



Registration of a Charge

Company Name: **DAIRY CREST LIMITED**

Company Number: **02085882**



XAA9H00B

Received for filing in Electronic Format on the: **05/08/2021**

Details of Charge

Date of creation: **30/07/2021**

Charge code: **0208 5882 0002**

Persons entitled: **HSBC EQUIPMENT FINANCE (UK) LTD**

Brief description:

Contains fixed charge(s).

Contains negative pledge.

Chargor acting as a bare trustee for the property.

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: **HSBC EQUIPMENT FINANCE (UK) LTD**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2085882

Charge code: 0208 5882 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 30th July 2021 and created by DAIRY CREST LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 5th August 2021 .

Given at Companies House, Cardiff on 6th August 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**

Chattels Mortgage

Particulars:

Dated	30 July 2021
The Chargor	Full Name: Dairy Crest Ltd Registered Number: 2085882 Registered in: England & Wales Registered Office Address: 5 The Heights, Brooklands, Weybridge, Surrey, KT13 ONY
The Company	HSBC EQUIPMENT FINANCE (UK) LIMITED registered in England with number 1503727 whose registered office is at 1 Centenary Square, Birmingham, B1 1HQ, as trustee for itself and for each other member of the HSBC Group (as defined herein).

Insurance Self Insured as per the terms of the side letter dated 20 th July 2021		
	Asset Protection Risks	Third Party Liability Risk (if different Insurer)
Name of Insurer	N/A	N/A
Name of Insurance Broker	N/A	N/A
Address of *Insurance Company Branch/Broker	N/A	N/A
Cover Note/Policy number	N/A	N/A
Renewal Date	N/A	N/A

Executed as a deed, but not delivered until the first date specified on page 1, by Dairy Crest Ltd by two directors or by one director and the secretary

)
)
)
)
)
Signature

Name (block capitals) **THOMAS ADVERTON**
Director

Signature

Name (block capitals) **ROCK JAMES R SOTUM**
Director/Secretary

SIGNED by a duly authorised Official of **HSBC EQUIPMENT FINANCE (UK) LIMITED** ("THE COMPANY")
for and on behalf of THE COMPANY the day and year first above written.

Signature



Name in full

KAREN RILEY
(Block letters)

In the presence of:

Full name of

Witness

SWAN JAMES
(Block letters)

Signature of witness



Address

6TH FLOOR, 120 EDMUND STREET
BIRMINGHAM B3-2QZ

Occupation

SUPPORT ASSOCIATE

**The Schedule
The Equipment**

Asset Description	Serial Number	YOM
Gemak Milk Standardiser	1812402	2019
Andritz Separator	133181950	2019
Gemak Pasteurisers	1171 & 1169	2019
EME Curd Handling - Packing (EME Transfer Conveyors, Filling machine and knocking out station	190807,190809, 190820, 190821, 190824, 190931, 190933, 190936, 190939, 190954, 190956, 190958	2019
PPML Curd Handling - VATS	6729, VAT4WDP	2019
Hysysco Curd Handling - Tables	TABLEWDP, TABLE3WDP	

Terms and Conditions

- 1 This Chattels Mortgage is made on the date and between the Chargor and the Company as shown in the Particulars on Page 1 (all the information in which forms part of this Chattels Mortgage).

It is agreed:

2 Definitions

In this Chattels Mortgage:

