



Registration of a Charge

Company name: **RBE INVESTMENTS LIMITED**

Company number: **02859896**



X6ISM2YI

Received for Electronic Filing: **08/11/2017**

Details of Charge

Date of creation: **03/11/2017**

Charge code: **0285 9896 0005**

Persons entitled: **INVESTEC BANK PLC**

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: **WE 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: **OSBORNE CLARKE LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2859896

Charge code: 0285 9896 0005

The Registrar of Companies for England and Wales hereby certifies that a charge dated 3rd November 2017 and created by RBE INVESTMENTS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 8th November 2017 .

Given at Companies House, Cardiff on 10th November 2017

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

We certify that, save for material redacted pursuant to s. 859G of the Companies Act 2006, this copy instrument is a correct copy of the original instrument.

Dated this 8 November 2017

Signed Osborne Clarke LLP

Osborne Clarke LLP

Dated: 3 NOVEMBER 2017

2 Temple Back East

Temple Quay, Bristol (1) Newmark Properties LLP and RBE Investments Limited

BS1 6EG

(2) INVESTEC BANK PLC

CHARGE OVER SHARES AND SUBORDINATED DEBT

INDEX

CLAUSE	PAGE
1. DEFINITIONS AND INTERPRETATION.....	1
2. COVENANT TO PAY.....	6
3. SECURITY.....	6
4. PERFECTION OF SECURITY.....	7
5. SET-OFF.....	9
6. RESTRICTIONS ON DEALING.....	9
7. REPRESENTATIONS AND WARRANTIES.....	10
8. COVENANTS BY EACH CHARGOR.....	12
9. ENFORCEMENT.....	15
10. RECEIVERS.....	18
11. APPLICATION OF PROCEEDS.....	20
12. PROTECTION OF THIRD PARTIES.....	21
13. PAYMENTS.....	21
14. POWER OF ATTORNEY.....	21
15. GENERAL INDEMNITY.....	22
16. CURRENCY CONVERSION AND INDEMNITY.....	22
17. NEW ACCOUNTS.....	23
18. PRIOR CHARGES.....	23
19. FURTHER ASSURANCE.....	23
20. COSTS AND EXPENSES.....	24
21. MISCELLANEOUS.....	24
22. ASSIGNMENTS AND TRANSFERS.....	29
23. NOTICES.....	29
24. COUNTERPARTS.....	30
25. THIRD PARTIES.....	30
26. GOVERNING LAW AND ENFORCEMENT.....	30
SCHEDULES	
SCHEDULE 1 FORMS OF NOTICE AND ACKNOWLEDGEMENT.....	32

IMPORTANT NOTICE – WE RECOMMEND THAT YOU CONSULT YOUR SOLICITOR OR OTHER INDEPENDENT LEGAL ADVISER BEFORE EXECUTING THIS DOCUMENT

THIS CHARGE OVER SHARES AND SUBORDINATED DEBT is made as a Deed on **3**
November 2017

BETWEEN:

- (1) **RBE Investments Limited** a company incorporated in England and Wales (Company Number: 02859896) whose registered office is at 235 Old Marylebone Road, London, NW1 5QT and **Newmark Properties LLP** a limited liability partnership incorporated in England and Wales (Registered Number: OC332184) (each a "**Chargor**" and together the "**Chargors**"); and
- (2) **INVESTEC BANK PLC**, a company incorporated in England and Wales (Company Number: 00489604) whose registered office is at 2 Gresham Street, London EC2V 7QP, United Kingdom (the "**Bank**").

WITNESSES as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Charge, unless the context otherwise requires:

"**Affiliate**" means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company and, in relation to the Bank, also includes Investec Limited and any Subsidiary of Investec Limited.

"**Borrower**" means each of:

- (a) **Newmark (XY) Limited** a company incorporated in England and Wales (Company Number: 10498355) whose registered office is at 235 Old Marylebone Road, London, United Kingdom, NW1 5QT; and
- (b) **RBE Investments Limited**, a company incorporated in England and Wales with company number 02859896 and whose registered office is at 235 Old Marylebone Road, London NW1 5QT.

"**Charged Property**" means all assets, property and rights of each Chargor described in Clause 3 (*Security*).

"**Collateral Instruments**" means notes, bills of exchange, certificates of deposit and other negotiable and non-negotiable instruments, guarantees, indemnities and any other documents or instruments which contain or evidence an obligation (with or without security) to pay, discharge or be responsible directly or indirectly for, any liabilities of any person and includes any document or instrument creating or evidencing an Encumbrance.

"Company" means Newmark (XY) Limited a company incorporated in England and Wales (Company Number: 10498355) whose registered office is at 235 Old Marylebone Road, London, United Kingdom, NW1 5QT.

"Counterparty" means any party to a Subordinated Debt Document other than any Chargor.

"Deed of Subordination" means the deed of subordination dated on or about the date of this Charge in relation to the shareholder loan made by Phillip and Judy Wainman to the Borrowers.

"Default Rate" means:

- (a) the Default Rate specified in the Facility Letter; or
- (b) if no such rate is specified in the Facility Letter or other Finance Document, 2 per centum (2%) per annum over the base rate of the Bank from time to time.

"Derivative Assets" means all stocks, shares, warrants or other securities, rights, dividends, interest or other property whether of a capital or income nature accruing, offered, issued or deriving at any time by way of dividend, bonus, redemption, exchange, purchase, substitution, conversion, consolidation, subdivision, preference, option or otherwise attributable to any of the Shares or any Derivative Assets described above.

"disposal" includes any sale, lease, sub-lease, assignment or transfer, the grant of an option or similar right, the grant of any easement, right or privilege, the grant of a licence or permission to assign or sublet, the creation of a trust or other equitable interest or any other proprietary right in favour of a third party, a sharing or parting with possession or occupation whether by way of licence or otherwise and the granting of access to any other person over any property, and **"dispose"** and **"disposition"** shall be construed accordingly.

"Encumbrance" means any mortgage, charge, standard security, right in security, security, pledge, lien, assignment, assignation, guarantee, indemnity, right of set-off, right to retention of title or other encumbrance, whether fixed or floating, over any present or future property, assets or undertaking.

"Enforcement Event" means:

- (a) the Bank making demand for payment or discharge of all or any of the Secured Obligations at any time; and/or
- (b) the occurrence of an Event of Default.

"Event of Default" means the occurrence of an event of default (howsoever described) under any Finance Document.

"Facility Letter" means the facility letter dated on or around the date hereof and made between (1) the Borrower and (2) the Bank and all terms and conditions expressly incorporated therein.

"Financial Collateral" has the meaning given to that term in the Financial Collateral Regulations.

"Financial Collateral Regulations" means the Financial Collateral Arrangements (No. 2) Regulations 2003 (S.I. 2003 No. 3226).

"Holding Company" means, in relation to a person, any other person in respect of which it is a Subsidiary.

"Incapacity" means, in relation to a person, the insolvency, liquidation, dissolution, winding-up, bankruptcy, administration, administrative receivership, receivership, amalgamation, reconstruction or other incapacity of that person whatsoever (and, in the case of a partnership, includes the termination or change in the composition of the partnership).

"ITA" means the Income Tax Act 2007.

"Receiver" has the meaning given to that term in Clause 10 (*Receivers*).

"Repeating Representation" has the meaning given to that term in the Finance Documents.

