



Registration of a Charge

Company name: **TUNSTALL HEALTHCARE (UK) LIMITED**

Company number: **01332249**



X96LG3GG

Received for Electronic Filing: **05/06/2020**

Details of Charge

Date of creation: **04/06/2020**

Charge code: **0133 2249 0011**

Persons entitled: **WILMINGTON TRUST (LONDON) LIMITED (AND ITS SUCCESSORS IN TITLE AND PERMITTED TRANSFEREES)**

Brief description: **LAND ALL MATERIAL REAL PROPERTY IN ENGLAND AND WALES OWNED BY THE COMPANY AT THE DATE OF THE SECURITY AGREEMENT, ALL OTHER MATERIAL REAL PROPERTY OWNED BY THE COMPANY AT THE DATE OF SECURITY AGREEMENT AND ALL MATERIAL REAL PROPERTY ACQUIRED BY THE COMPANY AFTER THE DATE OF THE SECURITY AGREEMENT INTELLECTUAL PROPERTY ALL THE COMPANY'S INTELLECTUAL PROPERTY**

Contains fixed charge(s).

Contains floating charge(s) (floating charge covers all the property or undertaking of the company).

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: **TIMOTHY SHORT**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 1332249

Charge code: 0133 2249 0011

The Registrar of Companies for England and Wales hereby certifies that a charge dated 4th June 2020 and created by TUNSTALL HEALTHCARE (UK) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 5th June 2020 .

Given at Companies House, Cardiff on 8th June 2020

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

4 June 2020

THE COMPANIES NAMED IN SCHEDULE 1
as the *Chargors*

WILMINGTON TRUST (LONDON) LIMITED
as the *Security Agent*

Security Agreement



CONTENTS

CLAUSE	PAGE
1. Definitions and interpretation	1
2. Security Interests.....	6
3. Restrictions on dealing with Security Assets	9
4. Further Assurance	9
5. Material Real Property	10
6. Bank Accounts	12
7. Receivables	13
8. Shares	13
9. Investments	14
10. Intellectual Property	16
11. Insurances	16
12. Representations and Warranties.....	17
13. Enforcement.....	17
14. Law of Property Act.....	17
15. Appointment of Receivers and Administrators.....	18
16. Rights and liabilities of Security Agent and Receivers	18
17. Order of distributions	20
18. Power of attorney	21
19. Protection of third parties.....	21
20. Saving provisions	22
21. Discharge of Security	24
22. Costs and expenses	25
23. Indemnity	25
24. Payments	25
25. Remedies, waivers and determinations.....	26
26. Separate and independent obligations.....	26
27. Counterparts	26
28. Governing law.....	27
29. Enforcement.....	27
Schedule 1 The Chargors	28
Schedule 2 Rights of Receivers	29
Schedule 3 Real Property	32

Schedule 4 Bank Accounts	33
Schedule 5 Shares	35
Schedule 6 Material Intellectual Property.....	37
Schedule 7 Form of Notice of Assignment of Insurances	38
Schedule 8 Form of Notice/acknowledgement of Charge of Bank Account.....	41

THIS DEED is dated 4 June 2020 and made between:

- (1) **THE COMPANIES** listed in Schedule 1 as chargors (the *Chargors*); and
- (2) **WILMINGTON TRUST (LONDON) LIMITED** as security trustee and security agent for and on behalf of the Secured Parties (the *Security Agent*).

Background

- (A) Certain Chargors entered into an English law security agreement dated 18 October 2013 between such Chargors and the Security Agent (the *Original Security Agreement*).
- (B) The Chargors are required to enter into this Deed pursuant to the terms of the Amendment and Restatement Agreement (defined below).
- (C) The Senior Facilities Agreement (defined below) has been amended by an amendment and restatement agreement between, among others, the Chargors and the Security Agent dated on or about the date of this Deed (the *Amendment and Restatement Agreement*).
- (D) The Chargors and the Security Agent are of the opinion (and intend) that the Security created by the Chargors under the Original Security Agreement constitutes effective Security in respect of the Secured Obligations but consider it prudent to enter into this Deed in case it does not.
- (E) The board of directors of each Chargor is satisfied that entering into this Deed would be most likely to promote the success of that Chargor for the benefit of its members as a whole and to the further benefit and advantage of that Chargor.
- (F) The Security Agent and each Chargor intend this document to take effect as a deed (even though the Security Agent only executes it under hand).
- (G) The Security Agent holds the benefit of this Deed for the Secured Parties on the terms of the Finance Documents.

IT IS AGREED as follows:

1. Definitions and interpretation

1.1 Definitions

In this **DEED**:

Administrator means an administrator appointed under Schedule B1 to the Insolvency Act.

Bank Accounts means, in relation to a Chargor, all its right, title and interest from time to time in and to all current, deposit or other accounts (but excluding any deposit accounts held by a Chargor on behalf of third parties (including, without limitation, purchasers, vendors, tenants and other clients)) with any bank or financial institution, all balances from time to time standing to the credit of or accrued or accruing on those accounts and all Related Rights.

CREST means the relevant system (within the meaning of the Uncertificated Securities Regulations) operated by Euroclear UK and Ireland Limited.

CREST Rights means, in relation to a Chargor, all its right, title and interest from time to time in, against and to:

- (a) any system participant or sponsoring system participant in respect of CREST;
- (b) any account forming part of CREST; and
- (c) any payment obligation of any settlement bank in respect of CREST, and any moneys or proceeds paid or payable deriving from that payment obligation,

in each case arising in connection with any Investment which is recorded in the relevant operator register of members (within the meaning of the Uncertificated Securities Regulations) as being held in uncertificated form and is transferable through CREST, and provided that the terms system participant, sponsoring system participant and settlement bank shall each have the meaning given to them in the Uncertificated Securities Regulations.

Declared Default means:

- (a) an Event of Default under clause 28.1 (*Non-payment*) to clause 28.19 (*Material adverse change*) of the Senior Facilities Agreement inclusive and clause 28.21 (*ERISA*) of the Senior Facilities Agreement in respect of which a notice has been served by the Agent under clause 28.22 (*Acceleration*) of the Senior Facilities Agreement; or
- (b) an Event of Default under clause 28.20 (*US Insolvency Proceedings*) of the Senior Facilities Agreement.

Delegate means a delegate or sub-delegate appointed by the Security Agent or a Receiver in accordance with this Deed.

Fixtures means fixtures, fittings and fixed plant, machinery and apparatus.

Insolvency Act means the Insolvency Act 1986.

Insurances means, in relation to a Chargor, all its right, title and interest from time to time in and to all contracts and policies of insurance of any kind (but excluding any third party liability or director's and officer's insurance) taken out by or on behalf of it and all Related Rights.

Intellectual Property means, in relation to a Chargor, all its right, title and interest from time to time in and to:

- (a) any patents, trade marks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests, whether registered or unregistered; and
- (b) the benefit of all applications and rights to use such assets,

and all Related Rights (in each case including any related licences and sub-licences of the same granted by it or to it, applications and rights to apply for the same).

Intercreditor Agreement means the intercreditor agreement entered into between, among others, the Parent, the Company, the Agent and the Security Agent and dated 16

October 2013 as amended and restated pursuant to the Amendment and Restatement Agreement.

Investments means, in relation to a Chargor, all its right, title and interest from time to time in and to:

- (a) shares, stocks, debentures, units, bonds, notes, commercial paper, certificates of deposit, depository interests, securities and other investments;
- (b) warrants, options and other rights to subscribe for, purchase or otherwise acquire securities and investments;
- (c) any other securities or investments deriving from Investments or any rights attaching or relating to securities or investments,

in each case excluding Shares and including whether in certificated or uncertificated form, held through CREST or any other electronic share clearing, transfer or settlement system, and any rights against any custodian, nominee, clearing system or other similar person holding any such right, title or interest on its behalf, and all dividends and other Related Rights.

Law of Property Act means the Law of Property Act 1925.

Mandatory Prepayment Account has the meaning given to that term in the Senior Facilities Agreement.

Material Intellectual Property means the Intellectual Property described in Schedule 6 (*Material Intellectual Property*) and any future Intellectual Property designated as such by the Security Agent in writing.

Material Real Property means in relation to a Chargor, all its rights, title and interest from time to time in:

- (a) any freehold or leasehold property which;
 - (i) has a market value of more than £500,000; or
 - (ii) could reasonably be expected to yield annual rental payments exceeding £50,000; or
 - (iii) which the Security Agent (acting reasonably) deems is of strategic or operational significance to the Group; or
- (b) any leasehold property with a lease term of 21 years or more,

including, in each case, all Fixtures from time to time on that property and all Related Rights.