- 2.1 Unless the context otherwise requires all references to legislation or any law include references to any changes to it and any replacements of it; the singular includes the plural and vice versa; and the masculine includes the feminine and vice versa.
- 2.2 **"Agreement"** means this Chattels Mortgage and any other document entered into between the Chargor and the Company from time to time including (but not limited to) each and any leasing, hire purchase, schedule, sale and conditional sale, service, security, quasi-security, credit, purchase, agency, modifying or other agreement or document entered into between the Chargor and the Company; and any notice, certificate, instrument, deed, charge, agreement or other document from time to time executed pursuant to any of the foregoing; and any other document designated as an Agreement by the Chargor and the Company from time to time;
- "Chargor"** includes successors in title of the Chargor and all other persons deriving title under the Chargor or claiming any interest in the Equipment through the Chargor;
- "Company"** includes its and their successors and assigns;
- "Default Interest Rate"** means the highest rate of interest or default interest payable under any document governing or evidencing the terms of the Indebtedness and where no such interest is specified, the rate of interest shall be deemed to be 3% over the Bank of England base rate from time to time;
- "Equipment"** means the plant, machinery, goods, chattels or other equipment (whether already acquired or to be acquired) specified in the schedule to this Chattels Mortgage (including all engines, appliances, parts, spare parts, instruments, appurtenances, accessories and other equipment of any kind installed on, or in, such goods or chattels and all manuals and technical and other records relating to the Equipment) and any and all substitutions, alterations, replacements, renewals and additions made for or, in or to the same or any part of the same after the date of this Chattels Mortgage and, where the context so permits, any part or parts of them;
- "Event of Default"** means any event or circumstance specified as an event of default (howsoever described) under any of the Agreements;
- "HSBC Group"** means HSBC Holdings plc, its Subsidiaries and any associated and/or affiliated companies;
- "Indebtedness"** means all monies and liabilities which now are or shall from time to time hereafter be due owing or incurred to the Company or any member of the HSBC Group by the Chargor whether actually or contingently and whether presently or in the future and whether solely or jointly with any other person and whether as principal or surety upon any account or under any Agreement or in any other way whatsoever and also the amount of notes or bills discounted or paid and including (as well after as before any demand made or judgment obtained) interest, commission, discount and other lawful charges and expenses (including legal charges occasioned by or incident to this or any other security held by or offered to the Company for the Indebtedness or the enforcement of any such security) computed and compounded from time to time in accordance with the terms agreed between the Chargor and the Company relating thereto or in the absence thereof according to the then current practice of the Company (but so that interest shall be computed at the rate of three per cent per annum over the Bank of England base rate from time to time);
- "Markings"** means labels, plates or markings;
- "Receiver"** means any one or more receivers or managers appointed pursuant to this Chattels Mortgage in respect of the Chargor or over all or any of the Equipment;
- "Security"** means any mortgage, charge, pledge, assignment, trust, lien or other security interest or detention right securing any obligation of any person or any other agreement or arrangement having similar effect;
- "Security Period"** means the period beginning on the date of this Chattels Mortgage and ending on the date when the Indebtedness has been irrevocably and unconditionally satisfied in full and the Chargor has ceased to be under any further, actual or contingent, liability to the Company under or in connection with the Indebtedness and/or any Agreement;
- "Subsidiary"** has the meaning given to it by Section 1159 of the Companies Act 2006;
- "VAT"** means value added tax payable pursuant to Value Added Tax Act 1994 or any replacement or amending legislation of a similar nature and/or any replacement tax in respect thereof and/or any other taxes payable in respect of supply or sale of goods from time to time in the relevant jurisdiction, and related words and expressions are to be construed accordingly.
- 2.3 In this Chattel Mortgage:
- (i) Clause headings are for convenience only and are not to affect the construction of this Chattels Mortgage;

- (ii) the terms “include(s)”, “including” and “in particular” shall be construed as being by way of illustration or emphasis only and shall not be construed as, nor shall they take effect as, limiting the generality of any preceding words; and
- (iii) the terms “other” and “otherwise” shall not have their meaning narrowed by any preceding words where a wider construction is possible..

3 Covenant to pay

- 3.1 The Chargor covenants to pay to the Company and discharge the Indebtedness when due and agrees and acknowledges that the Indebtedness shall in the absence of express written agreement by the Company to the contrary be due and payable to the Company on demand.
- 3.2 If the Chargor fails to pay any amount payable by it under this Chattel Mortgage on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at the Default Interest Rate. Any interest accruing under this clause 3.2 shall be immediately payable by the Chargor on demand by the Company.