"Secured Obligations" means all or any money and liabilities which shall from time to time (and whether on or at any time after demand) be due, owing or incurred in whatsoever manner to the Bank by each Borrower, whether actually or contingently, solely or jointly and whether as principal or surety, including any money and liabilities due, owing or incurred by each Borrower to a third party which have been assigned or novated to or otherwise vested in the Bank (which for the avoidance of doubt does not include any Subordinated Debt assigned to the Bank under the Finance Documents unless and until the Bank has perfected any such assignment pursuant to the relevant Finance Document) and including interest, discounts, commission and other lawful charges or expenses which the Bank may in the course of its business charge or incur in respect of any of those matters or for keeping the account of any Borrower (including any extension fee payable by any Borrower under any Extension Notice which may hereafter be issued by the Bank and accepted by any Borrower, and so that interest shall be computed and compounded according to the Bank's usual rates and practice (or otherwise agreed in writing) after as well as before any demand made or judgment or decree obtained under or in relation to this Charge, and including any money and liabilities due, owing or incurred under or in connection with any Hedging Agreement entered into or which may hereafter be entered into by any Borrower with the Bank.

"Security Assets" means all assets, property and rights of the Chargors described in Clauses 3.1 (*Fixed Charge*) and 3.2 (*Security Assignments*).

"Security Financial Collateral Arrangement" has the meaning given to that term in the Financial Collateral Regulations.

"Shares" means:

- (a) the entire issued share capital of the Company, including the 50 ordinary shares of £1.00 each in the issued share capital of the Company legally and/or beneficially owned by the Chargors; and
 - (b) all other stocks, shares and other securities of the Company now or at any time after the date of the Charge legally and/or beneficially owned by the Chargors including any offered by way of redemption, bonus, preference or option or otherwise in respect of any of the shares referred to in (a) above.
-

"Subordinated Debt" has the meaning given to the term "Subordinated Debt" in the Deed of Subordination.

"Subordinated Debt Documents" means any letter, document or agreement (whether written, verbal, or otherwise) comprising, constituting or evidencing the Subordinated Debt or guaranteeing or indemnifying the Subordinated Debt from time to time.

"Subsidiary" means, in relation to any person, any entity which is controlled directly or indirectly by that person and any entity (whether or not so controlled) treated as a subsidiary or a subsidiary undertaking in the latest financial statements of that person from time to time; and **"control"** for this purpose means:

- (a) the direct or indirect holding or ownership of the majority of the voting share capital or voting rights of such entity or the direct or indirect control of the majority of the voting share capital or voting rights of such entity;
- (b) the right or ability to direct the management of such entity or to determine the composition of a majority of the board of directors (or like board) of such entity; or
- (c) the right to exercise a dominant influence over such entity,

in each case whether by virtue of ownership of share capital, ownership of rights to share in the capital of such entity, ownership of interests conferring any right to share in the profits or liability to contribute to the losses of such entity or giving rise to an obligation to contribute to the debts of or expenses of such entity in a winding up, or by virtue of contract, the constitutional documents of such entity or otherwise.

1.2 Interpretation

In this Charge (unless the context otherwise requires):

- 1.2.1 any reference to statutes, statutory provisions and other legislation shall include all amendments, substitutions, modifications and re-enactments for the time being in force and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant legislation;
 - 1.2.2 any reference to a **"regulation"** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
 - 1.2.3 any reference to **"control"** of any company shall be interpreted in accordance with Section 995 of the ITA;
 - 1.2.4 any reference to any clause, paragraph or schedule shall be construed as a reference to the clauses in this Charge, the schedules to this Charge and the paragraphs in such schedules;
 - 1.2.5 any reference to words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
-

- 1.2.6 any reference to this Charge and to any provisions of it or to any other document referred to in this Charge shall be construed as references to it in force for the time being and as amended, varied, supplemented, restated, substituted or novated from time to time including, for the avoidance of doubt and without prejudice to the generality of the foregoing, any amendment, variation, supplement, restatement, substitution or novation that increases the amount of any loan or credit facility made available under any Finance Document or increases the amount of any interest, fees, costs or expenses or any other sums due or to become due under the Finance Documents or extends the date for full and final repayment of any facility made available under the Finance Documents;
- 1.2.7 any reference to a "**person**" is to be construed to include references to a natural person, corporation, firm, company, partnership, limited partnership, limited liability partnership, joint venture, unincorporated body of persons, individual or any state or any agency of a state, whether or not a separate legal entity;
- 1.2.8 any reference to any person is to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect;
- 1.2.9 any reference to any word or phrase includes all derivations thereof;
- 1.2.10 any reference to "**assets**" includes present and future properties, revenues and rights of every description;
- 1.2.11 any reference to "**guarantee**" means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
- 1.2.12 any reference to "**indebtedness**" or "**borrowings**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- 1.2.13 any reference to any "**associated person**" means, in relation to a person, a person who is either acting in concert (as defined in the City Code on Takeovers and Mergers) with that person or is a connected person (as defined in section 993 (as supplemented by section 994) of the ITA) of that person;
- 1.2.14 any reference to a time of day is a reference to London time; and
- 1.2.15 clause headings are for ease of reference only and shall not affect the interpretation of this Charge.

1.3 **Effect as a deed**

It is intended that this Charge takes effect as a deed notwithstanding that any party may only execute it under hand.

1.4 **Appointment of Receiver**

Any appointment of a Receiver under Clause 10 (*Receivers*) hereof may be made by any successor or assignee or transferee of the Bank, and each Chargor hereby irrevocably appoints each such successor or assignee or transferee to be its attorney in the terms and for the purposes stated in Clause 14 (*Power of Attorney*) hereof.

1.5 Facility Letter definitions

Unless the context otherwise requires or unless otherwise defined in this Charge, words and expressions defined in the Facility Letter shall have the same meaning when used in this Charge.

2. COVENANT TO PAY

2.1 Covenant to pay

Each Chargor covenants with the Bank that it will on demand pay and discharge the Secured Obligations to the Bank.

2.2 Limited Recourse

Notwithstanding clause 2.1 (*Covenant to pay*), the liability of each Chargor to the Bank under clause 2 (*Covenant to pay*) shall be limited in aggregate to an amount equal to that recovered by the Bank as a result of the enforcement of this Charge with respect to the Security Assets.

2.3 Interest

2.3.1 Each Chargor shall pay interest (after as well as before any judgment) at the rate or rates applicable under the agreements or arrangements giving rise to the relevant liabilities or, if no such rate or rates are specified, at the Default Rate.

2.3.2 Interest shall be compounded in the event of it not being punctually paid in accordance with the usual practice of the Bank but without prejudice to the rights of the Bank to require payment of such interest.

3. SECURITY

3.1 Fixed Charge

Each Chargor, with full title guarantee and as a continuing security for the payment and discharge of the Secured Obligations, hereby charges to the Bank by way of first fixed charge:

3.1.1 the Shares;

3.1.2 the Derivative Assets; and

3.1.3 all rights accruing or incidental to the Shares and/or the Derivative Assets from time to time.

3.2 Security Assignments

3.2.1 Each Chargor, with full title guarantee and as a continuing security for the payment and discharge of the Secured Obligations, hereby assigns to the Bank:

3.2.1.1 all its rights, title and interest in the Subordinated Debt;

3.2.1.2 the benefit of each Subordinated Debt Document (including, in each case, but without limitation, the right to demand and receive all monies whatsoever payable to or for its benefit under or arising from any of them, all remedies provided for in any of them or available at law or in equity in relation to any of them, the right to compel performance of any of them and all other rights, interests and benefits whatsoever accruing to or for its benefit arising from any of them); and

3.2.1.3 all authorisations (statutory or otherwise) held or required in connection with the Subordinated Debt Documents, and all rights in connection with them.

