



Registration of a Charge

Company name: **BLACKFINCH INVESTMENTS LIMITED**

Company number: **02705948**



X8C01A15

Received for Electronic Filing: **16/08/2019**

Details of Charge

Date of creation: **15/08/2019**

Charge code: **0270 5948 0004**

Persons entitled: **HENSLOW TRADING LIMITED**

Brief description:

Contains fixed charge(s).

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 THE ELECTRONIC COPY INSTRUMENT
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **S WIGGIN**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2705948

Charge code: 0270 5948 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 15th August 2019 and created by BLACKFINCH INVESTMENTS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 16th August 2019 .

Given at Companies House, Cardiff on 19th August 2019

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



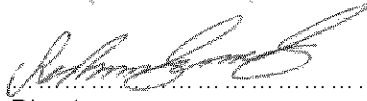
THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

SHARE CHARGE

Date	15 August 2019
<u>The Parties</u>	
Chargor	Blackfinch Investments Limited (a company incorporated in England and Wales with company registration number 02705948)
Security Trustee	Henslow Trading Limited (a company incorporated in England and Wales with company registration number 08703770) as security trustee for the Secured Parties
<u>The Specific Security Assets</u>	
Company	Agility Shipping International Limited (a company incorporated in England and Wales with company registration number 10763144)
Listed Shares	2 ordinary shares of £1 in the share capital of the Company
Shares	All shares in the Company owned by the Chargor including, but not limited, to the Listed Shares
<u>The Charge Details</u>	
Covenant to Pay: The Chargor, as principal obligor and not merely as surety, covenants in favour of the Security Trustee that it will pay and discharge the Secured Obligations from time to time when they fall due. Fixed Charge: As continuing security for the payment and discharge of the Secured Obligations, the Chargor with full title guarantee charges to the Security Trustee by way of first fixed charge all of the Shares and all of the Related Rights. Terms and Conditions: The terms and conditions headed Blackfinch Share Security Conditions (December 2018) (the Share Security Conditions), a copy of which is included as the exhibit to this Share Charge, are incorporated into this Share Charge. Where there is any inconsistency between this Share Charge and the Share Security Conditions, then this Share Charge shall prevail.	
<u>Miscellaneous</u>	
Loan Agreement	The loan agreement dated on or on about the date of this Share Charge entered into between, amongst others, (1) the Company as the borrower, (2) the Chargor as the shareholder, (3) Origin Investments Ltd as the arranger and (4) the Security Trustee as the facility agent and security trustee and (5) the Security Trustee as the original lender

The Chargor

EXECUTED as a **DEED** by **BLACKFINCH INVESTMENTS LIMITED** acting
by Richard Simmonds

) 
)
) Director
)

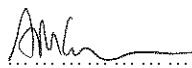
in the presence of:



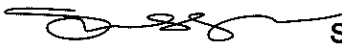
Witness signature – employee of
Blackfinch Financial Limited

The Security Trustee

EXECUTED as a **DEED** by
HENSLOW TRADING LIMITED acting by
Alex Common

) 
)
) Attorney
)

in the presence of:


_____ **Serena Wiggin**

Witness signature – employee of Blackfinch Financial Limited

EXHIBIT

Blackfinch Share Security Conditions (December 2018)



1350 – 1360 Montpellier Court
Gloucester Business Park
Gloucester GL3 4AH
propertyteam@blackfinch.com
www.blackfinch.com/property

BLACKFINCH SHARE SECURITY CONDITIONS (DECEMBER 2018)

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1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In these Conditions:

- (a) capitalised terms (including, but not limited to, **Company**, **Listed Shares**, **Loan Agreement** and **Shares**) shall have the meaning given to them in the Share Charge;
- (b) terms defined in the Loan Agreement (including, but not limited to, **Event of Default**, **Finance Document**, **Finance Party**, **Guarantor** and **Permitted Security**) shall have the same meaning unless the same are otherwise defined in the Share Charge; and
- (c) the following terms shall have the following meanings:

Act	the Law of Property Act 1925
Business Day	a day (other than a Saturday or Sunday) on which banks are open for general business in London
Charge Security	the Security created or evidenced by or pursuant to the Share Charge
Default Rate	the rates of interest determined in accordance with clause 4.3 (<i>Default Interest</i>) of the Loan Agreement
Delegate	any delegate, sub-delegate, agent, attorney or co-trustee appointed by the Security Trustee or by a Receiver
Enforcement Event	the Facility Agent exercising its right to demand for the payment or repayment of any amounts outstanding under the Loan Agreement
Party	a party to the Share Charge
Receiver	a receiver, receiver and manager or administrative receiver of the whole or any part of the Security Assets appointed by the Security Trustee under the Share Charge
Related Rights	in relation to any Shares: (a) all dividends, distributions and other income paid or payable on the relevant Shares or on any asset referred to in paragraph (b) of this definition and (b) all rights, monies or property accruing or offered at any time in relation to such Shares whether by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise
Secured Obligations	all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or alone or in any other capacity whatsoever) of any Obligor to the Security Trustee and/or the other Secured Parties (or any of them) under or pursuant to any Finance Document (including all monies covenanted to be paid under the Share Charge)
Secured Parties	the Finance Parties, any Receiver and any Delegate
Security	any mortgage, charge, assignment by way of security, hypothecation, pledge, lien, security interest, title retention, preferential right or trust arrangement or any other security

agreement or arrangement having the effect of security

Security Assets	all assets from time to time charged (or expressed to be charged) by or pursuant to the Share Charge
Security Period	the period beginning on the date of the Share Charge and ending on the date on which: (a) all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full and (b) no Secured Party has any further commitment, obligation or liability under or pursuant to the Finance Document
Share Charge	the share charge into which these Conditions have been incorporated

1.2 Interpretation

- (a) Any reference to a statute or a provision of a statute shall be construed as a reference to that statute or provisions as amended, re-enacted or extended at the relevant time.
- (b) Any reference to the singular shall include the plural and vice versa.
- (c) The headings are inserted for ease of reference only and shall not affect the construction of the Share Charge.
- (d) The Share Charge includes these Conditions, if there is any inconsistency between the Share Charge and these Conditions then the Share Charge shall prevail.
- (e) The Chargor, the Security Trustee or any other Secured Party or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees.
- (f) The Share Charge, the Loan Agreement or any other Finance Document is a reference to the Share Charge, the Loan Agreement, or that other Finance Document as amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally).
- (g) Secured Obligations includes obligations and liabilities which would be treated as such but for the liquidation, administration or dissolution of or similar event affecting the Chargor.
- (h) Each undertaking of the Chargor (other than a payment obligation) contained in the Share Charge: (i) must be complied with at all times during the Security Period and (ii) is given by the Chargor for the benefit of the Security Trustee and each other Secured Party.
- (i) If the Security Trustee reasonably considers that an amount paid by the Chargor to a Secured Party under a Finance Document is capable of being avoided or otherwise set aside on the liquidation or administration of the Chargor, then that amount shall not be considered to have been irrevocably paid for the purposes of the Share Charge.
- (j) The Parties intend that the Share Charge shall take effect as a deed notwithstanding the fact that a Party may only execute the document under hand.

1.3 Trust

All Security and dispositions made or created, and all obligations and undertakings contained, in the Share Charge to, in favour of or for the benefit of the Security Trustee are made, created and entered into in favour of the Security Trustee as trustee for the Secured Parties from time to time. The perpetuity period for any trusts in the Share Charge is 125 years.

2. COVENANT TO PAY

2.1 Covenant to pay

Every payment by the Chargor of a Secured Obligation which is made to or for the benefit of a Secured Party to which that Secured Obligation is due and payable in accordance with the Finance Document under which such sum is payable to that Secured Party, shall operate in satisfaction to the same extent of the covenant contained in paragraph 1 (Covenant to Pay) of "The Charge Details" section of the Share Charge.

