining the consent in writing of the Lender:

- 7.6.1.1 make or allow to be made any application for planning permission in respect of all or any part of the Property; or
- 7.6.1.2 carry out, or allow to be carried out, any demolition, construction, structural alterations or additions,

development or other similar operations in respect of all or any part of the Property.

7.6.2 Clause 7.6.1 above shall not apply to:

7.6.2.1 the maintenance of the buildings, plant, machinery, fixtures and fittings in accordance with this deed; or

7.6.2.2 the carrying out of non-structural improvements or alterations which affect only the interior of any building on the Property.

7.6.3 The Chargor must comply in all respects with all planning laws, permissions, agreements and conditions to which the Property may be subject.

7.7 *Notices*

The Chargor must, within 14 days after the receipt by it of any application, requirement, order or notice served or given by any public or local or any other authority or any landlord with respect to the Property (or any part of it):

7.7.1 deliver a copy to the Lender; and

7.7.2 inform the Lender of the steps taken or proposed to be taken to comply with the relevant requirement, order or notice.

7.8 *Investigation of title*

The Chargor must grant the Lender or its lawyers on reasonable request all facilities within the power of the Chargor to enable the Lender or its lawyers to:

7.8.1 carry out investigations of title to the Property; and

7.8.2 make such enquiries in relation to any part of the Property as a prudent heritable creditor might carry out.

7.9 *Power to remedy*

7.9.1 The Chargor must allow the Lender or its agents or contractors to enter the Property to view the state and condition of or to value it at all reasonable times on giving prior reasonable notice to the Chargor.

7.9.2 If the Chargor fails to perform any obligations under this deed, the Chargor must allow the Lender or its agents and contractors:

7.9.2.1 to enter any part of the Property;

7.9.2.2 to comply with or object to any notice served on the Chargor in respect of the Property; and

7.9.2.3 to take any action that the Lender may reasonably consider necessary or desirable to prevent or remedy any breach of any such term or to comply with or object to any such notice.

7.9.3 The Chargor must immediately on request by the Lender pay the costs and expenses of the Lender or its agents and contractors incurred in connection with any action taken by it under this clause.

- 7.9.4 The Lender shall not be obliged to account as heritable creditor in possession as a result of any action taken under this clause.

7.10 *Insurances*

- 7.10.1 The Chargor will insure and keep insured the Property against loss or damage by fire and other risks usually insured against and such other risks that the Lender shall reasonably require to its full insurable value with insurers approved by the Lender.
- 7.10.2 The Chargor will make sure that all its insurance policies will be endorsed with notice of the Lender's interest in them and will produce to the Lender the receipts for each current premium within fifteen days of its becoming due; failing such production the Lender may effect or renew any such insurance as the Lender shall think fit at the Chargor's expense.

7.11 *Environmental matters*

- 7.11.1 The Chargor must:
- 7.11.1.1 comply and ensure that any relevant third party complies with all Environmental Law and discharge all duties of care and responsibilities placed upon it or any relevant third party by Environmental Law;
 - 7.11.1.2 obtain, maintain and ensure compliance with all requisite Environmental Licences applicable to it or to the Property; and
 - 7.11.1.3 implement procedures to monitor compliance with and to prevent liability under any Environmental Law applicable to it or the Property.
- 7.11.2 The Chargor must, promptly upon becoming aware, notify the Lender of:
- 7.11.2.1 any claim under any Environmental Law started, or to its knowledge, threatened;
 - 7.11.2.2 any circumstances reasonably likely to result in a claim under any Environmental Law; or
 - 7.11.2.3 any suspension, revocation or notification of any Environmental Licence.
- 7.11.3 The Chargor must indemnify the Lender against any loss or liability which:
- 7.11.3.1 the Lender incurs as a result of any actual or alleged breach of any Environmental Law by any person; and
 - 7.11.3.2 would not have arisen if this deed had not been entered into,
- unless it is caused by the Lender's gross negligence or wilful misconduct.

7.12 *Proprietorship*

The Chargor shall not permit any person to become entitled to any proprietary right or interest which might affect the value of the Property.