3.2.2 To the extent that any such benefit, right, title and interest as referred to in Clause 3.2.1 above is not assignable or capable of assignment, the assignment of it purported to be effected by such clause shall operate as an assignment of any and all compensation, damages, income, profit or rent which any Chargor may derive from it or be awarded or entitled to in respect of it, in each case as a continuing security for the payment or discharge in full of the Secured Obligations.

4. PERFECTION OF SECURITY

4.1 Certificated Shares – Delivery of Documents

If the Shares are held in certificated form then each Chargor shall, immediately upon execution of this Charge and during the continuance of the security created by this Charge, either (as directed by the Bank):

4.1.1 transfer to the Bank or its nominee, title to the Shares by delivering the share certificates and stock transfer forms, duly completed (with the Bank or its nominee named as transferee) and executed, to the Company (or its registrar) for registration and each Chargor shall procure that the Bank (or its nominee) is entered on the register of members of the Company as holder of the Shares and that share certificates in the name of the Bank or its nominee are delivered to the Bank together with certified true copies of the register of transfers and register of members of the Company showing the Bank or its nominee as the registered holder of the Shares; or

4.1.2 deposit with the Bank, and the Bank shall be entitled to hold, all share certificates relating to the Shares together with such signed stock transfer forms (left blank as to the date of the transfer and the transferee) and other documents as the Bank may from time to time require for perfecting the title of the Bank to the Shares (duly executed by or signed by the registered holder) or for vesting or enabling it to vest the same in itself or its nominees or in any purchaser.

4.2 Further requirements

Each Chargor shall, at the direction of the Bank given at any time, forthwith sign, seal, execute and deliver deeds, instruments, transfers, renunciations, proxies, notices, documents, acts and things in such form as the Bank may from time to time require and shall forthwith do all such things, take all such actions and give all such instructions, notices or directions as the Bank may deem necessary or desirable:

- 4.2.1 where any of the Charged Property is held in a clearance or settlement system, for the creation, perfection, maintenance and protection of a form of Encumbrance over the Charged Property recognised by that clearance or settlement system;
- 4.2.2 for creating, registering, perfecting, maintaining or protecting the security created by this Charge;
- 4.2.3 for creating a fixed charge over any of the Charged Property; and/or
- 4.2.4 to facilitate the realisation of all or any of the Charged Property after this Charge has become enforceable or the exercise of any right, power or discretion vested in the Bank or any attorney or Receiver in relation to any Charged Property or this Charge.

4.3 Acquisition of further shares etc.

Any Chargor shall forthwith notify the Bank of any acquisition or receipt by that Chargor of any other shares or securities, or shares or securities convertible into, or accompanied by subscription rights for, shares, or any other rights, options or warrants to purchase or subscribe for shares or such other securities in the Company and, if so required in writing by the Bank, that Chargor shall:

- 4.3.1 immediately execute and deliver (or procure the execution and delivery of) such Encumbrances over such shares, securities, rights, options or warrants in favour of the Bank to secure the Secured Obligations as the Bank shall require;
- 4.3.2 sign, seal, execute and deliver all such deeds, instruments, transfers, renunciations, proxies, notices and documents in such form as the Bank may from time to time require in respect of any such Encumbrances; and
- 4.3.3 do all such things, take all such actions and give all such instructions, notices or directions as the Bank may deem necessary or desirable in respect of any such Encumbrances.

4.4 Notices – Subordinated Debt Documents

- 4.4.1 Each Chargor shall immediately on the execution of this Charge:

- 4.4.1.1 give notice to each Counterparty, in the form set out in Part 1 (*Form of Notice of Assignment*) Schedule 1 (*Forms of Notice and Acknowledgment*), of the assignment of that Chargor's rights and

interest in and under that Subordinated Debt Document pursuant to Clause 3.2.1.1; and

4.4.1.2 procure that each Counterparty will provide to the Bank promptly an acknowledgement of the notice, in the form set out in Part 2 (*Form of Acknowledgment of Assignment*) of Schedule 1 (*Forms of Notice and Acknowledgement*), of the Bank's interest.

4.4.2 In the case of any Subordinated Debt Document coming into existence or being designated as Charged Property after the date of this Charge, each Chargor shall, give the relevant notices and procure each relevant acknowledgement referred to in Clause 4.4.1 on the later of that Subordinated Debt Document coming into existence or being designated Charged Property.

4.5 **Deposit of Subordinated Debt Documents**

Each Chargor shall, on the execution of this Charge, deposit with the Bank and the Bank shall, during the subsistence of this Charge, be entitled to hold all the Chargors' original counterparts of, and instruments comprising, each Subordinated Debt Document.

5. **SET-OFF**

5.1 **Set-off**

Each Chargor hereby agrees that the Bank and any Affiliate of the Bank may at any time without notice, notwithstanding any settlement of account or other matter whatsoever, combine or consolidate all or any of its then existing accounts wheresoever situate (including accounts in the name of the Bank, of any Affiliate of the Bank or of any Chargor jointly with others), whether such accounts are current, deposit, loan or of any other nature whatsoever, whether they are subject to notice or not and whether they are denominated in sterling or in any other currency, and set-off or transfer any sum standing to the credit of any one or more such accounts in or towards satisfaction of the Secured Obligations which, to the extent not then payable, shall automatically become payable to the extent necessary to effect such set-off.

5.2 **Purchase of currencies**

For the purpose of this Clause 5 (*Set-off*), each Chargor authorises the Bank to purchase with the moneys standing to the credit of such accounts such other currencies as may be necessary to effect such set-off or combination.

6. **RESTRICTIONS ON DEALING**

Each Chargor shall not without the prior written consent of the Bank:

6.1.1 ***No Encumbrances***

create or attempt to create or permit to subsist in favour of any person other than the Bank any Encumbrance on or affecting the Charged Property or any part thereof; and/or

6.1.2 ***No disposals***

sell, transfer or otherwise dispose of or deal with any of the Charged Property or enter into any agreement or grant any option for any such sale, transfer or other disposal or dealing.

7. **REPRESENTATIONS AND WARRANTIES**

7.1 **Representations and warranties**

Each Chargor represents and warrants to the Bank on the date of this Charge that:

7.1.1 ***Title to Charged Property***

- 7.1.1.1 it is and will together with the other Chargor be the sole, absolute and beneficial owner and the registered holder (save in the case of Shares which with the prior written consent of the Bank are registered in the name of a broker or nominee and such broker or nominee has given an undertaking to the Bank acknowledging this Charge and agreeing to hold the Shares to the Bank's order and to act in accordance with the Bank's instructions in relation to the Shares) of all the Charged Property free from Encumbrances and will not create or attempt to create or permit to arise or subsist any Encumbrance (other than this Charge) on or over the Charged Property;
 - 7.1.1.2 it has not sold or otherwise disposed of or agreed to sell or otherwise dispose of or granted or agreed to grant any option in respect of all or any of its right, title and interest in and to the Charged Property or any part of it and will not do any of the foregoing at any time during the subsistence of this Charge;
 - 7.1.1.3 all Shares forming part of the Charged Property are and will at all times be fully paid and there are and will be no monies or liabilities outstanding in respect of any of the Charged Property;
 - 7.1.1.4 there are no restrictions on the sale or transfer of all or any of the Shares under the articles of association of the Company, the Companies Act 2006 (including, without limitation, pursuant to a restrictions notice issued under Schedule 1B to the Companies Act 2006) or otherwise;
 - 7.1.1.5 it will procure due compliance with its obligations in this Charge by all nominee(s) in whose name or names any Charged Property is registered or holding any certificates or other documents of title relating to any Charged Property;
 - 7.1.1.6 the counterparts and instruments comprising the Subordinated Debt Documents as provided to the Bank before the date of this Charge, evidence all terms of the relevant Charged Property, and there are no other documents, agreements or arrangements that may affect the operation or enforceability of any Charged Property;
-