2.2 Default interest

Any amount which is not paid under the Share Charge when due shall bear interest (both before and after judgment and payable on demand) from the due date until the date on which such amount is unconditionally and irrevocably paid and discharged in full on a daily basis at the Default Rate and in the manner determined under the Loan Agreement from time to time.

3. LIMITED RECOURSE UNDER THE SHARE CHARGE

3.1 Limited Recourse under the Share Charge

Notwithstanding any other provision of the Finance Documents (but subject to clause 3.2 (*Not Limiting Recourse of a Guarantor under the Loan Agreement*) below), it is expressly agreed that:

- (a) the sole recourse of the Security Trustee to the Chargor under the Share Charge is to the Chargors' interest in the Security Assets; and
- (b) the liability of the Chargor to the Security Trustee pursuant to or otherwise in connection with the Share Charge shall be:
 - (i) limited in aggregate to an amount equal to that recovered pursuant to the enforcement of the Share Charge with respect to the Security Assets; and
 - (ii) satisfied only from the proceeds of sale or other disposal or realisation of the Security Assets pursuant to the Share Charge.

3.2 Not Limiting Recourse of a Guarantor under the Loan Agreement

- (a) Clause 3.1 (*Limited Recourse under the Share Charge*) above applies to the liability of the Chargor under the Share Charge only.
- (b) Where the Chargor is also a Guarantor under the Loan Agreement, they will have separate liability under the Loan Agreement and the provisions of clause 3.1 (*Limited Recourse under the Share Charge*) above do not in any way limit the liability of the Chargor under the Loan Agreement, including recourse to the Security Assets and the other assets of the Chargor pursuant to the terms of the applicable guarantee contained in clause 10 (*Cost Overrun, Cost Overrun Guarantee and Facility Guarantee*) of the Loan Agreement.

4. CONTINUING SECURITY

4.1 Continuing security

The Security constituted by the Share Charge is continuing and will extend to the ultimate balance of the Secured Obligations regardless of any intermediate payment or discharge in whole or in part. The Share Charge shall remain in full force and effect as a continuing security for the duration of the Security Period.

4.2 Additional and separate security

The Share Charge is in addition to, without prejudice to, and shall not merge with, any other right, remedy, guarantee or Security which the Security Trustee and/or any other Secured Party may at any time hold for any Secured Obligation.

4.3 Right to enforce

The Share Charge may be enforced against the Chargor without the Security Trustee and/or any other Secured Party first having recourse to any other right, remedy, guarantee or Security held by or available to it or any of them.

5. LIABILITY OF CHARGOR RELATING TO SECURITY ASSETS

Notwithstanding anything contained in the Share Charge or implied to the contrary, the Chargor remains liable to observe and perform all conditions and obligations assumed by it in relation to the Security Assets. The Security Trustee is under no obligation to perform or fulfil any such condition or obligation or to make any payment in respect of any such condition or obligation.

6. REPRESENTATIONS

6.1 Time when representations made

The Chargor makes the representations and warranties set out in this clause 6 to the Security Trustee and to each other Secured Party on the date of the Share Charge and on the last Business Day of each month, by reference to the facts and circumstances existing on each such date.

6.2 Shares

- (a) The Shares are fully paid and are not subject to any option to purchase or similar rights.
- (b) The Listed Shares represent the whole of the issued share capital of the Company and no person has any option, warrant or other similar right to subscribe for any shares of the Company.
- (c) The Chargor is the sole legal and beneficial owner of the Shares.
- (d) The constitutional documents of the Company do not: (i) restrict or inhibit any transfer of the Shares on creation or enforcement of the security constituted by the Share Charge or (ii) contain any rights of pre-emption.
- (e) The Chargor has complied with all notices relating to all or any of the Shares received by it pursuant to sections 790D and 790E of the Companies Act 2006.
- (f) No warning notice has been issued under paragraph 1(2) of Schedule 1B of the Companies Act 2006, and no restrictions notice has been issued under paragraph 1(3) of Schedule 1B of the Companies Act 2006, in respect of all or any of the Shares.