8 Further Assurance and Power of Attorney

- 8.1 At the Lender's request, the Chargor will at the Chargor's cost immediately sign, seal, execute, deliver and perfect all deeds and instruments and do all such other acts and things as the Lender may require in order to perfect or enforce this security or to use the powers given to the Lender in this deed or under the Act or to enforce the Chargor's obligations and/or the Lender's rights under this deed or under the Act.
- 8.2 The Chargor hereby irrevocably appoints each of the Lender and any person selected by the Lender to be the Chargor's attorney and in the Chargor's name and on its behalf:
- 8.2.1 to execute and complete any documents or instruments which the Lender or any person selected by the Lender may require for perfecting the Lender's title to all or any part of the Property or for vesting the same in the Lender, its nominees or any purchaser;
 - 8.2.2 to sign, execute, seal and deliver and otherwise perfect any further security document referred to in clause 8.1; and
 - 8.2.3 otherwise generally to sign, seal, execute and deliver all deeds, assurances, agreements and documents and to do all acts and things which may be required for the full exercise of all or any of the powers conferred on the Lender or any person selected by the Lender under this deed or the Act or which may be deemed expedient by the Lender or any person selected by the Lender in connection with any disposition or realisation of the Property or in connection with any other exercise of any power under this deed or the Act.

9 Enforcement

9.1 *Enforcement*

The Lender shall be entitled to make demand for payment of the Secured Monies at any time on or after the Enforcement Date or at any time after the occurrence of any of the following events and if such demand is not met in full, (or on or after the Enforcement Date without any demand) the Chargor shall be deemed to be in default within the meaning of Standard Condition 9(1)(b) and without prejudice to any other rights and remedies available to the Lender by virtue of the Standard Conditions or any other Encumbrance or undertaking or in any other manner the Lender will be entitled to exercise any of the remedies available to a creditor on default of a debtor by virtue of the provisions of the Act to such extent as the Lender considers appropriate (in its sole discretion):

- 9.1.1 the Chargor's breach of any of its obligations under this deed or in the Agreement or any other agreement with the Lender;
- 9.1.2 the Chargor's default in paying any of the Secured Monies as and when they become due;
- 9.1.3 the Chargor's failure to give the Lender such information as may reasonably be requested as to its business, affairs or assets;
- 9.1.4 any representation, warranty or undertaking made by the Chargor to the Lender at any time, is or was, in the Lender's reasonable opinion, incorrect or misleading in any respect or, being an undertaking, shall not be complied with by the Chargor;
- 9.1.5 the Chargor becoming Insolvent;

- 9.1.6 the Chargor suspending or threatening to suspend a substantial part of its business or the Lender receiving information, from the Chargor or any responsible third party, whether orally or in writing, that the Chargor is contemplating or is likely to suspend a substantial part of its business;
- 9.1.7 any guarantee, indemnity or other security for any of the Secured Liabilities failing or ceasing in any respect to have full force and effect or to be continuing or is terminated or disputed or is in the Lender's opinion in jeopardy, invalid or unenforceable;
- 9.1.8 if any governmental authority permits, or procures, or threatens any reorganisation, transfer or appropriation (whether with or without compensation) of a substantial part of the Chargor's business or assets;
- 9.1.9 the Chargor, without the Lender's prior written consent, changing the nature of its business or trading in any way which the Lender considers prejudicial to this security;
- 9.1.10 if it is unlawful for the Chargor to perform or comply with any of its obligations under this deed or under any other agreement between the Chargor and the Lender or the Chargor's obligations are not or cease to be legally valid, binding and enforceable;
- 9.1.11 if, after the date of this deed, control (as defined in Section 435 of the Insolvency Act 1986) or the power to take control of the Chargor changes, without the Lender's prior written consent;
- 9.1.12 if, in the Lender's opinion, a material adverse change occurs in the Chargor's financial condition, results of operations, or business; or
- 9.1.13 a Termination Event occurs and is continuing.

9.2 *Exclusion of liability*

The Lender shall not be liable:

- 9.2.1 to account to the Chargor except in respect of the actual receipts of the Lender; and
- 9.2.2 to the Chargor for any loss or damage arising from the exercise by the Lender of all or any of the powers conferred by or pursuant to this deed.

9.3 *Liability as heritable creditor in possession*

If the Lender takes possession of the whole or any part of the Property, it will not be liable to account to the Chargor for anything except actual receipts or be liable to the Chargor for any loss arising from any realisation of the Property or for any default or omission for which a heritable creditor in possession would be liable.