4 Charging clause

- 4.1 The Chargor mortgages and charges by way of first fixed charge to the Company with full title guarantee, all of its right, title and interest in and to the Equipment, together with the benefit of:
 - (i) any and all obligations, guarantees and warranties given by any manufacturer or supplier of the Equipment to or in favour of the Chargor;
 - (ii) any and all obligations, guarantees and warranties given by any other party in respect of the Equipment to or in favour of the Chargor;
 - (iii); any and all rights to claim (and the proceeds of all such claims) arising from time to time under or in connection with any and all policies of insurance with respect to the Equipment required to be taken out and maintained by the Chargor under or in connection with the Agreement; and
 - (iv) the benefit of all maintenance agreements and all copyrights, patents, trade marks and other intellectual property rights relating to the Equipment entered into between the Chargor and any such third party.
- 4.2 If or to the extent that the Equipment is not effectively mortgaged or charged under or pursuant to this clause 4, the Chargor shall hold the Equipment on trust for the Company.
- 4.3 Following the expiry of the Security Period the Company shall, subject to the rights to any entity having priority over the Chargor, upon the request and at the cost and expense of the Chargor and without warranty from or recourse to the Company, reassign the Equipment to the Chargor, to the extent then still subsisting and capable of reassignment.

5 Representations

The Chargor represents and warrants to the Company:

- (i) that it is the sole, absolute legal and beneficial owner of the Equipment free from any Security, (except for any liens arising by operation of law, in the ordinary course of the Chargor’s business); and
- (ii) that this Chattels Mortgage does not contravene any of the provisions of the memorandum and articles of association of the Chargor and has been duly authorised and executed.

6 Covenants

The Chargor covenants with the Company that, throughout the Security Period, it will:

- (i) promptly upon demand by the Company, execute such legal or other mortgages, charges, assignments or securities as the Company shall require (upon terms and conditions acceptable to the Company, at the expense of the Chargor) of and on all the Chargor’s estate and interest in the Equipment (including any vendor’s lien) to secure all monies and liabilities agreed to be paid or intended to be secured under this Chattels Mortgage;
- (ii) subject to the rights of any prior mortgagee, deposit with the Company all invoices, documents of title, guarantees, insurance policies, all maintenance agreements and ancillary documents relating to the Equipment;
- (iii) pay as and when due:
 - (A) the rent, rates, assessments, charges, impositions, outgoings and taxes in respect of all premises of the Chargor; and
 - (B) all licence fees, duties, registration charges and all outgoings in respect of the Equipment and keep or cause the Equipment to be kept from being distrained for recovery or from being taken under any execution and shall at all times on demand produce or cause to be produced to the Company or its authorised agents the receipt for such payments and in default it shall be lawful (but not obligatory) for the Company to pay and discharge such sums which at any time may be or become due, assessed or payable in respect of the premises or the Equipment and the Chargor shall repay the same to the Company on demand, together with any interest charged thereon in accordance with clause 3.2;
- (iv) keep the Equipment permanently in its sole and exclusive possession at the location specified in the schedule or at such other premises as the Company shall authorise in advance in writing and shall not in any event take the Equipment out of England and Wales;