- 7.1.1.7 no Subordinated Debt Document is void, voidable or otherwise unenforceable;
- 7.1.1.8 no variation of any Subordinated Debt Document is contemplated;
- 7.1.1.9 it is not in breach of its obligations under any Subordinated Debt Document and nothing has occurred:
 - (a) which is, or would constitute (with the giving of notice or passage of time or both), an event of default (however described) under any Subordinated Debt Document; or
 - (b) which would entitle a person to terminate or rescind a Subordinated Debt Document;
- 7.1.1.10 there are no covenants, agreements, reservations, conditions, interests, rights or other matters whatsoever that materially and adversely affect the Charged Property;
- 7.1.1.11 there is no prohibition on assignment in any Subordinated Debt Document;

7.1.2 ***Due incorporation***

where any Chargor is not a natural person, it is duly incorporated or established and validly existing under the laws of the country of its incorporation or establishment and has power to carry on its business as it is now being conducted and to own its property and other assets;

7.1.3 ***Corporate power***

where any Chargor is not a natural person, it has power to execute, deliver and perform its obligations under this Charge and all necessary corporate, shareholder and other action has been taken to authorise the execution, delivery and performance of the same;

7.1.4 ***Binding obligations***

this Charge constitutes its valid, legal, binding and enforceable obligations;

7.1.5 ***No conflict with other obligations***

the execution and delivery of, the performance of its obligations under, and the compliance by it with the provisions of this Charge will not:

- 7.1.5.1 contravene any existing applicable law, statute, rule or regulation or any judgment, decree or permit to which it is subject; or
 - 7.1.5.2 conflict with, or result in any breach of any of the terms of, or constitute a default under, any agreement or other instrument to
-

which it is a party or is subject or by which it or any of its property is bound; or

7.1.5.3 where it is not a natural person, contravene or conflict with any provision of its constitutional documents;

7.1.6 Consents obtained

every authorisation, or registration with, or declaration to, governmental or public bodies or authorities or courts required by it to authorise, or required by it in connection with, the execution, delivery, validity, enforceability or admissibility in evidence of this Charge or the performance by it of its obligations hereunder or thereunder has been obtained or made and is in full force and effect and there has been no default in the observance of any of the conditions or restrictions imposed in or in connection with any of the same;

7.1.7 No litigation

no litigation, arbitration or administrative proceeding is taking place, pending or, to the knowledge of any Chargor, or where a Chargor is not a natural person its officers (but without personal liability), threatened against any Chargor which could have a material adverse effect on its business, assets or financial condition;

7.1.8 No filings required

save for any requirement to deliver the particulars of this Charge for registration under Part 25 of the Companies Act 2006, it is not necessary to ensure the legality, validity, enforceability or admissibility in evidence of this Charge that it or any other instrument be notarised, filed, recorded, registered or enrolled in any court, public office or elsewhere in any relevant jurisdiction or that any stamp, registration or similar tax or charge be paid in any relevant jurisdiction on or in relation to this Charge and this Charge is in proper form for its enforcement in the courts of any relevant jurisdiction; and

7.1.9 No immunity

neither it nor any of its assets are entitled to immunity on the grounds of sovereignty or otherwise from any legal action or proceeding (which shall include, without limitation, suit, attachment prior to judgment, execution or other enforcement).

7.2 Repetition

The representations and warranties in Clause 7.1 (*Representations and warranties*) shall be deemed to be repeated by each Chargor on each date on which a Repeating Representation is made under the Finance Documents, in each case as if made with reference to the facts and circumstances existing on each such day.

8. COVENANTS BY EACH CHARGOR

8.1 Covenants

Each Chargor hereby covenants and undertakes with the Bank that during the continuance of this Charge, each Chargor will:

8.1.1 *Consents and Licences*

obtain or cause to be obtained, maintain in full force and effect and comply in all material respects with the conditions and restrictions (if any) imposed in, or in connection with, every consent, authorisation, licence or approval of governmental or public bodies or authorities or courts and do, or cause to be done, all other acts and things which may from time to time be necessary or desirable under applicable law for the continued due performance of all its obligations under this Charge;

8.1.2 *Financial Information*

provide the Bank with all financial and other information with respect to the assets, liabilities, financial condition and affairs of that Chargor (and its Subsidiaries (if any) where that Chargor is not a natural person) that the Bank may from time to time require;

8.1.3 *Conduct of business*

conduct and carry on its business, and where that Chargor is not a natural person procure that each of its Subsidiaries conducts and carries on its business, in a proper and efficient manner and keep or cause or procure to be kept proper books of account relating to such business and not make any material alteration in the nature or mode of conduct of any such business;

8.1.4 *Memorandum and Articles of Association*

procure that the Company will not make any alteration to the memorandum and articles of association of the Company including, without limitation, any modification or variation of the rights attaching to the Charged Property other than where any such proposed alterations are minor or administrative in nature and do not have an adverse impact on the interests of the Bank;

8.1.5 *Additional Share Capital*

procure that the Company will not allot or issue any further shares or any securities convertible into, or accompanied by subscription rights for, shares, other than additional ordinary shares ranking *pari passu* with the Shares in respect of which Clause 4.3 (*Acquisition of further shares etc*) is complied with;

8.1.6 *People with Significant Control*

8.1.6.1 comply in all respects with its duties under sections 790G and 790H of the Companies Act 2006 relating to all or any Shares forming part of the Charged Property; and

8.1.6.2 promptly notify the Bank of and comply with all requests for information which are made under sections 790D and 790E of the

Companies Act 2006 relating to all or any Shares forming part of the Charged Property.

8.1.7 ***Subordinated Debt Documents***

8.1.7.1 unless the Bank agrees otherwise in writing, comply with the terms of any Subordinated Debt Document;

8.1.7.2 not, unless the Bank agrees otherwise in writing:

- (a) amend or vary or agree to any change in, or waive any requirement of;
- (b) settle, compromise, terminate, rescind or discharge (except by performance); or
- (c) abandon, waive, dismiss, release or discharge any action, claim or proceedings against any Counterparty or other person in connection with,

any Subordinated Debt Document;

8.1.8 ***Communications***

provide a copy of any report, accounts, circular, notice or other communication received in respect of or in connection with any of the Charged Property to the Bank forthwith upon the receipt by that Chargor;

8.1.9 ***Prompt payment***

subject to contractual subordination arrangements made between the parties to this Charge and any Counterparty, promptly pay all calls or other payments due and discharge all other obligations in respect of any part of the Charged Property and if that Chargor fails to fulfil any such obligations the Bank may, but shall not be obliged to, make such payments on behalf of that Chargor in which event any sums so paid shall be reimbursed on demand by each Chargor to the Bank, together with interest at the rate specified in Clause 2.2 (*Interest*);