Non-Restricted Bank Accounts means Bank Accounts which are not Mandatory Prepayment Accounts.

Party means a party to this Deed.

Plant and Machinery means, in relation to a Chargor, all its right, title and interest from time to time in and to all plant and machinery and all Related Rights.

Quasi Security means an arrangement or transaction under which any member of the Group will:

- (a) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by any other member of the Group;
- (b) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
- (c) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
- (d) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

Real Property means, in relation to a Chargor, all its right, title and interest from time to time in and to any freehold or leasehold property in England and Wales and other Real Property anywhere in the world, all Fixtures from time to time on that property, and all Related Rights.

Receivables means, in relation to a Chargor, all its right, title and interest from time to time in and to all book and other debts of any nature, all other rights to receive money (excluding Bank Accounts), and all Related Rights.

Receiver means a receiver and manager or other receiver appointed in respect of all or any part of the Security Assets and shall, if allowed by law, include an administrative receiver.

Related Rights means, in relation to a Security Asset:

- (a) any proceeds of sale, transfer or other disposal, lease, licence, sub-licence, or agreement for sale, transfer or other disposal, lease, licence or sub-licence, of that Security Asset;
- (b) any moneys or proceeds paid or payable deriving from that Security Asset;
- (c) any rights, claims, guarantees, indemnities, Security or covenants for title in relation to that Security Asset;
- (d) any awards or judgments in favour of a Chargor in relation to that Security Asset; and
- (e) any other assets deriving from, or relating to, that Security Asset.

Secured Obligations means all the Liabilities and all other present and future liabilities and obligations at any time due, owing or incurred by any member of the Group and by each Debtor to any Secured Party under the Debt Documents (including to the Security Agent under the Parallel Debt pursuant to clause 21.3 (*Parallel Debt (Covenant to pay the Security Agent)*)) of the Intercreditor Agreement, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity (other than any Liabilities or any other present and future liabilities or obligations in respect of any Excluded Swap Obligations).

Secured Parties means the Security Agent, each of the other Senior Creditors from time to time and any Receiver or Delegate but, in the case of each Senior Creditor, only if it is a Party or has acceded to the Intercreditor Agreement, in the appropriate capacity, pursuant to clause 22.11 (*Creditor Accession Undertaking*) of the Intercreditor Agreement.

Security Assets means the assets which from time to time are, or expressed to be, the subject of the Security Interests or any part of those assets.

Security Interests means all or any of the Security created or expressed to be created in favour of the Security Agent by or pursuant to this Deed.

Senior Facilities Agreement means the facilities agreement made between, among others, the Parent, the Company, the Agent and the Security Agent (as defined therein) and dated 22 September 2013 as amended and restated pursuant to the Amendment and Restatement Agreement.

Shares means, in relation to a Chargor, all its right, title and interest from time to time in and to:

- (a) the shares described in Schedule 5 (*Shares*) and any other shares issued in the future by any person identified in Schedule 5 (*Shares*) as issuer of any such shares;
- (b) warrants, options and other rights to subscribe for, purchase or otherwise acquire any such shares; and
- (c) any other securities or investments deriving from any such shares or any rights attaching or relating to any such shares,

in each case including any rights against any custodian, nominee, clearing system or other similar person holding any such right, title or interest on its behalf, and all dividends and other Related Rights.

Uncertificated Securities Regulations means the Uncertificated Securities Regulations 2001.

1.2 Incorporation of defined terms

Unless a contrary indication appears, terms defined in the Intercreditor Agreement have the same meaning in this Deed.

1.3 Construction

- (a) Any reference in this Deed to a **Finance Document** or a **Debt Document** or any other agreement or instrument is a reference to that Finance Document, Debt Document or other agreement or instrument as amended, novated, supplemented, extended, restated (however fundamentally and whether or not more onerously) or replaced and includes any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under that Finance Document, Debt Document or other agreement or instrument.

- (b) The provisions in clause 1.2 (*Construction*) of the Senior Facilities Agreement apply to this Deed, except that references to the Senior Facilities Agreement shall be construed as references to this Deed.

1.4 Third Party Rights

- (a) Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the *Third Parties Act*) to enforce or to enjoy the benefit of any term of this Deed.
- (b) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.

1.5 Disposition

The terms of the other Finance Documents and of any other agreement or instrument between the Parties are incorporated into each Finance Document to the extent required for any disposition or purported disposition of all or any part of any Real Property or any other relevant Security Asset contained in any Finance Document to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

2. Security Interests

2.1 General

- (a) The Security created under this Deed is created in favour of the Security Agent over all of the Security Assets of each of the Chargors as security in respect of the Secured Obligations of the Chargor.
- (b) All the security created under this Deed:
 - (i) is created in case the security created by the Original Security Agreement does not secure all or any part of the Secured Obligations; and
 - (ii) is created in addition to and does not affect (or depend upon the existence or validity of) the security created by the Original Security Agreement.

2.2 Ranking

Where this Deed purports to create a first fixed charge, first mortgage or other first Security over a Security Asset, to the extent any such Security Asset is subject to security created under the Original Security Agreement (the *Equivalent Security*), then the Security granted pursuant to this Deed in respect of such Security Asset will be a second ranking Security (only subject to the Equivalent Security) until such time as the Equivalent Security is discharged or ceases to have effect while this Deed is still in force whereupon the relevant Security created under this Deed shall take effect as a first fixed charge, first mortgage or other first Security over the relevant Security Asset as if it has been created as a first Security from the date of this Deed.

2.3 Creation of Security Interests

- (a) Each Chargor creates the following security interests with (subject to the Original Security Agreement) full title guarantee and as security for the payment of all Secured Obligations, in favour of the Security Agent:
- (i) a first legal mortgage over all Material Real Property in England and Wales (including that described in Schedule 3 (*Real Property*)) owned by it on the date of this Deed;
 - (ii) a first fixed equitable charge over all other Material Real Property owned by it on the date of this Deed, all Material Real Property acquired by it after the date of this Deed and, to the extent not validly and effectively mortgaged under sub-paragraph (i) above, all Material Real Property in England and Wales owned by it on the date of this Deed;
 - (iii) a first fixed charge over all its Bank Accounts (including those described in Schedule 4 (*Bank Accounts*));
 - (iv) a first fixed charge over all its Receivables;
 - (v) a first mortgage over all its Shares;
 - (vi) a first fixed charge over all its Related Rights in relation to the Shares, to the extent not validly and effectively mortgaged under sub-paragraph (v) above;
 - (vii) a first fixed charge over all its Investments and CREST Rights;
 - (viii) a first fixed charge over all its right, title and interest from time to time in and to its uncalled capital and goodwill;
 - (ix) a first fixed charge over all its present and future right, title and interest to its Intellectual Property (including that described in Schedule 6 (*Material Intellectual Property*));
 - (x) a first fixed charge over all its right, title and interest from time to time in and to its beneficial interest, claim or entitlement in any pension fund;
 - (xi) a first fixed charge over all its Plant and Machinery (except that validly and effectively mortgaged or charged under sub-paragraph (i) or sub-paragraph (ii) above);
 - (xii) a first fixed charge over all its Insurances, to the extent not validly and effectively assigned under paragraph (b) below; and
 - (xiii) a first floating charge over all its undertaking and all its assets, both present and future (including assets expressed to be mortgaged, charged or assigned under this Clause 2.3).
- (b) Each Chargor, with (subject to the Original Security Agreement) full title guarantee and as security for the payment of all Secured Obligations, assigns to the Security Agent by way of security all its Insurances.

2.4 Ranking

Subject to Clause 2.2 (*Ranking*), the floating charge created by each Chargor under Clause 2.3 (*Creation of Security Interests*) ranks:

- (a) behind all the mortgages, fixed charges and assignments created by that Chargor; but
- (b) in priority to any other Security over the Security Assets of that Chargor except for Security ranking in priority in accordance with paragraph (g) of Schedule 2 (*Rights of Receivers*).

2.5 Conversion by notice

The Security Agent may convert the floating charge over all or any of the Security Assets into a fixed charge by notice to the relevant Chargor specifying the relevant Security Assets:

- (a) if it considers (acting reasonably) it necessary to do so in order to protect or preserve the Security Interests over those Security Assets and/or the priority of those Security Interests; and/or
- (b) after a Declared Default.

2.6 Automatic conversion

If:

- (a) any Chargor takes any step to create any Security or Quasi Security in breach of Clause 3.1 (*Negative pledge*) over any Security Asset subject to a floating charge; or
- (b) any person takes any step to effect any expropriation, attachment, sequestration, distress or execution against any such Security Asset,

the floating charge over the relevant Security Assets shall automatically and immediately be converted into a fixed charge.