- (v) affix to or engrave upon the Equipment such Markings as the Company shall require and not allow such Markings to be concealed, altered or removed;
- (vi) produce promptly to the Company the original of any order, direction, requisition, permission, notice, proceedings or matter whatsoever affecting or likely to affect the Equipment and/or any premises of the Chargor, served upon the Chargor by any third party, together with full particulars of such notice. The Chargor shall promptly, at its own cost, comply with the same and shall, if so required by the Company, at the Chargor's own cost, make or join in making such objections or representations against or in respect of the contents of any such notice as the Company may deem expedient or desirable;
- (vii) permit the Company or any person nominated by it to enter on any premises of the Chargor:
 - (A) to inspect the Equipment, including any Markings;
 - (B) to effect such repairs as the Company shall consider necessary or desirable; and
 - (C) generally to do all such acts as the Company considers necessary or desirable, in connection with this Chattels Mortgage;
- (viii) keep the Equipment in good and substantial repair and condition and in working order and replace any parts of the Equipment as may be destroyed, damaged or worn out with new parts of at least similar quality and of at least equal value. The Chargor shall carry out such repairs to or replacement of the Equipment as the Company shall consider necessary or desirable. If the Chargor fails to carry out such repairs, the Company may, but shall not be obliged to do so (at the expense of the Chargor);
- (ix) pay to the Company on demand the amount of any VAT which may be payable in respect of any sums payable by the Chargor to the Company under or secured by this Chattels Mortgage or pursuant to the exercise by the Company of any of its rights under this Chattels Mortgage and the Chargor shall pay to the Company on demand an amount equal to any VAT or other sums payable or incurred by the Company under or pursuant to the [Value Added Tax Act 1994] or any regulations made thereunder or otherwise in consequence of its having entered into this Chattels Mortgage or any transaction secured by this Chattels Mortgage or exercising any of its rights under this Chattels Mortgage. The Chargor shall indemnify the Company against any liability in respect of VAT;
- (x) indemnify and hold each of the Company and any Receiver harmless against any and all claims, demands and liabilities howsoever caused relating to or arising out of or in connection with the design, manufacture, delivery, possession, parting with possession, use, misuse, operation, maintenance, repair, condition, storage, location, seizure, sequestration, detention, attachment, execution, requisition, redelivery or removal of the Equipment including without limitation those based upon infringement of any patent or other intellectual property rights;
- (xi) on the occurrence of any Event of Default which is continuing or at any time after the Company shall have demanded payment of the Indebtedness (whether on demand by the Company, at scheduled repayment or by acceleration or otherwise as the case may be) or if the Chargor defaults in the performance of any of its obligations under this Chattels Mortgage, allow the Company, without further notice or further demand, immediately to put into force and exercise all rights, powers and remedies possessed by it and in particular (but without limitation) to take possession of the Equipment and for that purpose to enter upon any land or buildings where the Equipment are or are reasonably thought to be situated without being liable to the Chargor for or by reason of such entry;
- (xii) not use or permit the Equipment to be used for any purpose for which they are not designed or reasonably suited or contrary to its user manual or manufacturer's recommendations;
- (xiii) not, without the Company's prior written consent, make or suffer to be made any alteration or addition of a substantial nature in or to the Equipment other than for the purpose of effecting repairs in accordance with clause 6(viii);
- (xiv) not, without the Company's prior written consent enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, attempt to sell, assign, charge, hire, lease, part with, share possession or otherwise dispose of the Equipment and/or to permit or suffer any distress or execution to be levied upon the Equipment;
- (xv) not, without the Company's prior written consent, use nor permit the Equipment to be used in any way contrary to law and shall comply with the requirements of any law so far as the same relates to or affects the Equipment or their user and shall promptly execute or cause to be executed all works that are required by law to be executed upon or in connection with the Equipment;
- (xvi) not, without the Company's prior written consent, in any manner or by any means cause the value of the Equipment to lessen or suffer them to be lessened, fair wear and tear excepted;
- (xvii) not, without the Company's prior written consent, create or permit to subsist or arise any Security over the Equipment;
- (xviii) not, without the Company's prior written consent, annex the Equipment to any premises of the Chargor if the result of such annexure is that the Equipment would or might become a fixture or fixtures; and
- (xix) on being required by the Company to do so and at the cost and expense of the Chargor execute, sign, deliver all such deeds and instruments and do all such acts and things as the Company may require to create, improve, perfect, maintain or protect the Security intended to be created by this Chattels Mortgage. Where required the Chargor shall also endorse or cause to be endorsed the same on any documents evidencing title to the Equipment

and to give third parties such notices of the security created by this Chattels Mortgage as required by the Company.