10 **Application of Monies**

- 10.1 All monies received by the Lender under or by virtue of this deed shall be applied in the following order;
 - 10.1.1 in the discharge of all liabilities having priority to the Secured Monies;
 - 10.1.2 in payment of all costs, charges and expenses incurred in or incidental to the exercise or performance (or attempted exercise or performance)

of any of the powers or authorities conferred by or in any other way connected with this deed; and then

- 10.1.3 any sums due to any person under any applicable statute;
 - 10.1.4 in payment to the Lender of the Secured Monies due to the Lender in such order as the Lender in its absolute discretion thinks fit; and then
 - 10.1.5 in payment to the Chargor of any surplus.
- 10.2 Any surplus shall not carry interest. The Lender may pay any surplus into any of the Chargor's bank accounts including an account opened specifically for such purpose. The Lender shall then have no further liability for such surplus.
- 10.3 Following the enforcement of this security, any monies received by the Lender may be appropriated by the Lender in its discretion in or towards the payment and discharge of any part of the Secured Monies.
- 10.4 The Lender may credit any monies to a suspense account for so long and in such manner as the Lender may from time to time determine.
- 10.5 All monies received by the Chargor under any insurance policy on the Property shall be treated as part of the Property subject only to any rights of third parties having priority and to the requirements of any lease of the Property. They shall be applied at the Lender's discretion either in reducing the Secured Monies or towards making good the loss or damage for which the monies became payable. Any monies received by the Chargor under any insurance on the Property shall be held on trust for payment to the Lender pending such application.

11 Protection of Third Parties

- 11.1 No person paying or handing over monies to the Lender and obtaining a discharge shall have any responsibility or liability to see to their correct application.
- 11.2 No person dealing with the Lender need enquire:
- 11.2.1 whether any event has happened giving the Lender the right to exercise any of its powers;
 - 11.2.2 as to the propriety or regularity of any act purporting or intending to be an exercise of such powers; or
 - 11.2.3 whether any money remains owing upon this security.

12 Continuing and Additional Security

- 12.1 This security is a continuing security. It shall apply to all the Secured Monies despite any interim settlement of account until a final discharge of this security shall be given to the Chargor by the Lender.
- 12.2 This security is in addition to and shall not merge or otherwise prejudice or affect any other right or remedy of the Lender or any assignment, assignation bill, note, guarantee, mortgage or other security now or in future in favour of the Lender or held by or available to the Lender, whether created by the Chargor or any third party.
- 12.3 This security shall not in any way be prejudiced or affected by:
- 12.3.1 any guarantee, mortgage or other security now or in future held by or available to the Lender or by the invalidity of any of them or by the Lender

now or afterwards dealing with, exchanging, releasing, modifying or abstaining from perfecting or enforcing any of them or any rights which it may now or afterwards have; or

- 12.3.2 by the Lender giving time for payment or indulgence or compounding with the Chargor or any other persons.

13 Currency Indemnity

- 13.1 For the purpose of or pending the discharge of any of the Secured Liabilities secured by this deed the Lender may convert any monies received, recovered or realised under this deed (including the proceeds of any previous conversion) from their existing currency into such other currency as the Lender may think fit. Any such conversion shall be effected at the then prevailing spot selling rate of exchange, of the Lender's bankers, for such other currency against the existing currency.
- 13.2 The Chargor will indemnify the Lender against any shortfall between:
- 13.2.1 any amount received or recovered by the Lender in respect of any of the Secured Liabilities which are converted in accordance with clause 13.1 into the currency in which such liability was payable; and
- 13.2.2 the amount payable to the Lender under this deed in the currency of such liability.

14 Discharge

- 14.1 Upon payment and complete discharge and performance of all the Secured Liabilities and of all costs, charges and expenses incurred by the Lender under or in relation to this deed, the Lender shall, at the Chargor's request and cost, duly discharge this security and any further security given in accordance with its terms.
- 14.2 The Lender's right to recover the Secured Monies or to enforce the terms of this deed shall not be affected by any payment or any act or thing which may be avoided or adjusted under the laws relating to bankruptcy or insolvency or under Part VI of the Insolvency Act 1986. Any release or discharge given or settlement made by the Lender relying on any such payment, act or thing shall be void and of no effect.

15 Service of Notices

- 15.1 Except as stated to the contrary herein, any written notice from the Lender to the Chargor and any proceedings issued by the Lender requiring service on the Chargor may be given or served:
- 15.1.1 by delivering it at or posting it to the Chargor's registered office or to such other address advised by the Chargor to the Lender and acknowledged by the Lender as being effective for the purposes of this clause; or
- 15.1.2 by delivering it at or posting it to any address last known to the Lender at which the Chargor carried on business; or
- 15.1.3 by handing it to the Chargor's officers; or
- 15.1.4 by a fax or e-mail to the Chargor's number or address advised to and acknowledged by the Lender as suitable for communication between the parties.
- 15.2 Any such notice or process shall be considered served:

type carried on by it at all relevant times and has complied in all material respects with the terms and conditions of such policies; and

- 16.2.10 the Chargor undertakes that no Encumbrances will arise after the date of this deed over the Property.