8.1.10 ***Indemnity***

indemnify the Bank on a full indemnity basis against calls or other payments relating to the Charged Property and any defect in any Chargor's title to the Charged Property and against all actions, proceedings, losses, costs, claims and demands suffered or incurred in respect of anything done or omitted in any way relating to the Charged Property or in the exercise or purported exercise of the powers contained in this Charge by the Bank;

8.1.11 ***Protection of property***

not do or cause or permit anything to be done which may adversely affect the security created or purported to be created by this Charge or which is a variation or abrogation of the rights attaching to or conferred by all or any part of the Charged Property without the prior written consent of the Bank and take such action as the Bank may in its discretion direct in relation to any proposed compromise, arrangement, reorganisation, conversion, repayment, offer or scheme of arrangement affecting all or any part of the Charged Property;

8.1.12 **Statutes**

comply with the provisions of all present or future statutes and directives and every notice, order or direction made under any of the foregoing;

8.1.13 **Jeopardy**

not do or cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value or marketability of any of the Charged Property or the security created by this Charge; and

8.1.14 **Insolvency**

notify the Bank immediately:

8.1.14.1 in the event that any distress or execution is levied or enforced against any Chargor or any garnishee order is made and served in respect of any of its assets; and/or

8.1.14.2 if any steps (including, without limitation, the making of an application or the giving of any notice) are taken by any person (including, without limitation, any Chargor) in relation to the administration, receivership, winding-up, bankruptcy or dissolution of any Chargor.

8.2 **Power to remedy**

If any Chargor defaults at any time in complying with any of its obligations contained in this Charge, the Bank shall, without prejudice to any other rights arising as a consequence of such default, be entitled (but not bound) to make good such default and each Chargor hereby irrevocably authorises the Bank and its employees and agents by way of security to do all such things necessary or desirable in connection therewith. Any monies so expended by the Bank shall be repayable by each Chargor to the Bank on demand together with interest at the Default Rate from the date of payment by the Bank until such repayment, both before and after judgment. No exercise by the Bank of its powers under this Clause 8.2 (*Power to remedy*) shall make the Bank liable to account as a mortgagee in possession.

9. **ENFORCEMENT**

9.1 **Enforcement Event**

Upon and at any time after the occurrence of an Enforcement Event, the Bank shall be entitled to enforce the security (in whole or in part) created by this Charge.

9.2 The Charged Property

- 9.2.1 The Bank and its nominees at the discretion of the Bank may exercise in the name of any Chargor or otherwise at any time whether before or after demand for payment and without any further consent or authority on the part of any Chargor (but subject to Clause 9.2.3) any voting rights and all powers given to trustees by the Trustee Act 2000 in respect of securities or property subject to a trust and any powers or rights which may be exercisable by the person in whose name any of the Shares is registered or by the bearer thereof.
- 9.2.2 Each Chargor will if so requested by the Bank transfer all or any of the Charged Property to the Bank or such nominees or agents of the Bank as the Bank may select.
- 9.2.3 Until the occurrence of an Enforcement Event, the Bank will:
- 9.2.3.1 hold all dividends, distributions, interest and other moneys paid on and received by it in respect of the Charged Property (to the extent received by the Bank) for the account of each Chargor and will, subject to any right of set-off and to Clause 9.2.4, pay such dividends, distributions, interest and other moneys to any Chargor as soon as reasonably practicable following written request from each Chargor;
 - 9.2.3.2 exercise all voting rights and all other rights and powers attached to the Charged Property exercisable by it as any Chargor may from time to time in writing reasonably direct, provided that the Bank shall be under no obligation to comply with any such direction where compliance would, in the Bank's opinion, be prejudicial to the value of the security created by this Charge and provided further that the Bank shall be entitled to exercise all such voting rights attached to the Charged Property as the Bank deems necessary for the purposes of preserving the value of the security created by this Charge.
- 9.2.4 Upon and at any time after the occurrence of an Enforcement Event:
- 9.2.4.1 all dividends, distributions, interest and other monies paid in respect of the Charged Property and received by or on behalf of any Chargor shall be held on trust for the Bank and forthwith paid into an account designated by the Bank or, if received by the Bank, may be applied by the Bank as though they were the proceeds of sale; and
 - 9.2.4.2 all voting rights and all other rights and powers attaching to the Charged Property shall be exercised by, or at the direction of, the Bank and each Chargor shall, and shall procure that its nominees shall, comply with any directions the Bank may, in its absolute discretion, give concerning the exercise of those rights and powers.

9.3 Powers on enforcement

At any time on or after the occurrence of an Enforcement Event or if requested by any Chargor, the Bank may, without further notice, exercise all the powers conferred upon mortgagees by the Law of Property Act 1925, without the restrictions contained in section 103 of the Law of Property Act 1925, and do all or any of the following and/or delegate such powers or any of them to any person on such terms as it may think fit:

- 9.3.1 sell or otherwise dispose of all or any of the Charged Property or otherwise exercise and do (or permit any Chargor or any nominee of it to exercise and do) all such powers and things as the Bank would be capable of exercising or doing if the Bank were the absolute beneficial owner of the Charged Property;
- 9.3.2 settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person relating in any way to the Charged Property;
- 9.3.3 bring, prosecute, enforce, defend and abandon actions, suits and proceedings in relation to the Charged Property;
- 9.3.4 redeem any Encumbrance (whether or not having priority to this Charge) over the Charged Property and settle the accounts of encumbrancers; and/or
- 9.3.5 do, and concur in the doing of, all such other acts and things, either alone or jointly with any other person, which the Bank may consider necessary or expedient for the realisation of the Charged Property or incidental to the exercise of any of the rights and powers conferred on the Bank under or by virtue of this Charge, the Law of Property Act 1925 or the Insolvency Act 1986.

9.4 **Additional powers**

The Bank shall be entitled to permit the sale of the Charged Property or any part thereof at such time and on such terms as the Bank may consider expedient and without being under any obligation to have regard in that respect of the effect (if any) which a disposal at such time or on such terms may have on the price likely to be realised. The Bank shall not in any circumstances, either by reason of any dealing with the Charged Property or any part thereof or for any other reason whatsoever be liable to account to any Chargor for anything except in respect of the Bank's own actual receipts or be liable to any Chargor for any loss or damage arising from any realisation by the Bank of the Charged Property or any part thereof or from any act, default or omission of the Bank in relation to the Charged Property or any part thereof or from any exercise or non-exercise by the Bank of any power, authority or discretion conferred upon it in relation to the Charged Property or any part thereof by or pursuant to this Charge or otherwise by any applicable law.

9.5 **Law of Property Act 1925**

The powers of sale or other disposal in Clauses 9.3 (*Powers on enforcement*) and 9.4 (*Additional powers*) shall operate as a variation and extension of the statutory power of sale under Section 101 of the Law of Property Act 1925 and such power shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on execution of this Charge. The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Charge or to any exercise by the Bank of its right to consolidate mortgages or its power of sale on or at any time after an Enforcement Event.

9.6 **Certificate in writing**

A certificate in writing by an officer or agent of the Bank that the power of sale or disposal has arisen and is exercisable shall be conclusive evidence of that fact in favour of a purchaser of all or any part of the Charged Property.

9.7 **Bank Exoneration**

At any time when any of the Charged Property is registered in the name of the Bank or its nominees, the Bank shall not be under any duty to ensure that any dividends, distributions or other monies payable in respect of any such Charged Property are duly and promptly paid to or received by it or its nominee, or to verify that the correct amounts are so paid or received, or to take any action in connection with the taking up of any (or offer of any) stocks, shares, rights, monies or other property paid, distributed, offered or accruing at any time by way of interest, dividend, redemption, bonus, rights, preference, option, warrant or otherwise or in respect of, or in substitution for, any of such Charged Property.