6.3 No Security

The Secured Assets are free from any Security other than the Permitted Security and the Security created by the Share Charge.

6.4 No adverse claims

The Chargor has not received, or acknowledged notice of, any adverse claim by any person in respect of the Secured Assets or any interest in them.

6.5 No adverse covenants

There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatsoever, that materially and adversely affect the Secured Assets.

6.6 No breach of laws

There is no breach of any law or regulation which materially and adversely affects the Secured Assets.

6.7 Avoidance of Security

No Security expressed to be created under the Share Charge is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Chargor or otherwise.

6.8 Enforceable Security

The Share Charge constitutes and will constitute the legal, valid, binding and enforceable obligations of the Chargor, and is and will continue to be effective security over all and every part of the Secured Assets in accordance with its terms.

7. UNDERTAKINGS BY THE CHARGOR

7.1 Negative pledge and Disposals

The Chargor shall not do or agree to do any of the following without the prior written consent of the Security Trustee:

- (a) create or permit to subsist any Security on any Security Asset other than as created by the Share Charge or a Permitted Security as permitted by the Loan Agreement; or
- (b) sell, transfer, lease, lend or otherwise dispose of (whether by a single transaction or a number of transactions and whether related or not and whether voluntarily or involuntarily) the whole or any part of its interest in any Security Asset.

7.2 Preservation of Security Assets

- (a) The Chargor shall not do, cause or permit to be done anything which would or would be reasonably likely to depreciate, jeopardise or otherwise prejudice the value or marketability of any Security Asset (or make any omission which has such an effect).
- (b) The Chargor shall not take, or allow the taking of, any action on its behalf which may result in the rights attaching to, or conferred by, all or any of the Shares being altered.
- (c) The Chargor shall not cause or permit: (i) any of the shares in the Company to be consolidated, sub-divided, converted, re-organised, exchanged or repaid or (ii) any further shares in the share capital of the Company to be issued.
- (d) The Chargor shall promptly pay all calls or other payments which may become due in respect of the Shares.
- (e) The Chargor shall not nominate another person to enjoy or exercise all or any specified rights of the Chargor in relation to the Shares, as contemplated by section 145 of the Companies Act 2006 or otherwise.
- (f) The Chargor shall provide the Security Trustee with all information which it may reasonably request in relation to the Security Assets.

7.3 Deposit of documents and notices

The Chargor shall:

- (a) deposit with the Security Trustee (or as the Security Trustee may direct) all certificates and other documents of title or evidence of ownership to the Shares and their Related Rights; and
- (b) execute and deliver to the Security Trustee:
 - (i) instruments of transfer in respect of the Shares (executed in blank and left undated); and/or
 - (ii) such other documents as the Security Trustee shall require to enable it (or its nominees) to be registered as the owner of or otherwise to acquire a legal title to the Shares and their Related Rights (or to pass legal title to any purchaser).

7.4 Rights in respect of the Shares

- (a) Until an Event of Default occurs, the Chargor shall be entitled to:
 - (i) receive and retain all dividends, distributions and other monies paid on or derived from its Shares; and
 - (ii) exercise all voting and other rights and powers attaching to its Shares, provided that it must not do so in a manner which: (A) has the effect of changing the terms of such Shares (or any class of them) or of any Related Rights unless permitted by the Finance Documents or (B) is prejudicial to the interests of the Security Trustee and/or the other Secured Parties.
- (b) At any time following the occurrence of an Event of Default, the Security Trustee may complete the instrument(s) of transfer for all or any Shares on behalf of the Chargor in favour of itself or such other person as it may select.
- (c) At any time when any Shares are registered in the name of the Security Trustee or its nominee, the Security Trustee shall be under no duty to:
 - (i) ensure that any dividends, distributions or other monies payable in respect of such Shares are duly and promptly paid or received by it or its nominee;
 - (ii) verify that the correct amounts are paid or received; or
 - (iii) take any action in connection with the taking up of any (or any offer of any) Related Rights in respect of or in substitution for, any such Shares.