17 Transfers and Disclosures

- 17.1 This deed is freely transferable by the Lender. References in this deed to the Lender shall include the Lender's successors, assignees and transferees.
- 17.2 The Chargor may not assign or transfer any of its obligations under this deed. Nor may the Chargor enter into any transaction which would result in any such obligations passing to another person.
- 17.3 The Lender may disclose any information about the Chargor and any member of the Chargor's Group and any other person connected or associated with the Chargor to any member of the Lender's Group and/or to any person to whom the Lender is proposing to transfer or assign or have transferred or assigned this deed. The Chargor represents and warrants that it has and (so far as permitted by law) will maintain any necessary authority by or on behalf of any such persons to agree to the provisions of this clause.

18 Miscellaneous

- 18.1 No delay or omission on the part of the Lender in exercising any right or remedy under this deed shall impair that right or remedy or operate as or be taken to be a waiver of it. Any single, partial or defective exercise of any such right or remedy shall not prevent the further exercise of that or any other right or remedy.
- 18.2 The Lender's rights under this deed are cumulative. They are not exclusive of any rights provided by law. They may be exercised from time to time and as often as the Lender sees fit.
- 18.3 Any waiver by the Lender of any terms of this deed or any consent or approval given by the Lender under it shall only be effective if given in writing. Such consent and approval shall then only apply for the purpose stated and be subject to any written terms and conditions imposed by the Lender.
- 18.4 If at any time any one or more of the provisions of this deed is or becomes illegal, invalid or unenforceable in any respect under the laws of any jurisdiction then neither the legality, validity or enforceability of the remaining provisions of this deed nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall be in any way affected or impaired as a result.
- 18.5 Any certificate signed by a director or authorised officer of the Lender as to the amount of the Secured Monies at the date of such certificate shall, in the absence of manifest error, be conclusive evidence of such amount and be binding on the Chargor.

19 Governing Law, Jurisdiction and Enforcement

19.1 *Governing law*

This deed, and any non-contractual obligations arising out of or in connection with this deed, shall be governed by Scots law.

19.2 *Jurisdiction of Scottish Courts*

- 19.2.1 The Scottish Courts have exclusive jurisdiction to settle any dispute arising out of or in connection with this deed (including a dispute regarding the existence, validity or termination of this deed and a dispute regarding a non-contractual obligation referred to in clause 19.1 (*Governing law*) (a "**Dispute**").
- 19.2.2 The Lender and the Chargor agree that the Scottish Courts are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.
- 19.2.3 This clause 19.2 is for the benefit of the Lender only. As a result, the Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent permitted by law, the Lender may take concurrent proceedings in any number of jurisdictions.
- 19.2.4 The Chargor agrees that, in the event of the Lender obtaining any decree or judgment against the Chargor and seeking to enforce the same by service of a charge or an analogous procedure, then no such charge or threatened charge or its equivalent will be suspended or delayed nor will any sist be granted without the whole amount due being consigned to the relevant official of the relevant court.

19.3 *Registration*

The Chargor consents to the registration of this deed, and any certificate referred to in clause 18.5, for preservation and execution

19.4 *Warrandice*

The Chargor grants warrandice.

20 Acknowledgement

The Chargor acknowledges its understanding that:

- 20.1 this deed imposes significant obligations on the Chargor which at all times must be complied with; a breach of any obligation by the Chargor entitles the Lender to enforce the security given in this deed and to claim damages for any losses caused, particularly if the Chargor fails to perform its part.
- 20.2 should the Chargor and any guarantor or indemnifier be in any doubt about any particular aspect of this and or any other documents governing the proposed facilities, then before signature, they should consider taking independent legal advice to ensure that these obligations are fully understood.

IN WITNESS WHEREOF this deed consisting of this and the preceding 17 pages is executed by the Chargor as follows:

SUBSCRIBED for and on behalf of the said
TUFFNELLS PARCELS EXPRESS LIMITED
 by


 Director (Signature)

IAN BREWER.
 Director (Print Full Name)

at SHEFFIELD S5 2EQ.

on the 1st day of JULY 2021

in the presence of this witness:

Witness Signature: 

Witness Name: MARK JAMISON

Address: 7 BINGHAM PARK ROAD
 EGGESALL, SHEFFED, S11 7BD