9.8 **Appropriation of money/assets**

At any time on or after the occurrence of an Enforcement Event, the Bank shall be entitled to appropriate moneys and/or assets to satisfy the Secured Obligations in such manner or order as it sees fit and any such appropriation shall override any appropriation by any other person.

9.9 **Financial Collateral**

To the extent that the Charged Property constitutes Financial Collateral and is subject to a Security Financial Collateral Arrangement created by or pursuant to this Charge, the Bank shall have the right, at any time after this Charge becomes enforceable, to appropriate all of any part of the Charged Property in or towards the payment or discharge of the Secured Obligations. The value of any Charged Property appropriated in accordance with this Clause 9.9 (*Financial Collateral*) shall be the price of such Charged Property at the time the right of appropriation is exercised as listed on any recognised market index, or determined by such other method as the Bank may select (including independent valuation). Each Chargor agrees that the methods of valuation provided for in this Clause 9.9 (*Financial Collateral*) are commercially reasonable for the purpose of Regulation 18 of the Financial Collateral Regulations. To the extent that the Charged Property constitutes Financial Collateral, each Chargor agrees that such Charged Property shall be held or redesignated so as to be under the control of the Bank for all purposes of the Financial Collateral Regulations.

10. **RECEIVERS**

10.1 **Appointment of receiver(s)**

At any time on or after the occurrence of an Enforcement Event or if any Chargor so requests in writing, the Bank may without further notice to any Chargor appoint by writing under hand or under seal any one or more persons either singly, jointly, severally or jointly and severally to be a receiver (each a "**Receiver**") in respect of all or any part of the Charged Property and either at the time of appointment or any time thereafter may fix his or their remuneration and except as otherwise required by statute may remove any such Receiver and appoint another or others in his or their place.

10.2 **Agent of Chargor**

Any Receiver shall be the agent of each Chargor which shall be solely responsible for his acts and defaults and the payment of his remuneration.

10.3 Powers of Receiver

- 10.3.1 Any Receiver shall, subject to any restrictions specified in the deed or instrument appointing him, have all the powers conferred by statute on mortgagees in possession (but without liability as such) and receivers which in the case of joint receivers may be exercised either jointly or severally (including, without limitation, all the rights, powers and discretions conferred on a receiver under the Law of Property Act 1925 and a receiver or administrative receiver under the Insolvency Act 1986). In addition, but without prejudice to the generality of the foregoing the Receiver shall have power (in the name of any Chargor or otherwise and in such manner and on such terms and conditions as he shall think fit) to:
- 10.3.1.1 take possession of, collect and get in all or any part of the Charged Property in respect of which he is appointed and for that purpose to take any proceedings;
 - 10.3.1.2 carry on or concur in carrying on the business of each Chargor and to raise money from the Bank (or others) on the security of all or any part of the Charged Property in respect of which he is appointed;
 - 10.3.1.3 purchase or acquire any land and purchase, acquire and grant any interest in or right over land;
 - 10.3.1.4 sell or concur in selling, grant or concur in granting any option in respect of, or any lease, licence or tenancy of, or other right or interest to occupy, and terminate or accept surrenders of leases, licences or tenancies of any of the Charged Property and to carry any such transactions into effect;
 - 10.3.1.5 sell, assign, grant any option in respect of, or any lease, licence or tenancy of, or other right or interest to occupy, or otherwise dispose of or concur in selling, assigning, granting any option in respect of, or any lease, licence or tenancy of, or other right or interest to occupy, or otherwise disposing of all or any of the debts and any other property in respect of which he is appointed;
 - 10.3.1.6 make any arrangement, compromise or settlement between any Chargor and any other person which he may think expedient;
 - 10.3.1.7 make and effect all repairs, improvements and alterations and apply for planning permission and do anything which is a development within the meaning of the Town and Country Planning Act 1990 (as amended) or any re-enactment or modification thereof for the time being in force or any orders or regulations under such Act;
 - 10.3.1.8 purchase materials, tools, equipment, goods or supplies;
-

- 10.3.1.9 call up any uncalled capital of any Chargor with all the powers conferred by the articles of association of that Chargor in relation to calls;
- 10.3.1.10 appoint any agent to do any business which he is unable to do himself or which can more conveniently be done by an agent;
- 10.3.1.11 employ, engage and appoint managers and other employees and professional advisers;
- 10.3.1.12 bring or defend any action or other legal proceedings in the name and on behalf of any Chargor;
- 10.3.1.13 refer to arbitration all questions affecting any Chargor;
- 10.3.1.14 effect and maintain insurances in respect of the business of any Chargor and the property in respect of which he is appointed;
- 10.3.1.15 make an election to waive any exemption from value added tax; and/or
- 10.3.1.16 do all such other acts and things as may be considered to be incidental or conducive to any other matters or powers aforesaid or to the realisation of the security constituted by this Charge and which he lawfully may or can do.

10.3.2 The powers of a Receiver may be limited by the terms of his appointment.

10.4 **Remuneration**

The Bank may from time to time determine the remuneration of any Receiver and section 109(6) of the Law of Property Act 1925 shall be varied accordingly. A Receiver shall be entitled to remuneration appropriate to the work and responsibilities involved upon the basis of charging from time to time adopted by the Receiver in accordance with the current practice of his firm.

11. **APPLICATION OF PROCEEDS**

11.1 **Order of application**

Any monies received by the Bank or any Receiver under this Charge shall, subject to the payment of any claims having priority to the charges created by this Charge, be applied in the following order but without prejudice to the right of the Bank to recover any shortfall from any Chargor:

- 11.1.1 in the payment of all costs, charges and expenses of and incidental to the appointment of the Receiver and the exercise of all or any of his powers and of all outgoings paid by him;
 - 11.1.2 in the payment of the Receiver's remuneration;
-

11.1.3 in or towards the satisfaction of the Secured Obligations in such order as the Bank in its absolute discretion thinks fit; and

11.1.4 in payment of the surplus (if any) to the person or persons entitled to it.

11.2 **Suspense accounts**

All monies received, recovered or realised by the Bank under this Charge may be credited at the discretion of the Bank to any suspense or impersonal account and may be held in such account for so long as the Bank shall think fit pending its application from time to time in or towards the discharge of any of the monies and liabilities secured by this Charge.

12. **PROTECTION OF THIRD PARTIES**

12.1 **No enquiry**

No purchaser, mortgagee or other person dealing with the Bank or any Receiver shall be concerned to enquire whether the monies or liabilities secured by this Charge have become payable or whether any power which it or he is purporting to exercise has become exercisable or whether any money is due under this Charge, or as to the application of any money paid, raised or borrowed or as to the propriety or regularity of any sale by or other dealing with the Bank or any such Receiver.

12.2 **Law of Property Act**

All the protections given to purchasers contained in Sections 104 and 107 of the Law of Property Act 1925 shall apply to any person purchasing from or dealing with the Bank or any Receiver as if the liabilities secured by this Charge had become due and the statutory powers of sale in relation to the Charged Property had arisen on the date of this Charge.

13. **PAYMENTS**

13.1 **No set-off or withholding**

All sums payable by any Chargor under this Charge shall be paid to the Bank in full without any set-off, condition or counterclaim whatsoever and free and clear of any deduction or withholding whatsoever save only as may be required by law which is binding on it.