7 Insurance

7.1 The Chargor shall ensure that:

- (i) the following are maintained at all times with reputable insurers:
 - (A) insurance of the Equipment to its full replacement value under a standard form of all risks policy including, in particular but without limitation, full cover against acts of terrorism;
 - (B) insurance against liability of all kinds to third parties which arises directly or indirectly from the use, possession or existence of the Equipment, in a sum consistent with a high degree of prudence or such other sum as the Company may from time to time require;
 - (C) any other insurance relating to the Equipment and required to be taken out by the Chargor or the Company by the law of any part of the UK or any other relevant jurisdiction;
- (ii) in relation to each such insurance:
 - (A) the terms of the policy shall provide for all monies payable under the policy (except those payable to third parties) to be paid to the Company; and
 - (B) the policy at all times remains valid and covers all uses to which the Equipment is put;
- (iii) unless the Equipment is motor vehicles, the policies referred to in clause 7.1(i) are in the names of the Company and the Chargor as co-insured;

7.2 The Chargor shall promptly pay all premiums and comply with all of its obligations under the policies and, on demand, shall produce to the Company each of the policies and such other evidence as the Company may require to show that the Chargor is complying with its obligations under this Chattels Mortgage. If the Chargor does not do this, the Company may effect all or any of the above insurances itself and the Chargor shall repay to the Company on demand all premiums paid by the Company and all costs and expenses incurred by the Company in effecting the same;

7.3 The Chargor will inform the Company in writing promptly of any event which may give rise to a claim under any of the insurance policies and irrevocably and by way of security authorises the Company to make any such claim, take over the conduct of any claim already made, settle any claim and give a good receipt for any Insurance Proceeds (as defined in clause 7.4).

7.4 Without prejudice to the mortgage and charge set out in clause 4.1(iii) above, all monies payable under the policies referred to in clause 7.1(i) ("**Insurance Proceeds**") shall be held on trust for the Company and paid to the Company, or as it shall direct, for application in accordance with the Agreement. Further, the Chargor shall as and when directed by the Company execute, deliver and perfect a security assignment in favour of the Company, and in form and content satisfactory to the Company, of all rights to claim and all proceeds of such claims under all or any of the insurances required to be taken out and maintained pursuant to this Chattel Mortgage.

7.5 All Insurance Proceeds shall be applied first towards payment of the Indebtedness and any other amounts payable pursuant to this Chattels Mortgage. Subject to the Agreement and to the rights of any party having priority over the Chargor, the Chargor will then be entitled to receive any excess.

8 Enforcement of security

8.1 On the occurrence of any Event of Default which is continuing or at any time after the Company shall have demanded payment or discharge of the Indebtedness, any Security created by and under this Chattels Mortgage is immediately enforceable.

8.2 The Company may, at its absolute discretion, at any time after the Security created by or under this Chattels Mortgage is enforceable:

- (a) enforce all or any part of the Security created by or under this Chattels Mortgage in any manner it sees fit;
- (b) exercise its rights and powers conferred upon mortgagees by the Law of Property Act 1925, as varied and extended by this Chattels Mortgage, and rights and powers conferred on a Receiver by this Deed, whether or not it has taken possession or appointed a Receiver to all or any part of the Equipment;
- (c) appoint a Receiver to all or any part of the Equipment and the other property expressed to be mortgaged or charged by this Chattels Mortgage; or
- (d) exercise its power of sale under section 101 of the Law of Property Act 1925 (as amended by this Chattels Mortgage).

8.3 For the purposes of all powers implied by statute, the Indebtedness is deemed to have become due and payable on the date of this Chattels Mortgage.

8.4 Section 103 of the Law of Property Act 1925 and section 93 of the Law of Property Act 1925 do not apply to the Security constituted by or under this Chattels Mortgage.

8.5 Each Receiver and the Company is entitled to all the rights, powers, privileges and immunities conferred by the Law of Property Act 1925 and the Insolvency Act 1986 on mortgagees and Receivers.

8.6 The Company or any Receiver appointed under this Chattels Mortgage may credit any amount received, recovered or realised under this Chattels Mortgage into an interest bearing suspense account where, pending its application by

the Company or such Receiver in or towards the discharge of the Indebtedness as and when in their reasonable discretion they shall consider appropriate, no such amounts shall no reduce the Indebtedness.