2.7 Company voluntary arrangement moratorium

Obtaining a moratorium or doing anything with a view to obtaining a moratorium pursuant to Schedule A1 of the Insolvency Act (including any preliminary decision or investigation) shall not cause the floating charge over all or any of the Security Assets to crystallise until the date upon which it is permitted to crystallise in accordance with paragraph 13 of Schedule A1 of the Insolvency Act.

2.8 Consents

If the consent of any party to a document is required to create fixed security over, or an assignment of, the rights of a Chargor under that document:

- (a) that Chargor shall promptly notify the Security Agent;
- (b) until the consent of the relevant party has been obtained, this Deed shall secure all amounts which that Chargor may receive, or has received, under that

document but exclude any fixed security over, or any assignment of, those rights;

- (c) unless the Security Agent requires otherwise, that Chargor shall use reasonable endeavours to obtain the consent of the relevant party to the creation of fixed security over or, as the case may be, an assignment of, those rights under this Deed as soon as reasonably practicable; and
- (d) on the date on which the consent of the relevant party is obtained, the fixed security over or, in respect of an asset expressed to be subject to an assignment, the assignment of, those rights under this Deed shall attach to those rights.

3. Restrictions on dealing with Security Assets

3.1 Negative pledge

No Chargor shall create or permit to subsist any Security or Quasi Security over any Security Asset, except as permitted by the Senior Facilities Agreement or as created under this Deed.

3.2 Disposals

No Chargor shall enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, transfer or otherwise dispose of any Security Asset, except as permitted by the Senior Facilities Agreement.

3.3 Consent to security

The Security Agent expressly consents to the Chargors' entry into this Deed (and the creation of any Security or Quasi-Security on the Security Assets pursuant to this Deed) for the purposes of Clause 3.1 (*Negative pledge*) of the Original Security Agreement.

4. Further Assurance

- (a) Each Chargor shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):
 - (i) to perfect the Security created or intended to be created under or evidenced by this Deed (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of the Security Interests) or for the exercise of any rights, powers and remedies of the Security Agent or the Secured Parties provided by or pursuant to the Finance Documents or by law; or
 - (ii) to confer on the Security Agent or confer on the Secured Parties Security over any property and assets of that Chargor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Deed; and/or

- (iii) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security Interests.
- (b) Each Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Secured Parties by or pursuant to this Deed.

5. Material Real Property

5.1 Documents

Each Chargor shall (to the extent it has not already done so in accordance with the terms of the Original Security Agreement) promptly deposit with the Security Agent, and the Security Agent shall be entitled to hold, all title deeds and documents relating to that Chargor's present and future Material Real Property.

5.2 Present Material Real Property

Each Chargor shall, in respect of all Material Real Property in England and Wales owned by it on the date of this Deed:

- (a) promptly apply to the Land Registry for first registration of that Material Real Property (where that Material Real Property is not already registered at the Land Registry) and for registration of it as proprietor of that Material Real Property;
- (b) promptly apply to the Land Registry to register the Security created by paragraph (a)(i) and paragraph (a)(ii) of Clause 2.3 (*Creation of Security Interests*);
- (c) promptly apply to the Land Registry requesting:
 - (i) a restriction in the form specified by the Security Agent; and
 - (ii) the obligation to make further advances,

to be entered on the register of the title to that Material Real Property in respect of the Security created by paragraph (a)(i) and paragraph (a)(ii) of Clause 2.3 (*Creation of Security Interests*);

- (d) promptly pay all applicable registration fees;
- (e) promptly deal with any requisitions by the Land Registry relating to that Real Property and keep the Security Agent informed as to the progress of any such application for registration, the nature of any such requisitions and its response,

or, if the Security Agent gives notice to that Chargor that the Security Agent will submit the relevant forms to the Land Registry, that Chargor shall promptly provide the Security Agent with all duly completed forms reasonably requested by the Security Agent and all applicable registration fees.

5.3 Future Material Real Property

If any Chargor acquires any Material Real Property in England and Wales after the date of this Deed, that Chargor shall:

- (a) promptly apply to the Land Registry for first registration of that Material Real Property (where that Material Real Property is not already registered at the Land Registry) and for registration of it as proprietor of that Material Real Property;
- (b) promptly upon request by the Security Agent execute and deliver to the Security Agent a legal mortgage of that Material Real Property as security for the payment of all Secured Obligations;
- (c) promptly apply to the Land Registry to register the Security created by paragraph (a)(ii) of Clause 2.3 (*Creation of Security Interests*) and any legal mortgage created pursuant to paragraph (b) above;
- (d) promptly apply to the Land Registry requesting:
 - (i) a restriction in the form specified by the Security Agent; and
 - (ii) the obligation to make further advances,

to be entered on the register of the title to that Material Real Property in respect of the Security created by paragraph (a)(ii) of Clause 2.3 (*Creation of Security Interests*) and any legal mortgage created pursuant to paragraph (b) above;

- (e) promptly pay all applicable registration fees;
- (f) promptly deal with any requisitions by the Land Registry relating to that Material Real Property and keep the Security Agent informed as to the progress of any such application for registration, the nature of any such requisitions and its response,

or, if the Security Agent gives notice to that Chargor that the Security Agent will submit the relevant forms to the Land Registry, that Chargor shall promptly provide the Security Agent with all duly completed forms reasonably requested by the Security Agent and all applicable registration fees.

5.4 Unregistered Material Real Property

In the case of a Chargor's Material Real Property in England and Wales, both present and future, which is not registered at the Land Registry and is not required by law or this Deed to be so registered, if the title deeds and documents are not deposited with the Security Agent, that Chargor shall promptly apply to the Land Charges Registry to register:

- (a) in respect of all such Material Real Property owned by it on the date of this Deed, this Deed and the Security created by paragraph (a)(i) and paragraph (a)(ii) of Clause 2.3 (*Creation of Security Interests*); and
- (b) in respect of all such Material Real Property acquired by it after the date of this Deed, this Deed, the Security created by paragraph (a)(ii) of Clause 2.3 (*Creation of Security Interests*) and any legal mortgage created pursuant to paragraph (b) of Clause 5.3 (*Future Real Property*).

5.5 Title Information Document

On completion of the registration of any Security Interest pursuant to this Clause 5, the relevant Chargor shall promptly supply to the Security Agent a certified copy of the relevant Title Information Document or, as the case may be, Certificate of Registration of Land Charge issued by the Land Registry or, as the case may be, Land Charges Registry.

5.6 Power to remedy

- (a) If a Chargor does not comply with any provision of this Clause 5, the Security Agent, or any agent, contractor or other person required by the Security Agent, may take any action reasonably required by the Security Agent to comply with any such provision.
- (b) The cost and expense of any action referred to in paragraph (a) above shall be borne by the relevant Chargor.

6. Bank Accounts

6.1 Withdrawals

- (a) No Chargor shall make any withdrawal from any Non-Restricted Bank Account except:
 - (i) prior to the occurrence of a Declared Default, as permitted by the Senior Facilities Agreement; or
 - (ii) after a Declared Default, with the prior consent of the Security Agent.
- (b) No Chargor shall make any withdrawal from a Mandatory Prepayment Account except as permitted by the Senior Facilities Agreement.

6.2 Documents

- (a) Each Chargor shall (to the extent it has not already done so in accordance with the terms of the Original Security Agreement) promptly deliver to the Security Agent, and the Security Agent shall be entitled to hold, such documents relating to that Chargor's Bank Accounts as the Security Agent reasonably requires.
- (b) Each Chargor shall as soon as reasonably practicable but, in any event, within 5 Business Days of the date of this Deed (and in respect of any Bank Account opened after the date of this Deed, as soon as reasonably practicable but, in any event, within 5 Business Days after the opening of that Bank Account) notify the bank or financial institution at which its Bank Accounts are held of the Security created under paragraph (a)(iii) of Clause 2.3 (*Creation of Security Interests*) with a notice substantially in the form set out in Schedule 8 (*Form of Notice/Acknowledgement of Charge of Bank Account*) (or such other form as may be agreed between the relevant Chargor and the Security Agent) and shall use reasonable endeavours to ensure that each recipient of such notice signs and returns the form of acknowledgement requested in that notice, provided that if the Chargor, using its reasonable endeavours, is not able to obtain an acknowledgement from a recipient within 20 Business Days from the date of

delivery of the notice pursuant to this paragraph (b) of Clause 6.2, the obligation to obtain a signed form of acknowledgement shall cease.