13.2 **Gross-up**

If any deduction or withholding is required by law in respect of any payment due from any Chargor under this Charge, the relevant sum payable by that Chargor shall be increased so that, after making the minimum deduction or withholding so required, that Chargor shall pay to the Bank and the Bank shall receive and be entitled to retain on the due date for payment a net sum at least equal to the sum which it would have received had no such deduction or withholding been required to be made.

14. **POWER OF ATTORNEY**

14.1 **Power of Attorney**

Each Chargor by way of security hereby irrevocably appoints each of the Bank, any person appointed by the Bank and any Receiver jointly and also severally, to be its attorney in its name and on its behalf:

- 14.1.1 to execute and complete any documents or instruments and to do all acts and things which the Bank or such Receiver may require for perfecting the title of the Bank to the Charged Property or for vesting the same in the Bank, its nominees or any purchaser;
- 14.1.2 to sign, execute, seal and deliver and otherwise perfect any further security document referred to in Clause 19 (*Further Assurance*) and/or Clause 4.2 (*Further requirements*); and
- 14.1.3 otherwise generally to sign, seal, execute and deliver all deeds, assurances, agreements and documents and to do all acts and things which may be required for the full exercise of all or any of the powers conferred on the Bank or a Receiver under this Charge or which may be deemed expedient by the Bank or a Receiver in connection with any disposition, realisation or getting in by the Bank or such Receiver of the Charged Property or any part thereof or in connection with any other exercise of any power under this Charge.

14.2 **Ratification**

Each Chargor hereby ratifies and confirms and agrees to ratify and confirm whatever any such attorney shall reasonably do in the exercise or purported exercise of all or any of the powers, authorities and discretions referred to in this Clause 14 (*Power of Attorney*).

15. **GENERAL INDEMNITY**

- 15.1 Each Chargor hereby undertakes to indemnify and keep indemnified the Bank, any Receiver and any attorney, agent or other person appointed by the Bank under this Charge and the Bank's and any Receiver's officers and employees (each an "**Indemnified Party**") in respect of all costs, losses, actions, claims, expenses, demands or liabilities whether in contract, tort or otherwise and whether arising at common law, under this Charge, in equity or by statute which may be incurred by, or made against, any of the Indemnified Parties (or by or against any manager, agent, officer or employee for whose liability, act or omission any of them may be answerable) at any time relating to or arising directly or indirectly out of or as a consequence of:

- 15.1.1 anything done or omitted in the exercise or purported exercise of the powers contained in this Charge; or

- 15.1.2 any breach by any Chargor of any of its obligations under this Charge.

16. **CURRENCY CONVERSION AND INDEMNITY**

16.1 **Conversion of currency**

For the purpose of or pending the discharge of any of the monies and liabilities secured by this Charge the Bank may convert any monies received, recovered or realised by the Bank under this Charge (including the proceeds of any previous conversion) from their existing currency into such other currency as the Bank may think fit and any such conversion shall be

effected at the Bank's then prevailing spot selling rate of exchange for such other currency against the existing currency.

16.2 Currency indemnity

As a separate and independent obligation, each Chargor agrees to indemnify and hold harmless the Bank against any shortfall between any amount received or recovered by it in respect of any payment due under this Charge and converted in accordance with Clause 16.1 (*Conversion of currency*) into the currency in which such amount was payable and the amount in such currency which was due and payable to the Bank under this Charge.

17. NEW ACCOUNTS

If the Bank shall at any time receive actual or constructive notice of any Encumbrance or other interest affecting any part of the Charged Property then the Bank may open a new account or accounts for any Chargor and/or the Borrower and if the Bank does not do so then the Bank shall be treated as if it had in fact done so at the time when it received or was deemed to receive notice and as from that time all payments made by or on behalf of any Chargor and/or the Borrower to the Bank shall be credited or treated as having been credited to the new account and shall not operate to reduce the amount secured by this Charge at the time when the Bank received or was deemed to have received such notice.

18. PRIOR CHARGES

18.1 Redemption of prior security

If there is any Encumbrance over any of the Charged Property which ranks in priority to this Charge and the security constituted by this Charge has become enforceable or if any proceedings or steps are taken to exercise or enforce any powers or remedies conferred by such prior Encumbrance, the Bank or any Receiver appointed under this Charge in respect of such property may redeem such prior Encumbrance or procure its transfer to itself and may settle and pass the accounts of any prior mortgagee, chargee or encumbrancer.

18.2 Extension of powers and rights

Any account so settled and passed shall be conclusive and binding on each Chargor and all the principal, interest, costs, charges and expenses of and incidental to such redemption or transfer shall carry interest in accordance with the provisions of Clause 2.2 (*Interest*) from the date of payment to the date of reimbursement and be secured on the Charged Property and all the powers conferred by any prior Encumbrance upon the encumbrancer or any receiver thereunder shall be exercisable by the Bank or a Receiver in like manner as if the same were expressly included in this Charge.

19. FURTHER ASSURANCE

19.1 Further assurance

Each Chargor shall at its own cost whenever requested by the Bank immediately execute and sign all such Encumbrances, deeds, documents and assurances and do all such things as the Bank may require for the purpose of perfecting or more effectively providing security to the Bank for the payment and discharge of the Secured Obligations or to facilitate the

realisation of the Charged Property or the exercise of any rights vested in the Bank or any Receiver.

19.2 Certain documentary requirements

Such further Encumbrances, deeds, documents and assurances shall be prepared by or on behalf of the Bank at the expense of each Chargor and shall contain (a) an immediate power of sale without notice, (b) a clause excluding section 93 of the Law of Property Act 1925 and the restrictions contained in section 103 of the Law of Property Act 1925 and (c) such other clauses for the benefit of the Bank as the Bank may require.

20. COSTS AND EXPENSES

20.1 Costs and expenses

20.1.1 All costs, charges and expenses (together with any value added tax thereon) incurred by the Bank in relation to this Charge or the Secured Obligations including for the avoidance of doubt all amounts the Bank may from time to time require to compensate it for its internal management and administrative costs and expenses and also all costs, charges and expenses incurred by the Bank in connection with the preservation or enforcement or attempted enforcement of the Bank's rights under this Charge shall be reimbursed by each Chargor to the Bank on demand on a full indemnity basis and, until so reimbursed, shall carry interest in accordance with the provisions set out in Clause 2.2 (*Interest*) from the date such costs, charges and expenses are incurred by the Bank to the date of reimbursement and be secured on the Charged Property.

20.1.2 A certificate signed by the Bank as to the amount of such costs, charges and expenses shall be conclusive and binding upon each Chargor.

20.1.3 Each Chargor authorises the Bank at any time to debit such costs, charges and expenses from any of its accounts with the Bank or any Affiliate of the Bank.

20.2 Enforcement etc.

The Bank and every Receiver, attorney or other person appointed by the Bank under this Charge and their respective employees shall be entitled to be indemnified on a full indemnity basis out of the Charged Property in respect of all liabilities and expenses incurred by any of them in or directly or indirectly as a result of the exercise or purported exercise of any of the powers, authorities or discretions vested in them under this Charge and against all actions, proceedings, losses, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the Charged Property and the Bank and any such Receiver may retain and pay all sums in respect of the same out of the monies received under the powers conferred by this Charge.