- 8.7 Neither the Company nor any Receiver will be liable, by reason of entering into possession of an item of Equipment, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might otherwise be liable.
- 8.8 At any time after the Security created by or under this Chattels Mortgage has become enforceable, the Company may, at the sole cost of the Chargor (payable to the Company on demand):
- (a) redeem any prior form of Security over any item of Equipment; and/or
 - (b) procure the transfer of that Security to itself; and/or
 - (c) settle and pass the accounts of any prior mortgagee, chargee or encumbrancer which once so settled and passed shall be conclusive and binding on the Chargor.

9 Appointment of Receiver

- 9.1 At any time after the Company shall have demanded payment or discharge of all or any part of the Indebtedness or at any time after any Security created by or under this Chattels Mortgage is enforceable, the Company may appoint any person to be a Receiver of the Equipment and remove (subject, in the case of an administrative receiver, to the sanction of the Court) any Receiver so appointed and appoint another in his place and a Receiver so appointed shall have power in the name of or on behalf and at the cost of the Chargor or at his option (but only with the prior written consent of the Company) in the name of the Company or at his option in his own name (and in any case notwithstanding the liquidation of the Chargor) to do or omit to do anything which the Chargor could do or omit to do in relation to the Equipment and in particular, but without prejudice to the generality of the foregoing, any such receiver shall have power to:
- (i) take possession of or collect and get in the Equipment and for that purpose to take any proceedings in the name of the Chargor or otherwise as may seem expedient and for that purpose to enter upon any premises of the Chargor and sever, dismantle and remove the Equipment, without being liable for any loss or damage thereby occasioned (other than through negligence);
 - (ii) raise or borrow any monies that may be required upon the security of the Equipment;
 - (iii) forthwith and without the restriction imposed by either section 103 or section 93 Law of Property Act 1925, sell, convert into money and realise all or any part of Equipment by public auction or private contract and generally in such manner and on such terms and conditions as he shall think proper;
 - (iv) make any arrangement or compromise which he shall think expedient;
 - (v) make and effect all repairs, renewals and any improvements of the Equipment as he may determine;
 - (vi) maintain or renew all insurances;
 - (vii) appoint managers, agents, officers, and workpeople for any of these purposes at such salaries and for such periods as he may determine;
 - (viii) lease, let on hire purchase, store, alter or improve all or any part of the Equipment for such term and at such rent and on such other terms as he may think proper and accept a surrender of any lease or tenancy thereof;
 - (ix) give valid receipts for all moneys and execute all assurances and things which may be proper or desirable for realising the Equipment;
 - (x) use the name of the Chargor for all or any of the purposes and in any legal proceedings with full power to convey any property sold in the name of the Chargor; and
 - (xi) do all such other acts and things as may be considered to be incidental or conducive to any of these matters or powers and which he lawfully may or can do as agent for the Chargor.
- 9.2 A Receiver or Receivers so appointed shall be entitled to charge such amount for his remuneration as shall be agreed between such Receiver and the Company.
- 9.3 Subject to claims having priority over the Security created by this Chattels Mortgage, all monies received, recovered or realised by such Receiver shall be applied:
- (i) first in payment of his remuneration and the costs of realisation;
 - (ii) secondly in providing for the matters specified in the first three paragraphs of section 8 or section 109 Law of Property Act 1925 and for the purposes aforesaid; and
 - (iii) thirdly in or towards satisfaction of the Indebtedness and all the foregoing provisions shall take effect as and by way of variation and extensions of the provisions of sections 99 to 109 inclusive Law of Property Act 1925 which provisions so varied and extended shall be regarded as incorporated in this Chattels Mortgage.
- Any Receiver so appointed shall be deemed to be the agent of the Chargor and the Chargor shall be solely responsible for his acts or defaults and remuneration.