8. POWER TO REMEDY

8.1 Power to remedy

If at any time the Chargor does not comply with any of its obligations under the Share Charge, the Security Trustee (without prejudice to any other rights arising as a consequence of such noncompliance) shall be entitled (but not bound) to rectify that default. The Chargor irrevocably authorises the Security Trustee and its agents to do all such which are necessary or desirable to rectify that default.

8.2 Monies expended

The Chargor shall pay to the Security Trustee on demand any monies which are expended by the Security Trustee in exercising its powers under this clause 8 (*Power to Remedy*), together

with interest at the Default Rate from the date on which those monies were expended by the Security Trustee (both before and after judgment) and otherwise in accordance with clause 2.2.

9. WHEN SECURITY BECOMES ENFORCEABLE

9.1 When enforceable

This Charge Security shall become immediately enforceable upon the occurrence of an Enforcement Event.

9.2 Statutory powers

The power of sale and other powers conferred by section 101 of the Act (as amended or extended by the Share Charge) shall be immediately exercisable upon and at any time after the occurrence of any Enforcement Event.

9.3 Enforcement

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

10. ENFORCEMENT OF SECURITY

10.1 General

For the purposes of all rights and powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of the Share Charge. Section 103 of the Act (restricting the power of sale) shall not apply to the Charge Security.

10.2 Powers of Security Trustee

At any time after the Charge Security becomes enforceable (or if so requested by the Chargor by written notice at any time), the Security Trustee may without further notice (unless required by law):

- (a) appoint any person (or persons) to be a receiver, receiver and manager or administrative receiver of all or any part of the Security Assets and/or of the income of the Security Assets; and/or
- (b) appoint or apply for the appointment of any person who is appropriately qualified as administrator of the Chargor; and/or
- (c) exercise all or any of the powers conferred on mortgagees by the Act (as amended or extended by the Share Charge) and/or all or any of the powers which are conferred by the Share Charge on a Receiver, in each case without first appointing a Receiver or notwithstanding the appointment of any Receiver; and/or
- (d) exercise (in the name of the Chargor and without any further consent or authority of the Chargor) any voting rights and any powers or rights which may be exercised by any person(s) in whose name any Share is registered or who is the holder of any of them.

10.3 Redemption of prior security

- (a) At any time after the Charge Security has become enforceable, the Security Trustee may:
 - (i) redeem any prior Security against any Security Asset; and/or
 - (ii) procure the transfer of that Security to itself; and/or

- (iii) settle and pass the accounts of the holder of any prior Security and any accounts so settled and passed shall be conclusive and binding on the Chargor.
- (b) All principal, interest, costs, charges and expenses of and incidental to any such redemption and/or transfer shall be paid by the Chargor to the Security Trustee on demand.

10.4 Privileges

- (a) Each Receiver and the Security Trustee is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers when such receivers have been duly appointed under the Act, except that section 103 of the Act does not apply.
- (b) To the extent that the Security Assets constitute financial collateral and the Share Charge and the obligations of the Chargor under the Share Charge constitute a security financial collateral arrangement (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226)) each Receiver and the Security Trustee shall have the right after this Security has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Obligations.
- (c) For the purpose of clause 10.4(b) above, the value of the financial collateral appropriated shall be such amount as the Receiver or Security Trustee reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.

10.5 No liability

- (a) Neither the Security Trustee, any other Secured Party nor any Receiver shall be liable (A) in respect of all or any part of the Security Assets or (B) for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, its or his respective powers (unless such loss or damage is caused by its or his gross negligence or wilful misconduct).
- (b) Without prejudice to the generality of clause 10.5(a), neither the Security Trustee, any other Secured Party nor any Receiver shall be liable, by reason of entering into possession of a Security Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

10.6 Protection of third parties

No person (including a purchaser) dealing with the Security Trustee or any Receiver or Delegate will be concerned to enquire:

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

11. RECEIVER

11.1 Removal and replacement

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

11.2 Multiple Receivers

If at any time there is more than one Receiver of all or any part of the Security Assets and/or the income of the Security Assets, each Receiver shall have power to act individually (unless otherwise stated in the appointment document).