7. Receivables

7.1 Restrictions on dealing with Receivables

No Chargor shall enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, factor, transfer, discount or otherwise dispose of all or any part of any of its Receivables except as permitted by the Senior Facilities Agreement.

7.2 Documents

Each Chargor shall promptly deliver to the Security Agent, and the Security Agent shall be entitled to hold, such documents relating to that Chargor's Receivables as the Security Agent reasonably requires.

8. Shares

8.1 Documents

To the extent it has not already done so in accordance with the terms of the Original Security Agreement, each Chargor shall on the date of this Deed and, where Shares are acquired by it after the date of this Deed, within 5 Business Days of the date of that acquisition:

- (a) deliver to the Security Agent, or as it directs, and the Security Agent shall be entitled to hold, all certificates and other documents of title or evidence of ownership in relation to its Shares; and
- (b) deliver to the Security Agent, or as it directs, and the Security Agent shall be entitled to hold, transfers of the Shares and other documents, each executed in blank, relating to the Shares reasonably required by the Security Agent.

8.2 Voting before enforcement

At any time prior to the occurrence of a Declared Default each Chargor shall be entitled to exercise or direct the exercise of the voting and other rights attached to any Share provided that:

- (a) it does not do so for a purpose that would result in an Event of Default; and
- (b) the exercise of or, as the case may be, the failure to exercise those rights would not have an adverse effect on the validity or enforceability of the Security over the relevant Shares created or intended to be created under or evidenced by this Deed.

8.3 Voting after enforcement

At any time after a Declared Default and the Security Agent has given notice to the relevant Chargor that it intends to exercise its rights under this Clause 8.3:

- (a) the Security Agent or the Receiver shall be entitled to exercise or direct the exercise of the voting and other rights attached to any Share; and

- (b) each Chargor shall comply or procure the compliance with any directions of the Security Agent or the Receiver in respect of the exercise of those rights and shall promptly execute and/or deliver to the Security Agent or the Receiver such forms of proxy as it requires with a view to enabling such person as it selects to exercise those rights.

8.4 Cash dividends before enforcement

At any time prior to a Declared Default each Chargor shall be entitled to retain any cash dividend deriving from the Shares.

8.5 Cash dividends after enforcement

At any time after a Declared Default each Chargor shall hold any cash dividend deriving from the Shares received by it on trust for the Secured Parties and transfer or pay the same immediately to the Security Agent or as it may direct. The Security Agent shall apply the same against the Secured Obligations in accordance with clause 19 (*Application of Proceeds*) of the Intercreditor Agreement.

8.6 Shares held by nominees of Chargors

If any Share is held in the name of a nominee of a Chargor, that Chargor shall promptly upon request by the Security Agent deliver to it an irrevocable power of attorney, expressed to be given by way of security and executed as a deed by that nominee. That power of attorney shall appoint the Security Agent, each Receiver and each Delegate, as the attorney of the holder and shall be in such form as the Security Agent requires.

8.7 Payment of calls

- (a) Each Chargor shall pay all calls or other payments in respect of any of its Shares.
- (b) If a Chargor does not comply with paragraph (a) above, the Security Agent may pay that call or other payment on behalf of that Chargor.
- (c) The relevant Chargor shall immediately on request by the Security Agent reimburse the Security Agent for any payment made by the Security Agent under this Clause 8.7.

9. Investments

9.1 Documents

Each Chargor shall (to the extent it has not already done so in accordance with the terms of the Original Security Agreement):

- (a) promptly deliver to the Security Agent, or as it directs, and the Security Agent shall be entitled to hold, all certificates and other documents of title or evidence of ownership in relation to its Investments; and
- (b) promptly deliver to the Security Agent, or as it directs, and the Security Agent shall be entitled to hold, transfers of the Investments and other documents, each executed in blank, relating to the Investments reasonably required by the Security Agent.

9.2 Voting before enforcement

At any time prior to the occurrence of a Declared Default each Chargor shall be entitled to exercise or direct the exercise of the voting and other rights attached to any Investment provided that:

- (a) it does not do so for a purpose that would result in an Event of Default; and
- (b) the exercise of or, as the case may be, the failure to exercise those rights would not have an adverse effect on the validity or enforcement of the Security over the relevant Investments created or intended to be created under or evidenced by this Deed.

9.3 Voting after enforcement

At any time after a Declared Default:

- (a) the Security Agent or the Receiver shall be entitled to exercise or direct the exercise of the voting and other rights attached to any Investment; and
- (b) each Chargor shall comply or procure the compliance with any directions of the Security Agent or the Receiver in respect of the exercise of those rights and shall promptly execute and/or deliver to the Security Agent or the Receiver such forms of proxy as it requires with a view to enabling such person as it selects to exercise those rights.

9.4 Cash dividends before enforcement

At any time prior to a Declared Default each Chargor shall be entitled to retain any cash dividend deriving from the Investments.

9.5 Cash dividends after enforcement

At any time after a Declared Default each Chargor shall hold any cash dividend deriving from the Investments received by it on trust for the Finance Parties and transfer or pay the same immediately to the Security Agent or as it may direct. The Security Agent shall apply the same against the Secured Obligations in accordance with clause 19 (*Application of Proceeds*) of the Intercreditor Agreement.

9.6 Investments held by nominees of Chargors

If any Investment of a Chargor is held in the name of a nominee of that Chargor, that Chargor shall promptly upon request by the Security Agent deliver to it an irrevocable power of attorney, expressed to be given by way of security and executed as a deed by that nominee. That power of attorney shall appoint the Security Agent, each Receiver and each Delegate, as the attorney of the holder and shall be in such form as the Security Agent requires.

9.7 Payment of calls

- (a) Each Chargor shall pay all calls or other payments in respect of any of its Investments.
- (b) If a Chargor does not comply with paragraph (a) above, the Security Agent may pay that call or other payment on behalf of that Chargor.

- (c) The relevant Chargor shall immediately on request by the Security Agent reimburse the Security Agent for any payment made by the Security Agent under this Clause 9.7.

10. Intellectual Property

10.1 Documents

Each Chargor shall (to the extent it has not already done so in accordance with the terms of the Original Security Agreement) promptly deliver to the Security Agent, and the Security Agent shall be entitled to hold, such documents relating to that Chargor's Intellectual Property as the Security Agent reasonably requires.

10.2 Perfection

Each Chargor shall take all steps to record this Deed on such registers, in such jurisdictions and within such time limits as the Security Agent requires in order to perfect the Security Interests over its Material Intellectual Property.

11. Insurances

11.1 Documents

Each Chargor shall (to the extent it has not already done so in accordance with the terms of the Original Security Agreement) promptly upon request by the Security Agent deliver to it, and the Security Agent shall be entitled to hold, such contracts and policies of insurance taken out by or on behalf of it and the related premium receipts, and such other documents relating to that Chargor's Insurances, as the Security Agent requires.

11.2 Notice of assignment

Each Chargor shall as soon as reasonably practicable but, in any event, within 5 Business Days of the date of this Deed (and in respect of any Insurances taken out by that Chargor after the date of this Deed, as soon as reasonably practicable but, in any event, within 5 Business Days after the taking out of that Insurance) notify the relevant insurer of the assignment under paragraph (b) of Clause 2.3 (*Creation of Security Interests*) with a notice substantially in the form set out in Schedule 7 (*Form of notice of assignment of Insurances*) (or such other form as may be agreed between the relevant Chargor and the Security Agent) and shall use reasonable endeavours to ensure that each recipient of such notice signs and returns the form of acknowledgement requested in that notice, provided that if the Chargor, using reasonable endeavours, is not able to obtain an acknowledgement from a recipient within 20 Business Days from the date of delivery of the notice pursuant to this Clause 11.2, the obligation to obtain a signed form of acknowledgement shall cease.

11.3 Use of proceeds

The proceeds of any insurance claim shall be applied in accordance with clause 12 (*Mandatory Prepayment*) of the Senior Facilities Agreement.

12. Representations and Warranties

Each Chargor:

- (a) makes the representations and warranties set out in clause 24 (*Representations*) of the Senior Facilities Agreement to the Security Agent on the date of this Deed; and
- (b) represents and warrants to the Security Agent that the assets listed in Schedule 3 (*Real Property*) to Schedule 6 (*Material Intellectual Property*) in respect of that Chargor are all of the relevant class of assets in which it has an interest.

13. Enforcement

13.1 When enforceable

The Security Interests shall be immediately enforceable on and at any time after a Declared Default.

13.2 Enforcement action

At any time after the Security Interests have become enforceable, the Security Agent may in its absolute discretion enforce all or any part of the Security Interests in any manner it sees fit or as directed in accordance with the terms of the Finance Documents.