10 Power of attorney

The Chargor hereby irrevocably appoints the Company and any Receiver appointed by the Company under this Chattels Mortgage severally to be its attorney for it and in its name and on its behalf and as its act, deed or otherwise to take any action or to sign, seal and deliver and otherwise conclude or perfect any such legal or formal mortgage or any deed, document, assurance, agreement, arrangement or act which may be required or may be deemed proper

or desirable on any sale, lease or disposition by the Company or by such receiver of the Equipment under any power of sale, leasing or other applicable disposition thereto or for the purposes of giving effect to, or securing the performance of, the obligations of the Chargor under clause 19 below and otherwise under this Chattel Mortgage. The Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause 10. In this clause 10, any reference to the "Company" or any "Receiver" includes their respective delegates or sub-delegates, if any

11 Other charges

If the Chargor creates Security in relation to any premises of the Chargor, the Chargor shall promptly notify the Company of the same and if requested so by the Company shall procure from any mortgagee, chargee or debenture holder or other person having an interest (whether legal or equitable) in any premises of the Chargor a waiver in such form as the Company may require of all rights which the holder of such interest might otherwise be entitled to claim in the Equipment.

12 Notices

Any notice, demand or other communication by the Company to the Chargor shall be validly given if served personally on the Chargor or sent to it by first class prepaid post or left at its registered office for the time being or its last known or usual place of business.

13 Continuing security and additional security

This Chattels Mortgage shall be a continuing security for the payment and discharge of the Indebtedness and shall extend to cover the ultimate balance of the Indebtedness from time to time and notwithstanding any intermediate payment or discharge in whole or in part. This Chattels Mortgage shall be in addition to and without prejudice to any other securities or remedies now or at any time held by the Company including (without prejudice to the generality of the foregoing) any Security, deposit, guarantee, indemnity, set off or any other form of security whatsoever and no assurance, Security or payment which may be avoided under any enactments relating to liquidation and no release, settlement or discharge which may have been given or made on the faith of any such assurance, security or payment shall prejudice or affect the rights of the Company against the Chargor under this Chattels Mortgage. This Chattel Mortgage is in addition to, is not in any way prejudiced by, and shall not merge with, any other Security, guarantee or right now or in the future held by the Company.

14 Subsequent Security

- 14.1 If the Company receives notice of any other subsequent Security or other interest affecting all or any of the Equipment it may open a new account or accounts for the Chargor in its books. If it does not do so then, unless it gives express written notice to the contrary to the Chargor, as from the time of receipt of such notice by the Company, all payments made by the Chargor to the Company shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Indebtedness.
- 14.2 The Company shall have in addition to any general lien or similar right to which it may be entitled by law the right at any time and from time to time, either with or without notice to the Chargor, (as well before as after any demand under this Chattels Mortgage or otherwise) to combine or consolidate all or any of the then existing accounts with and liabilities to the Company of the Chargor and/or to set off or transfer any sum standing to the credit of any one or more of such accounts in or towards satisfaction of any of the liabilities of the Chargor to the Company on any other account or in any other respect, whether such liabilities be actual, contingent, primary, collateral, several or joint.
- 14.3 The Chargor waives any right of set off it may have now or at any time in the future in respect of the Indebtedness (including sums payable by the Company under this Chattels Mortgage).

15 Reinstatement

Any settlement, discharge or release (including in relation to this Chattels Mortgage or the Indebtedness) between (i) the Chargor and (ii) the Company or any Receiver (the "Relevant Person(s)") shall be conditional upon no security given, or payment made, to the Relevant Person(s) by the Chargor (or any other person) being avoided or reduced as a result of any provisions or enactments relating to insolvency for the time being in force in any jurisdiction. In the event of such security or payment being avoided or reduced, the Relevant Person(s) shall be entitled to recover the value or amount of such security or payment from the Chargor as if such settlement, discharge or release had not occurred.

16 Indemnity

The Chargor shall indemnify the Company and each Receiver, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, wasted investment or expenditure, loss of expected savings, loss of reputation and all interest

penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with:

- (a) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this Chattels Mortgage or by law in respect of the Equipment;
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this Chattels Mortgage; or
- (c) any default or delay by the Chargor in performing any of its obligations under this Chattels Mortgage.

17 Certificate of Indebtedness

A certificate of a manager or officer of the Company as to the amount for the time being of the Indebtedness shall be conclusive and binding on the Chargor in the absence of manifest error.