11.3 Remuneration

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

11.4 Payment by Receiver

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

11.5 Agent of Chargor

Any Receiver shall be the agent of the Chargor in respect of which it is appointed. The Chargor shall (subject to the Companies Act 2006 and the Insolvency Act 1986) be solely responsible for his acts and defaults and for the payment of his remuneration. No Secured Party shall incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

12. POWERS OF RECEIVER

12.1 General powers

Any Receiver shall have:

- (a) all the powers which are conferred on the Security Trustee by clause 10.2 (*Powers of Security Trustee*);
- (b) all the powers which are conferred by the Act on receivers appointed under the Act;
- (c) (whether or not he is an administrative receiver) all the powers which are listed in schedule 1 of the Insolvency Act 1986; and
- (d) all powers which are conferred by any other law conferring power on receivers.

12.2 Additional powers

In addition to the powers referred to in clause 12.1 (*General powers*), a Receiver shall have the following powers:

- (a) to take possession of, collect and get in all or any part of the Security Assets and/or income in respect of which he was appointed;

- (b) to manage the Security Assets and the business of the Chargor as he thinks fit;
- (c) to redeem any Security and to borrow or raise any money and secure the payment of any money in priority to the Secured Obligations for the purpose of the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;
- (d) to sell or concur in selling, leasing or otherwise disposing of all or any part of the Security Assets in respect of which he was appointed without the need to observe the restrictions imposed by section 103 of the Act, and, without limitation;
 - (i) the consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration (and the amount of such consideration may be dependent upon profit or turnover or be determined by a third party); and
 - (ii) any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit;
- (e) to take any such proceedings (in the name of any of the Chargor or otherwise) as he shall think fit in respect of the Security Assets and/or income in respect of which he was appointed (including proceedings for recovery of monies in arrears at the date of his appointment);
- (f) to enter into or make any such agreement, arrangement or compromise as he shall think fit; and
- (g) to:
 - (i) give valid receipts for all monies and to do all such other things as may seem to him to be incidental or conducive to any other power vested in him or necessary or desirable for the realisation of any Security Asset;
 - (ii) exercise in relation to each Security Asset all such powers and rights as he would be capable of exercising if he were the absolute beneficial owner of the Security Assets; and
 - (iii) use the name of the Chargor for any of the above purposes.

13. APPLICATION OF PROCEEDS

13.1 Application

All monies received by the Security Trustee or any Receiver after the Charge Security has become enforceable shall (subject to the rights and claims of any person having a security ranking in priority to the Charge Security) be applied in the following order:

- (a) first, in satisfaction of, or provision for, all costs, charges and expenses incurred, and payments made, by the Security Trustee, any other Secured Party or any Receiver or Delegate and of all remuneration due to the Receiver in connection with the Share Charge or the Security Assets;
- (b) secondly, in or towards satisfaction of the remaining Secured Obligations; and
- (c) thirdly, in payment of any surplus to the Chargor or other person entitled to it.

13.2 Contingencies

If the Charge Security is enforced at a time when no amounts are due under the Finance Documents (but at a time when amounts may become so due), the Security Trustee or a

Receiver may pay the proceeds of any recoveries effected by it into a blocked suspense account (bearing interest at such rate (if any) as the Security Trustee (acting reasonably) may determine.