13.3 Law of Property Act powers

At any time after the Security Interests have become enforceable, the powers, authorities and discretions conferred by the Law of Property Act on mortgagees, including the power of sale and other powers conferred by section 101 (*Powers incident to estate or interest of mortgagee*) of the Law of Property Act, as varied and extended by this Deed, shall be immediately exercisable.

14. Law of Property Act

14.1 Section 101

The power of sale and other powers conferred by section 101 (*Powers incident to estate or interest of mortgagee*) of the Law of Property Act on mortgagees, as varied and extended by this Deed, shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on the date of this Deed and shall be exercisable in accordance with Clause 13.3 (*Law of Property Act powers*).

14.2 Section 103

Section 103 (*Regulation of exercise of power of sale*) of the Law of Property Act shall not apply to this Deed.

14.3 Section 93

Section 93 (*Restriction on consolidation of mortgages*) of the Law of Property Act shall not apply to this Deed.

14.4 Sections 99 and 100

At any time after the Security Interests have become enforceable, the Security Agent may make any lease or agreement for lease, accept any surrender of lease and grant any option as it sees fit and without the need to comply with any provision of section 99 (*Leasing powers of mortgagor and mortgagee in possession*) or section 100 (*Powers of mortgagor and mortgagee in possession to accept surrenders of leases*) of the Law of Property Act.

15. Appointment of Receivers and Administrators

15.1 Appointment of Receivers

If:

- (a) requested by any Chargor; or
- (b) the Security Interests have become enforceable following a Declared Default,

without any notice or further notice, the Security Agent may, by deed or otherwise in writing signed by the Security Agent or any person authorised for this purpose by the Security Agent, appoint one or more persons to be a Receiver of all or any part of the Security Assets. The Security Agent may similarly remove any Receiver and appoint any person instead of any Receiver. If the Security Agent appoints more than one person as Receiver, the Security Agent may give those persons power to act either jointly or severally.

15.2 Appointment of Administrators

Paragraph 14 of Schedule B1 to the Insolvency Act applies to this Deed and the Security Agent may appoint an Administrator of any Chargor pursuant to that paragraph.

15.3 Agent of Chargor

Any Receiver shall be the agent of the relevant Chargor for all purposes. That Chargor alone shall be responsible for the Receiver's contracts, engagements, acts, omissions and defaults.

15.4 Remuneration of Receivers

The Security Agent may determine the remuneration of any Receiver and the maximum rate specified in section 109(6) (*Appointment, powers, remuneration and duties of receiver*) of the Law of Property Act shall not apply. The Security Agent may direct payment of that remuneration out of moneys it receives as Receiver. The relevant Chargor alone shall be liable for the remuneration and all other costs, losses, liabilities and expenses of the Receiver.

16. Rights and liabilities of Security Agent and Receivers

16.1 Rights of Receivers

Any Receiver appointed pursuant to Clause 15 (*Appointment of Receivers and Administrators*) shall have:

- (a) the rights set out in Schedule 2 (*Rights of Receivers*); and

- (b) the rights, powers, privileges and immunities conferred by law, including:
 - (i) in the case of an administrative receiver, the rights, powers, privileges and immunities conferred by the Insolvency Act on administrative receivers duly appointed under the Insolvency Act; and
 - (ii) in all other cases, the rights, powers, privileges and immunities conferred by the Law of Property Act and the Insolvency Act on receivers or receivers and managers.

16.2 Rights of Security Agent

At any time after the Security Interests have become enforceable, to the fullest extent permitted by law, any rights conferred by any Finance Document or by law upon a Receiver may be exercised by the Security Agent, whether or not the Security Agent shall have appointed a Receiver of all or any part of the Security Assets.

16.3 Delegation

The Security Agent may delegate in any manner to any person any rights exercisable by the Security Agent under any Finance Document. Any such delegation may be made upon such terms and conditions (including power to sub-delegate) as the Security Agent thinks fit and the Security Agent may pass confidential information to any such delegate.

16.4 Financial collateral arrangement

- (a) To the extent that this Deed constitutes a “financial collateral arrangement” (as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (the ***Financial Collateral Regulations***)) the Security Agent shall have the right:
 - (i) to use and dispose of any Security Asset which constitutes “financial collateral” (as defined in the Financial Collateral Regulations (***Financial Collateral***)) in such manner as it sees fit, in which case the Security Agent shall comply with any requirements of the Financial Collateral Regulations in relation to obtaining “equivalent financial collateral” (as defined in the Financial Collateral Regulations);
 - (ii) to set-off the value of any equivalent financial collateral against, or apply it in discharge of, any Secured Obligations in accordance with the Financial Collateral Regulations; and
 - (iii) at any time after the Security Interests have become enforceable, to appropriate any Security Asset which constitutes Financial Collateral in such manner as it sees fit in or towards satisfaction of the Secured Obligations in accordance with the Financial Collateral Regulations.
- (b) If the Security Agent is required to value any equivalent financial collateral or Financial Collateral for the purpose of paragraph (a)(ii) or (a)(iii) above, the value shall be:
 - (i) in the case of cash, its face value at the time of appropriation or set-off; and

- (ii) in the case of financial instruments or other Financial Collateral, their market value at the time of appropriation or set-off as determined (after appropriation) by the Security Agent by reference to a public index or other applicable generally recognised source or such other process as the Security Agent may select, including a valuation carried out by an independent investment bank, firm of accountants or other valuers appointed by the Security Agent,

as converted, where necessary, into the currency in which the Secured Obligations are denominated at a market rate of exchange prevailing at the time of appropriation or set-off selected by the Security Agent.

- (c) Each Chargor authorises the Security Agent to transfer any Security Asset which constitutes Financial Collateral in accordance with the Financial Collateral Regulations, and any such Security Asset shall pass from the relevant Chargor to the Security Agent by way of outright title transfer, free and clear of any liens, claims, charges or encumbrances or any other interest of any Chargor or any third party. The Security Agent shall, accordingly, have the right to deal with, lend, dispose of, pledge, charge or otherwise use any Security Asset which constitutes Financial Collateral.

16.5 Possession

If the Security Agent, any Receiver or any Delegate takes possession of the Security Assets, it may at any time relinquish possession. Neither the Security Agent, any Receiver nor any Delegate shall be liable, by reason of viewing or repairing any of the present or future assets of any Chargor, as a mortgagee in possession.

16.6 Security Agent's liability

Neither the Security Agent, any Receiver nor any Delegate shall, either by reason of taking possession of the Security Assets or for any other reason and whether as mortgagee in possession or otherwise, be liable for:

- (a) any costs, losses, liabilities or expenses relating to the realisation of any Security Assets; or
- (b) any act or omission of the Security Agent, any Receiver, any Delegate or their respective officers, employees or agents in relation to the Security Assets or in connection with the Finance Documents, unless directly caused by its gross negligence or wilful misconduct.

17. Order of distributions

All amounts received or recovered by the Security Agent or any Receiver in exercise of their rights under this Deed shall, subject to the rights of any creditors having priority, be applied in the order provided in clause 19 (*Application of Proceeds*) of the Intercreditor Agreement.

18. Power of attorney

18.1 Appointment

Each Chargor by way of security irrevocably appoints the Security Agent, each Receiver and each Delegate severally to be its attorney (with full power of substitution), on its behalf and in its name or otherwise, at such time and in such manner as the attorney thinks fit:

- (a) to do anything which that Chargor is obliged to do under any Finance Document to which it is party but has failed to do (including to do all such acts or execute all such documents, assignments, transfers, mortgages, charges, notices, instructions, filings and registrations as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security, Agent or its nominee(s))); and
- (b) after a Declared Default, to exercise any of the rights conferred on the Security Agent, any Receiver or any Delegate in relation to the Security Assets or under any Finance Document or under any law.

18.2 Ratification

Each Chargor ratifies and confirms and agrees to ratify and confirm whatever any such attorney shall do in the exercise or purported exercise of the power of attorney granted by it in Clause 18.1 (*Appointment*).

19. Protection of third parties

No purchaser or other person dealing with the Security Agent, any Receiver or its agents shall be concerned to enquire:

- (a) whether the powers conferred on the Security Agent, any Receiver or its agents have arisen;
- (b) whether the powers conferred on the Security Agent, any Receiver or its agents have become exercisable;
- (c) whether any consents, regulations, restrictions or directions relating to such powers have been obtained or complied with;
- (d) whether the Security Agent, any Receiver or its agents is acting within such powers;
- (e) whether any money remains due under the Finance Documents and the receipt in writing of the Security Agent, any Receiver or its agents shall be sufficient discharge to that purchaser or other person;
- (f) as to the propriety or validity of acts purporting or intended to be in exercise of any such powers; or
- (g) as to the application of any money paid to the Security Agent, any Receiver or its agents.