18 Indulgence

The Company may, at its discretion, grant time or other indulgence or make any other arrangement, variation or release with any person not being a party to this Chattels Mortgage (whether or not any such person is jointly liable with the Chargor) in respect of any of the Indebtedness or of any other security for them without prejudice either to this Chattels Mortgage or to the liability of the Chargor for the Secured Liabilities.

19 Further Assurance

- 19.1 The Chargor shall promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Company may specify (and in such form as the Company may require) in favour of the Company or its nominee(s):
- (a) to create, perfect, protect and maintain the Security created or intended to be created under or evidenced by this Chattels Mortgage or for the exercise of any rights, powers and remedies of the Company provided by or pursuant to this Chattels Mortgage or by law;
 - (b) to confer on the Company Security over any item of Equipment located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Chattels Mortgage; and/or
 - (c) (if an Event of Default is continuing) to facilitate the realisation of the Equipment.
- 19.2 The 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 Company by or pursuant to this Chattels Mortgage.

20 Amendments, Waivers and Consents

- 20.1 No amendment of this Chattels Mortgage shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).
- 20.2 A failure or delay by a party to exercise any right or remedy provided under this Chattels Mortgage or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this Chattels Mortgage. No single or partial exercise of any right or remedy provided under this Chattels Mortgage or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this Chattels Mortgage by the Company shall be effective unless it is in writing.

21. Contracts (Rights of Third Parties) Act 1999

The parties to this Chattels Mortgage do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any persons not a party to it. This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that act.

22 Transfer of Rights

- 22.1 The Company may transfer all or any of its rights under this Chattels Mortgage and/or the Indebtedness to any person at any time.
- 22.2 If the Company transfers all or any of its rights under this Chattels Mortgage and/or the Indebtedness, the Chargor's rights under this Chattels Mortgage and/or the Indebtedness (as the case may be) will stay exactly the same.
- 22.3 The Chargor will be bound to any person to whom the Company transfers any such rights. That person will have the Company's powers and rights so far as the Company transfers these to that person. The Company will be released automatically from its obligations to the Chargor so far as that person assumes the Company's obligations.
- 22.4 The Chargor will at the expense of the Company or the person to whom the rights are transferred, do anything reasonably requested by the Company to effect a transfer of all or any of its rights under this Chattels Mortgage and/or Indebtedness.
- 22.5 The Chargor will not transfer all or any part of its rights under this Chattels Mortgage and/or the Indebtedness without the prior written consent of the Company.
- 22.6 In this clause 22:

- (a) the term **transfer** means sale, assignment and/or transfer by novation;
- (b) the term **rights** means rights, benefits and/or obligations;
- (c) the term **person** means any person, trust, fund or other entity.

23 Performance

The Chargor shall remain liable to perform all the obligations assumed by it in relation to the Equipment. The Company shall be under no obligation of any kind in respect thereof nor under any liability in the event of any failure by the Chargor to perform, or breach by the Chargor of, any of those obligations.

24 English law

English law governs this Chattels Mortgage and any non-contractual obligations arising under or in connection with it. Both the Company and the Chargor submit to the exclusive jurisdiction of the courts of England and Wales in relation to all claims, disputes, differences or other matters (including non-contractual claims, disputes, differences or other matters) arising out of or in connection with this Chattels Mortgage.

25 Northern Ireland

In Northern Ireland: for references in this Chattels Mortgage to the Law of Property Act 1925 and the Insolvency Act 1986 there shall be substituted the corresponding or appropriate provisions applicable in Northern Ireland, whether in the Conveyancing and Law of Property Act 1881, the Conveyancing Act 1911, the Companies (Northern Ireland) Order 1986 or otherwise and the words "The Chargor charges and assigns absolutely and unconditionally to the Company with full title guarantee..." in clause 4 above shall be replaced with the words "The Chargor as beneficial owner charges and assigns to the Company".

Executed as a deed by the parties or their duly authorised representatives on the date set out on the front page of this Chattels Mortgage.