13.3 Appropriation and suspense account

- (a) Subject to clause 13.1 (Application), the Security Trustee shall apply all payments received in respect of the Secured Obligations in reduction of any part of the Secured Obligations in any order or manner which it may determine.
- (b) Any such appropriation shall override any appropriation by the Chargor.
- (c) All monies received, recovered or realised by the Security Trustee under or in connection with the Share Charge may at the discretion of the Security Trustee be credited to a separate interest-bearing suspense account for so long as the Security Trustee determines (with interest accruing thereon at such rate (if any) as the Security Trustee may determine without the Security Trustee having any obligation to apply such monies and interest or any part of it in or towards the discharge of any of the Secured Obligations.

14. SET-OFF

14.1 Set-off rights

- (a) The Security Trustee and each other Secured Party may (but shall not be obliged to) set off any matured obligation due from the Chargor under the Finance Documents (to the extent beneficially owned by the Security Trustee or that Secured Party) against any matured obligation owed by the Security Trustee or that Secured Party to that Chargor, regardless of the place of payment, booking branch or currency of either obligation.
- (b) At any time after the Charge Security has become enforceable (and in addition to its rights under clause 14.1(a)), the Security Trustee and each other Secured Party may (but shall not be obliged to) set-off any contingent liability owed by the Chargor under any Finance Document against any obligation (whether or not matured) owed by the Security Trustee or such other Secured Party to such Chargor, regardless of the place of payment, booking branch or currency of either obligation.
- (c) If the obligations are in different currencies, the Security Trustee or such other Secured Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

14.2 Time deposits

Without prejudice to clause 14.1 (Set-off rights), if any time deposit matures on any account which the Chargor has with the Security Trustee or any other Secured Party at a time within the Security Period when:

- (a) this Charge Security has become enforceable; and
- (b) no Secured Obligation is due and payable, such time deposit shall automatically be renewed for such further maturity as the Security Trustee or such other Secured Party in its absolute discretion considers appropriate unless the Security Trustee or such other Secured Party otherwise agrees in writing.

15. DELEGATION

Each of the Security Trustee and any Receiver may delegate, by power of attorney (or in any other manner) to any person, any right, power or discretion exercisable by them under the Share Charge upon any terms (including power to sub-delegate) which it may think fit. Neither

the Security Trustee nor any Receiver shall be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

16. FURTHER ASSURANCES

16.1 Further action

The Chargor shall at its own expense, promptly do all acts and execute all documents as the Security Trustee or a Receiver may reasonably specify (and in such form as the Security Trustee or a Receiver may reasonably require) for:

- (a) creating, perfecting or protecting the Security intended to be created by the Share Charge;
- (b) facilitating the realisation of any Security Asset;
- (c) facilitating the exercise of any rights, powers and remedies exercisable by the Security Trustee, any other Secured Party or any Receiver or any Delegate in respect of any Security Asset or provided by or pursuant to the Finance Documents or by law; or
- (d) creating and perfecting Security in favour of the Security Trustee or the Secured Parties over any property and assets the Chargor located in any jurisdiction outside England and Wales equivalent or similar to the Security intended to be created by or pursuant to the Share Charge.

This includes:

- (a) the re-execution of the Share Charge;
- (b) the execution of any legal mortgage, charge, transfer, conveyance, assignment, assignation or assurance of any property, whether to the Security Trustee or to its nominee; and
- (c) the giving of any notice, order or direction and the making of any filing or registration, which, in any such case, the Security Trustee may think expedient.

16.2 Perfection

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 Security Trustee or the Secured Parties by or pursuant to the Share Charge.

16.3 Specific security

Without prejudice to the generality of clause 16.1 (*Further action*), the Chargor will immediately upon request by the Security Trustee execute any document contemplated by that clause over any Security Asset which is subject to or intended to be subject to any fixed security under the Share Charge.

17. POWER OF ATTORNEY

The Chargor, by way of security, irrevocably and severally appoints the Security Trustee, each Receiver and any Delegate to be its attorney to take any action which such Chargor is obliged to take under the Share Charge, including under clause 16.1 (*Further action*). The Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause.