20. Saving provisions

20.1 Continuing Security

Subject to Clause 21 (*Discharge of Security*), the Security Interests are continuing Security and will extend to the ultimate balance of the Secured Obligations, regardless of any intermediate payment or discharge in whole or in part.

20.2 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any Chargor or Obligor or any security for those obligations or otherwise) is made by a Secured Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation or otherwise, without limitation, then the liability of each Chargor and Obligor and the Security Interests will continue or be reinstated as if the discharge, release or arrangement had not occurred.

20.3 Waiver of defences

Neither the obligations of each Chargor under this Deed nor the Security Interests will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under any Finance Document or any of the Security Interests (without limitation and whether or not known to it or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Chargor, Obligor or other person;
- (b) the release of any other Chargor, 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 Chargor, 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 any Chargor, Obligor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or 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 or similar proceedings.

20.4 Chargor intent

Without prejudice to the generality of Clause 20.3 (*Waiver of defences*), each Chargor expressly confirms that it intends that the Security Interests shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

20.5 Immediate recourse

Each Chargor waives any right it may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Chargor under this Deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

20.6 Appropriations

Until all amounts which may be or become payable by the Obligors or the Chargors under or in connection with the Finance Documents have been irrevocably paid in full and all facilities which might give rise to Secured Obligations have terminated, each Secured Party (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Secured Party (or any trustee or agent on its behalf) 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 Chargor shall be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from any Chargor or on account of any Chargor's liability under this Deed.

20.7 Deferral of Chargors' rights

Until all amounts which may be or become payable by the Obligors or the Chargors under or in connection with the Finance Documents have been irrevocably paid in full and all facilities which might give rise to Secured Obligations have terminated and unless the Security Agent otherwise directs, no Chargor will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Clause 20:

- (a) to be indemnified by a Chargor or an Obligor;
- (b) to claim any contribution from any other Chargor or guarantor of any Obligor's obligations under the Finance Documents;

- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Secured Party;
- (d) to bring legal or other proceedings for an order requiring any Obligor or any Chargor to make any payment, or perform any obligation, in respect of which the Obligor or the Chargor had given a guarantee, undertaking or indemnity;
- (e) to exercise any right of set-off against any Obligor or any Chargor; and/or
- (f) to claim or prove as a creditor of any Obligor or any Chargor in competition with any Secured Party.

If a Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Obligors or the Chargors under or in connection with the Finance Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Security Agent or as the Security Agent may direct for application in accordance with Clause 17 (*Order of distributions*).

20.8 Additional security

The Security Interests are in addition to and are not in any way prejudiced by any other guarantee or security now or subsequently held by any Secured Party.

20.9 Tacking

Each Secured Party shall comply with its obligations under the Finance Documents (including any obligation to make further advances).

21. Discharge of Security

21.1 Final redemption

Subject to Clause 21.2 (*Retention of security*), if:

- (a) any Security Assets are being disposed of and the provisions of clause 33.8 (*Resignation and release of security on disposal*) of the Senior Facilities Agreement apply; or
- (b) the Security Agent, with the approval of the Agent and each Hedge Counterparty, determines that:
 - (i) all of the Secured Obligations and all other obligations secured by the Security Documents have been fully and finally discharged; and
 - (ii) no Secured Party is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Debtor pursuant to the Debt Documents,

then the Security Agent shall release, without recourse or warranty, the Security Assets from the Security Interests and the rights of the Security Agent under this Deed.

21.2 Retention of security

If the Security Agent reasonably considers that any amount paid or credited to any Secured Party under any Finance Document is capable of being avoided or otherwise set aside, that amount shall not be considered to have been paid for the purposes of determining whether all the Secured Obligations have been irrevocably paid.

22. Costs and expenses

22.1 Expenses

Clause 23.2 (*Amendment costs*) and clause 23.3 (*Enforcement and preservation costs*) of the Intercreditor Agreement shall apply as if they were set out in full in this Deed.

22.2 VAT

Clause 18.8 (*VAT*) of the Senior Facilities Agreement shall apply as if it were set out in full in this Deed, save that references in that clause to “Finance Party” shall be treated in this Deed as being to “Secured Party, Receiver or Delegate”.

23. Indemnity

Each Chargor shall, within three Business Days of demand, indemnify the Security Agent and any Receiver against any cost, loss, liability or expense incurred by it or them as a result of:

- (a) any breach by any Chargor of this Deed; or
- (b) the exercise or purported exercise of any of the rights and powers conferred on it or them by this Deed or otherwise relating to the Security Assets.

24. Payments

24.1 Undertaking to pay

Each Chargor shall pay each of the Secured Obligations when due in accordance with its terms.

24.2 Demands

Any demand for payment made by any Secured Party shall be valid and effective even if it contains no statement of the relevant Secured Obligations or an inaccurate or incomplete statement of them.

24.3 Payments

All payments by any Chargor under this Deed shall be made to such account, with such financial institution and in such other manner as the Security Agent may direct.

24.4 Continuation of accounts

- (a) At any time after a Secured Party has received or is deemed to have received notice of any subsequent Security affecting all or any part of the Security Assets of any Chargor, that Secured Party may open a new account in the name of that Chargor (whether or not it permits any existing account to continue).

- (b) If that Secured Party does not open such a new account, it shall be treated as if it had done so when the relevant notice was received or deemed to have been received and as from that time all payments made by or on behalf of that Chargor to that Secured Party shall be credited or be treated as having been credited to the relevant new account and not as having been applied in reduction of the Secured Obligations as at the time the relevant notice was received or deemed to have been received.

24.5 Contingencies

If all or any part of the Security Interests are enforced at a time when no amount is due under the Finance Documents but any such amount may or will become due, the Security Agent or the Receiver may pay the proceeds of any recoveries effected by it into a suspense account.

25. Remedies, waivers and determinations

25.1 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of any Secured Party, Receiver or Delegate, any right or remedy under any Finance Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any of the Finance Documents. No waiver or election to affirm any of the Finance Documents on the part of any Secured Party, Receiver or Delegate shall be effective unless in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in the Finance Documents are cumulative and not exclusive of any rights or remedies provided by law, including the right to appoint an Administrator under the Insolvency Act.

25.2 Certificates and Determinations

Any certification or determination by the Security Agent or any Receiver of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

26. Separate and independent obligations

- (a) Subject to paragraph (b) below, the Security created by each Chargor by or in connection with any Finance Document is separate from and independent of the Security created or intended to be created by any other Chargor by or in connection with any Finance Document.
- (b) Any reference in this Deed to a “Chargor” in relation to any Security Asset is, if that Chargor holds any right, title or interest in that Security Asset jointly with any other Chargor, a reference to those Chargors jointly.

27. Counterparts

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

28. Governing law

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

29. Enforcement

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a *Dispute*).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause 29 is for the benefit of the Security Agent only. As a result, the Security Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

THIS DEED has been delivered on the date stated at the beginning of this Deed.

Schedule 1
The Chargors

Name of Chargor	Registration number (or equivalent, if any)
Tunstall Group Holdings Limited	England & Wales, 05459713
Tunstall Group Finance Limited	England & Wales, 05459718
Tunstall Group Acquisition Limited	England & Wales, 05460930
Tunstall Holdings Limited	England & Wales, 03846307
Blythmore Limited	England & Wales, 03744285
Tunstall Group Limited	England & Wales, 00580348
Tunstall Healthcare (UK) Limited	England & Wales, 01332249

Schedule 2

Rights of Receivers

Any Receiver appointed pursuant to Clause 15 (*Appointment of Receivers and Administrators*) shall have the right, either in its own name or in the name of the relevant Chargor or otherwise and in such manner and upon such terms and conditions as the Receiver thinks fit, and either alone or jointly with any other person:

- (a) Enter into possession
to take possession of, get in and collect all or any part of the Security Assets, and to require payment to it or to any Secured Party of any Receivables;
- (b) Bank Accounts
to apply, transfer or set-off any or all of the credit balances from time to time on any Bank Account in or towards payment or other satisfaction of all or part of the Secured Obligations;
- (c) Carry on business
to manage and carry on any business of that Chargor;
- (d) Contracts
to enter into any contract or arrangement and to perform, repudiate, rescind or vary any contract or arrangement to which that Chargor is a party;
- (e) Deal with Security Assets
to sell, transfer, assign, exchange, hire out, lend, licence or otherwise dispose of or realise all or any part of the Security Assets (including any Fixtures, which may be sold separately from the related Real Property) to any person either by public offer or auction, tender or private contract and for a consideration of any kind (which may be payable or delivered in one amount or by instalments or deferred);
- (f) Hive down
to form a new company and to subscribe for or acquire (for cash or otherwise) any investment in or of the new company and to sell, transfer, assign, exchange and otherwise dispose of or realise any such investments or any rights attaching thereto;
- (g) Borrow money
to borrow or raise money either unsecured or on the security of all or any part of the Security Assets (either in priority to the Security Interests or otherwise);
- (h) Lend money
to lend money or advance credit to any person;
- (i) Covenants and guarantees
to enter into bonds, covenants, guarantees, indemnities and other commitments;

- (j) Dealings with tenants

to grant leases, tenancies, licences and rights of user, grant renewals and accept surrenders of leases, tenancies, licences or rights of user, and otherwise to reach agreements and make arrangements with, and to make allowances to, any lessees, tenants or other persons;
- (k) Rights of ownership

to manage and use all or any part of the Security Assets and to exercise and do all such rights and things as the Receiver would be capable of exercising or doing if it were the absolute beneficial owner of all or any part of the Security Assets;
- (l) Protection of Security Assets

to insure all or any part of the Security Assets, to carry out decorations, repairs, alterations, improvements and additions to all or any part of the Security Assets (including the development or redevelopment of any Real Property), to commence and/or complete any building operation, to apply for and maintain any planning permission, building regulation approval or any other authorisation and to purchase or otherwise acquire or do anything in connection with all or any part of the Security Assets;
- (m) Legal actions

to bring, prosecute, enforce, defend and abandon actions, suits and proceedings relating to all or any part of the Security Assets or any business of that Chargor;
- (n) Claims

to settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person or relating to all or any part of the Security Assets or any business of that Chargor;
- (o) Redemption of Security

to redeem any Security (whether or not having priority to the Security Interests) over all or any part of the Security Assets and to settle the accounts of any person with an interest in all or any part of the Security Assets;
- (p) Employees

to appoint, hire and employ officers, employees, contractors, agents, advisors and others and to discharge any such persons and any such persons appointed, hired or employed by that Chargor;
- (q) Delegation

to delegate in any manner to any person any rights exercisable by the Receiver under any Finance Document, and any such delegation may be made upon such terms and conditions (including power to sub-delegate) as it thinks fit, and to pass confidential information to any such delegate;
- (r) Insolvency Act

to exercise all powers set out in Schedule 1, Schedule B1 or (in the case of a Scottish Receiver) Schedule 2 to the Insolvency Act as now in force (whether or not in force at the date of exercise and whether or not the Receiver is an administrative receiver) and any powers added to Schedule 1 or Schedule 2, as the case may be, after the date of this Deed;

(s) Receipts

to give a valid receipt for any moneys and do anything which may be necessary or desirable for realising all or any part of Security Assets; and

(t) Other powers

to do anything else it may think fit for the realisation of all or any part of the Security Assets or incidental to the exercise of any of the rights conferred on the Receiver under or by virtue of any Finance Document to which the relevant Chargor is party, the Law of Property Act or the Insolvency Act.

Schedule 3
Real Property

Tunstall
Healthcare (UK)
Limited

Property	Title No.
Whitley Lodge Selby Road Whitley DN14 OHR	NYK206642
Lodge Farm Selby Road Whitley DN14 OHR	NYK308791
Ascot House Chase Park, Redhouse Interchange, Redhouse, Doncaster	SYK510177

Schedule 4
Bank Accounts

	Bank	Sort Code	Account No.	Name of Account
Tunstall Group Holdings Limited	NatWest Bank plc	605094	10020284	Tunstall Group Holdings Limited
	NatWest Bank plc	605094	11910771	TGHL SIBA
Tunstall Group Acquisition Limited	Bank	Sort Code	Account No.	Name of Account
	NatWest Bank plc	605094	10020276	Tunstall Group Acquisitions Limited
	NatWest Bank plc	605094	550/00/48722413	Tunstall Group Acquisition Limited EUR
	NatWest Bank plc	605094	232/00/48722316	Tunstall Group Acquisition Limited SEK
Tunstall Group Limited	Bank	Sort Code	Account No.	Name of Account
	NatWest Bank plc	605094	10032908	Tunstall Group Limited
Tunstall Healthcare (UK) Limited	Bank	Sort Code	Account No.	Name of Account

NatWest Bank plc	605094	10032916	Tunstall Healthcare UK Limited
NatWest Bank plc	605094	10793364	Tunstall Healthcare UK Limited B2C
NatWest Bank plc	605094	550/01/75513609	Tunstall Healthcare UK EUR
NatWest Bank plc	605094	232/00/75513412	Tunstall Healthcare UK SEK
NatWest Bank plc	605094	217/00/48731684	Tunstall Healthcare UK NZD
NatWest Bank plc	605094	175/00/23795832	Tunstall Healthcare UK DKK
NatWest Bank plc	605094	160/00/48720437	Tunstall Healthcare UK AUD
NatWest Bank plc	605094	150/00/48720445	Tunstall Healthcare UK CAD
NatWest Bank plc	605094	140/00/48720399	Tunstall Healthcare UK USD
NatWest Bank plc	605094	10020330	Tunstall Telecom Limited MRL

Schedule 5
Shares

**Name of
Chargor**

	Name of Issuer	No. and Type of Shares	Held in Certificated Form
Tunstall Group Holdings Limited	Tunstall Group Finance Limited	800,002 - ORDINARY	Yes
Tunstall Group Holdings Limited	Tunstall Group Finance Limited	53,999,035 PREFERENCE	Yes
Tunstall Group Finance Limited	Tunstall Group Acquisition Limited	800,001 - ORDINARY	Yes
Tunstall Group Finance Limited	Tunstall Group Acquisition Limited	53,999,035 - PREFERENCE	Yes
Tunstall Group Acquisition Limited	Tunstall Holdings Limited	204,190,215 - ORDINARY	Yes
Tunstall Holdings Ltd	Blythmore Limited	117,000,000—ORDINARY AA	Yes
Tunstall Holdings Ltd	Blythmore Limited	50,000 — ORDINARY C	Yes
Tunstall Holdings Ltd	Blythmore Limited	1,800,000 — ORDINARY A	Yes
Tunstall Holdings Ltd	Blythmore Limited	7,500,000 — ORDINARY BB	Yes
Tunstall Holdings Ltd	Blythmore Limited	2,250,000 — ORDINARY CC	Yes
Tunstall Holdings Ltd	Blythmore Limited	150,000 — ORDINARY B	Yes
Blythmore Limited	Tunstall Group Ltd	32,984,278 - ORDINARY	Yes
Tunstall Group Ltd	Tunstall Healthcare (UK) Limited	150,000 - ORDINARY	Yes

Tunstall Holdings Ltd	Tunstall Trustee Company Limited	1 - ORDINARY	Yes
Tunstall Group Ltd	Tunstall Monitoring Limited	1,341,850 - ORDINARY	Yes
Tunstall Group Ltd	Whitley Securities Ltd	2 – ORDINARY	Yes
Tunstall Group Ltd	Tunstall Electronics Ltd	100 - ORDINARY	Yes
Tunstall Group Ltd	Tunstall Response Ltd	100 - ORDINARY	Yes

Schedule 6
Material Intellectual Property

None

Schedule 7

Form of Notice of Assignment of Insurances

From: [•] (the *Security Agent*) and [•] (the *Chargor*)

To: [The Insurers]

Address:

Dated:

Dear Sirs

[Chargors] — Security Agreement dated [•] (the Security Agreement)

1. We refer to the Security Agreement.
2. We give notice that by an assignment contained in the Security Agreement the Chargor assigned to the Security Agent by way of security all its right, title and interest from time to time in and to the insurances, details of which are set out in the attached schedule (the “Insurances”), including all moneys or proceeds paid or payable deriving from the Insurances and all rights or claims in relation to the Insurances.
3. All moneys payable by you to the Chargor in respect of the Insurances other than third party Insurances shall be paid to the account notified to you by the Chargor, unless and until you receive written notice from the Security Agent to the contrary, in which event you should make all future payments as then directed by the Security Agent.
4. Subject to any applicable legislation and despite the assignments referred to above, all sums in respect of any claim under any third party Insurance by an insured party shall be paid:
 - (a) directly to the person whose claim(s) constitute(s) the risk or liability insured against, provided that such person has executed a discharge of all claims against each insured party in respect of the risk or liability in relation to which the claim was made; or
 - (b) (despite any policy term to the contrary) to the extent that insurers accept liability to indemnify the insured party in respect of the claims or liabilities which the insured party has settled directly with the claimant, to the relevant insured party.
5. This authority and instruction is irrevocable without the prior written consent of the Security Agent.
6. This notice of assignment and any non-contractual obligations arising out of or in connection with it are governed by English law. The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this notice of assignment (including a dispute relating to the existence, validity or termination of this notice of assignment or any non-contractual obligation arising out of or in connection with this notice of assignment).

7. Please acknowledge receipt of this notice of assignment and confirm that:

- (a) you will pay all moneys in respect of the Insurances as directed by or pursuant to this notice of assignment;
- (b) you have not received any other notice of any assignment of any Insurance or of any other interest of any third party in any Insurance;
- (c) you will not claim or exercise any set-off or counterclaim in respect of any Insurance; and
- (d) you will comply with the other provisions of this notice of assignment,

by signing the acknowledgement on the attached copy of this notice of assignment and returning that copy to the Security Agent at [•] marked for the attention of [•]

[Security Agent]

[Chargor]

By:

By:

[On duplicate]

We acknowledge receipt of the notice of assignment of which this is a copy and confirm each of the matters referred to in paragraphs (a) - (d) of paragraph 7 of the notice of assignment.

[The Insurers]

By:

Dated:

The Schedule
Insurances assigned

Schedule 8

Form of Notice/acknowledgement of Charge of Bank Account

To: [Institution where Charged Account is held]

[Address]

[Date]

Dear Sirs

**[Chargors] — Security Agreement
dated [•] (the *Security Agreement*)**

1. We refer to the Security Agreement.
2. We give notice that by a charge contained in the Security Agreement, the Chargor charged to [•] (the ***Security Agent***) all its present and future right, title and interest in and to the account with you listed below (the ***Charged Account***), including all balances from time to time standing to the credit of or accrued or accruing on those Charged Accounts and all Related Rights (as defined in the Security Agreement) in relation to the Charged Accounts.

Name of Charged Account	Account number
[•]	[•]

3. You are authorised and instructed, without requiring further approval from the Security Agent that, despite the charge over the Charged Account referred to above or the making of any payment by you to the Security Agent under or in connection with it, that:
 - (a) the Chargor shall remain entitled to exercise all its rights, power and discretions under the Charged Account; and
 - (b) you should continue to apply any amounts standing to the credit of the Charged Account or release any monies from the Charged Account as directed by the Chargor,

in each case unless and until you receive written notice from the Security Agent to the contrary which states the security under the Security Agreement detailed above has become enforceable, in which event all such rights, powers and discretions shall be exercisable by, and notices shall be given to, the Security Agent or as it directs.

4. You agree that, following notice from the Security Agent which states that the security under the Security Agreement above has become enforceable, you will:
 - (a) disclose to the Security Agent if it so requests (without any reference to or further authority from the Chargor and without any enquiry by you as to the justification for such disclosure) such information relating to any Charged Account as the Security Agent may from time to time request; and

- (b) unconditionally and irrevocably waive all rights of set-off, lien, counterclaim, combination or consolidation of accounts, security interest in respect of any Charged Account and similar rights (however described) which you may have now or in the future in respect of each of the Charged Accounts or the balance thereon to the extent that such rights relate to amounts owed to you by the Chargor.¹

5. This authority and instruction is irrevocable without the prior written consent of the Security Agent.
6. This Notice of Charge and any non-contractual obligations arising out of or in connection therewith are governed by English law.

Please acknowledge receipt of this Notice of Charge, and confirm that you will comply with the provisions of this Notice of Charge, by signing the acknowledgement on the attached copy of this Notice of Charge and returning that copy to the Security Agent at [e], marked for the attention of [•].

Yours faithfully

For and on behalf of

SIGNED)
for and on behalf of)
[•])
as *Security Agent*)

Signature:

Name:

SIGNED)
for and on behalf of)
[•])
as *Chargor*)

Signature:

Name:

[On duplicate]

¹ Paragraph (b) to be deleted in the form of notice / acknowledgement to be provided by the relevant account bank in respect of any Charged Account forming part of the Multi-Currency Offsetting Facility.

1. We acknowledge receipt of the Notice of Charge of which this is a copy, confirm each of the matters referred to in the Notice of Charge and agree to comply with its terms.
2. We confirm that we have not received any other notice of charge or notice that any other person claims any rights or has any interest in respect of any Charged Account.
3. This Acknowledgement of Charge and any non-contractual obligations arising out of or in connection therewith are governed by English law.

Yours faithfully

SIGNED)
for and on behalf of)
[INSTITUTION WHERE CHARGED)
ACCOUNT IS HELD])

Signature:

Name:

Date: [●]

cc. [Chargor]

Signatures

EXECUTED as a DEED by
TUNSTALL GROUP
HOLDINGS LIMITED by two
directors

Print name: 

Director

Signed:

Print name:

Director

EXECUTED as a DEED by
TUNSTALL GROUP
FINANCE LIMITED by two
directors

Print name: 

Director

Signed:

Print name:

Director

EXECUTED as a DEED by
TUNSTALL GROUP
ACQUISITION LIMITED by
two directors

Print name: 

Director

Signed:

Print name:

Director

Signatures

**EXECUTED as a DEED by
TUNSTALL GROUP
HOLDINGS LIMITED** by two
directors

Signed:

Print name:

Director

Signed:

Print name: J. L. ROBINSON

Director

**EXECUTED as a DEED by
TUNSTALL GROUP
FINANCE LIMITED** by two
directors

Signed:

Print name:

Director

Signed:

Print name: J. L. ROBINSON

Director

**EXECUTED as a DEED by
TUNSTALL GROUP
ACQUISITION LIMITED** by
two directors

Signed:

Print name:

Director

Signed:

Print name: J. L. ROBINSON

Director

EXECUTED as a **DEED** by
TUNSTALL HOLDINGS
LIMITED by two directors



Print name: *GORDON STURGEON*

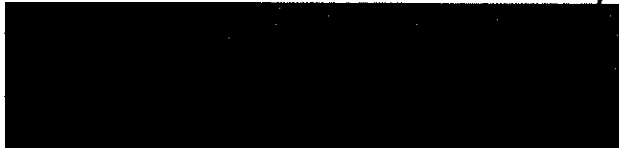
Director

Signed:

Print name:

Director

EXECUTED as a **DEED** by
BLYTHMORE LIMITED by
two directors



Print name: *GORDON STURGEON*

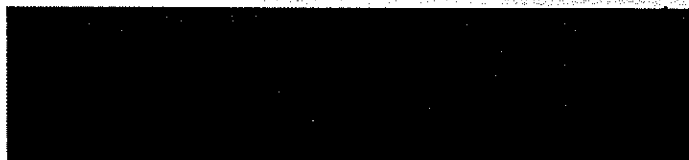
Director

Signed:

Print name:

Director

EXECUTED as a **DEED** by
TUNSTALL GROUP
LIMITED by two directors



Print name: *GORDON STURGEON*

Director

Signed:

Print name:

Director

EXECUTED as a **DEED** by
TUNSTALL HOLDINGS
LIMITED by two directors

Signed:

Print name:

Director

Signed:

Print name: *J. L. ROBINSON*

Director

EXECUTED as a **DEED** by
BLYTHMORE LIMITED by
two directors

Signed:

Print name:

Director

Signed:

Print name: *J. L. ROBINSON*

Director

EXECUTED as a **DEED** by
TUNSTALL GROUP
LIMITED by two directors

Signed:

Print name:

Director

Signed:

Print name: *J. L. ROBINSON*

Director

EXECUTED as a **DEED** by
TUNSTALL HEALTHCARE
(UK) LIMITED by two
directors



Print name: GORDON SWINERD

Director

Signed:

Print name:

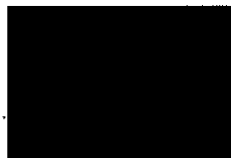
Director

EXECUTED as a **DEED** by
TUNSTALL HEALTHCARE
(UK) LIMITED by two
directors

Signed:

Print name:

Director



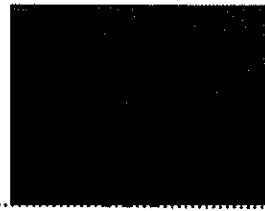
Signed: .

Print name: *J. L. Robinson*

Director

EXECUTED as a **DEED**
for and on behalf of
WILMINGTON TRUST (LONDON)
LIMITED

)
)
)
)



Signature:

Name: *KEITH LEAVER*

witnessed by:



HELEN KAYE