18. CURRENCY CONVERSION

All monies received or held by the Security Trustee or any Receiver under the Share Charge may be converted from their existing currency into such other currency as the Security Trustee or the Receiver considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Obligations in that other currency at such exchange rate as the Security Trustee may determine from time to time. The Chargor shall indemnify the Security Trustee against all costs, charges and expenses incurred in relation to such conversion. Neither the Security Trustee nor any Receiver shall have any liability to the Chargor in respect of any loss resulting from any fluctuation in exchange rates after any such conversion.

19. CHANGES TO THE PARTIES

19.1 Chargor

The Chargor may not assign any of its rights or obligations under the Share Charge.

19.2 Security Trustee

The Security Trustee may assign or transfer all or any part of its rights under the Share Charge. The Chargor shall, upon being requested to do so by the Security Trustee, enter into such documents as may be necessary or desirable to effect such assignment or transfer.

20. MISCELLANEOUS

20.1 New accounts

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

20.2 Tacking

- (a) Each Finance Party shall perform its obligations under the Loan Agreement (including any obligation to make available further advances).
- (b) The Share Charge secures advances already made and further advances to be made.

20.3 Protective clauses

The Chargor is deemed to be a principal debtor in relation to the Share Charge. The obligations of the Chargor under, and the security intended to be created by, the Share Charge shall not be impaired by any forbearance, neglect, indulgence, extension or time, release, surrender or loss of securities, dealing, amendment or arrangement by any Secured Party which would otherwise have reduced, released or prejudiced this Charge Security or any surety liability of the Chargor (whether or not known to it or to any Secured Party).

20.4 Third Party Rights

No third party has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce, or to enjoy the benefit of, any term of the Share Charge.

21. PARTIAL INVALIDITY

All the provisions of the Share Charge are severable and distinct from one another and if at any time any provision is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of any of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

22. AMENDMENTS AND WAIVERS

- (a) Any provision of the Share Charge may be amended only if the Security Trustee and the Chargor on their behalf so agree in writing and any breach of the Share Charge may be waived before or after it occurs only if the Security Trustee so agrees in writing. A waiver given or consent granted by the Security Trustee under the Share Charge will be effective only if given in writing and then only in the instance and for the purpose for which it is given.
- (b) No failure to exercise, nor any delay in exercising, on the part of the Security Trustee (or any other Secured Party), any right or remedy under the Share Charge shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise, or the exercise of any other right or remedy. The rights and remedies provided are cumulative and not exclusive of any rights or remedies provided by law.

23. NOTICES

- (a) Any notice or other communication given under or with the Share Charge shall be in writing and shall be sent to the relevant party at its address set out in the Notice Details or such other address as any party may specify in writing to the others from time to time.
- (b) Any notice or other communication sent by recorded next day delivery shall be deemed served on the first Business Day after posting.
- (c) Any notice or other communication sent by email shall only be effective on confirmation of actual receipt by the recipient.

24. COUNTERPARTS

The Share Charge may be executed in any number of counterparts, and this has the same effect as if the signatures (and seals, if any) on the counterparts were on a single copy of the Share Charge.

25. RELEASE

25.1 Release

Upon the expiry of the Security Period (but not otherwise) the Security Trustee shall, at the request and cost of the Chargor, take whatever action is necessary to release or reassign (without recourse or warranty) the Security Assets from the Security.

25.2 Reinstatement

Where any discharge (whether in respect of the obligations of the Chargor or any security for those obligations or otherwise) is made in whole or in part or any arrangement is made on the faith of any payment, security or other disposition which is avoided or must be restored on insolvency, liquidation or otherwise (without limitation), the liability of the Chargor under the Share Charge shall continue as if the discharge or arrangement had not occurred. The Security Trustee may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration.

26. GOVERNING LAW

The Share Charge and any non-contractual obligations arising out of or in connection with it shall be governed by English law and the parties hereto submit to the exclusive jurisdiction of the courts of England and Wales to settle any dispute with the Share Charge but without prejudice to the right of the Security Trustee to pursue its remedies in any other jurisdiction it thinks fit.