21. MISCELLANEOUS

21.1 Time, indulgence and other matters

The Bank may without discharging or in any way affecting the security created by this Charge or any remedy of the Bank grant time or other indulgence or abstain from exercising or enforcing any remedies, securities, guarantees or other rights which it may now or in the

future have from or against any Chargor or any other person and may make any other arrangement, variation or release with any person or persons without prejudice either to this Charge or the liability of any Chargor for the monies and liabilities secured by this Charge.

21.2 Severability

Each of the provisions in this Charge shall be severable and distinct from one another and if at any time any one or more of such provisions is, becomes or is declared null and void, invalid, illegal or unenforceable in any respect under any law or otherwise howsoever the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

21.3 Remedies cumulative

No failure or delay on the part of the Bank to exercise any power, right or remedy shall operate as a waiver thereof nor shall any single or any partial exercise or waiver of any power, right or remedy preclude its further exercise or the exercise of any other power, right or remedy.

21.4 No liability as mortgagee in possession

Neither the Bank nor any Receiver shall be liable to account as mortgagee in possession in respect of all or any of the Charged Property or be liable for any loss upon realisation or for any neglect or default of any nature whatsoever for which a mortgagee may be liable as such.

21.5 Recovery of debts

Neither the Bank nor any Receiver shall have any liability or responsibility of any kind to any Chargor arising out of the exercise or non-exercise of the right to enforce recovery of the Charged Property or shall be obliged to make any enquiry as to the sufficiency of any sums received in respect of any Charged Property or to make any claims or take any other action to collect or enforce the same.

21.6 Stamp taxes

Each Chargor shall pay all stamp, documentary, registration or other duties (including any duties payable by or assessed on the Bank) imposed on or in connection with this Charge or the Charged Property.

21.7 Value Added Tax

21.7.1 All fees, costs and expenses payable under or pursuant to this Charge shall be paid together with an amount equal to any value added tax payable by the Bank in respect of the same to the extent that the Bank shall have certified (such certificate to be conclusive and binding on each Chargor) to any Chargor that it is not entitled to credit for such value added tax as input tax.

21.7.2 Any value added tax chargeable in respect of any services supplied by the Bank under this Charge shall, on delivery of a value added tax invoice, be paid in addition to any sum agreed to be paid under this Charge.

21.8 Continuing security, etc.

This Charge and the obligations of each Chargor under this Charge shall:

- 21.8.1 secure the ultimate balance from time to time owing to the Bank in respect of the Secured Obligations and shall be a continuing security notwithstanding any intermediate payment, partial settlement or other matter whatsoever;
- 21.8.2 be in addition to, and not prejudice or affect, any present or future Collateral Instrument, Encumbrance, right or remedy held by or available to the Bank;
- 21.8.3 not merge with or be in any way prejudiced or affected by the existence of any such Collateral Instrument, Encumbrances, rights or remedies or by the same being or becoming wholly or in part void, voidable or unenforceable on any ground whatsoever or by the Bank dealing with, exchanging, releasing, varying or failing to perfect or enforce any of the same, or giving time for payment or indulgence or compounding with any other person liable; and
- 21.8.4 not in any way be prejudiced or affected by any amendment or supplement to, or novation of, any of the Finance Documents.

21.9 Liability unconditional

The obligations of each Chargor under this Charge and the security created or granted under this Charge will not be affected by any act, omission, matter or thing which, but for this Clause 21.9 (*Liability unconditional*), would reduce, release or prejudice any of its obligations under this Charge and/or any of the security created or granted under this Charge (without limitation and whether or not known to it or the Bank) including:

- 21.9.1 any time, waiver or consent granted to, or composition with, any Chargor or any other person;
 - 21.9.2 the release of any Chargor or any other person under the terms of any composition or arrangement with any creditor of any Chargor or such other person;
 - 21.9.3 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 or any other person or any non-presentation or any non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
 - 21.9.4 any Incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Chargor or any other person;
 - 21.9.5 any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and of whatsoever nature) or replacement of a Finance Document or any other document or security;
-

21.9.6 any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security;

21.9.7 where the security created or purported to be created by this Charge secures a Chargor's obligations and liabilities as a guarantor and/or indemnitor, any act or omission which would not have discharged or affected the liability of that Chargor had that Chargor been a principal debtor in respect of those obligations and liabilities instead of a guarantor or indemnitor or anything done or omitted by any person which but for this provision might operate to exonerate or discharge that Chargor or otherwise reduce or extinguish that Chargor's liability under this Charge; or

21.9.8 any insolvency or similar proceedings.

21.10 **Chargor intent**

Without prejudice to the generality of Clause 21.9 (*Liability unconditional*), each Chargor expressly confirms that it intends that the Encumbrances created under this Charge shall extend from time to time to any (however fundamental and of whatsoever nature, and whether or not more onerous) variation, increase, extension (whether pursuant to an Extension Notice or otherwise) 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 Hedging Agreement with the Bank whether in connection with any such facility or unrelated thereto; 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.

21.11 **Collateral Instruments**

The Bank shall not be obliged to make any claim or demand on any Chargor or any other person liable or to resort to any Collateral Instrument or other means of payment before enforcing this Charge and no action taken or omitted in connection with any such Collateral Instrument or other means of payment shall discharge, reduce, prejudice or affect the liability of any Chargor. The Bank shall not be obliged to account for any money or other property received or recovered in consequence of any enforcement or realisation of any such Collateral Instrument or other means of payment.

21.12 **Settlement conditional**

Any release, discharge or settlement between any Chargor and the Bank shall be conditional upon no right, security, disposition or payment to the Bank by any Chargor or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to breach of duty by any person, bankruptcy, liquidation, administration, the protection of creditors or insolvency or for any other reason whatsoever and if such condition is not fulfilled the Bank shall be entitled to enforce this Charge as if such release, discharge or settlement had not occurred and any such payment had not been made.

21.13 **Chargor bound**

Each Chargor agrees to be bound by this Charge notwithstanding that any person intended to execute or to be bound by this Charge may not do so or may not be effectually bound and notwithstanding that any guarantees or charges contained in this Charge may be terminated or released or may be or become invalid or unenforceable against any Chargor whether or not the deficiency is known to the Bank.

21.14 Statutory powers of leasing

During the continuance of this security the statutory and any other powers of leasing, letting, entering into agreements for leases or lettings and accepting or agreeing to accept surrenders of leases or tenancies shall not be exercisable by any Chargor in relation to the Charged Property or any part thereof.

21.15 Section 93, Law of Property Act 1925

Section 93 of the Law of Property Act 1925 shall not apply to the security created by this Charge or to any security given to the Bank pursuant to this Charge.

21.16 Reorganisation

This Charge shall remain binding on each Chargor notwithstanding any change in the constitution of the Bank or its absorption in, or amalgamation with, or the acquisition of all or part of its undertaking by, any other person, or any reconstruction or reorganisation of any kind. The security granted by this Charge shall remain valid and effective in all respects in favour of the Bank and any assignee, transferee or other successor in title of the Bank in the same manner as if such assignee, transferee or other successor in title had been named in this Charge as a party instead of, or in addition to, the Bank.

21.17 Unfettered discretion

Any liability or power which may be exercised or any determination which may be made under this Charge by the Bank may be exercised or made in its absolute and unfettered discretion and it shall not be obliged to give reasons therefor.

21.18 Law of Property (Miscellaneous Provisions) Act 1989

Any provisions of any Finance Document or any other document relating to any disposition of an interest in land shall be deemed to be incorporated in this Charge to the extent required for any purported disposition of the Charged Property contained in this Charge to constitute a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

21.19 Delegation of powers

The Bank shall be entitled, at any time and as often as may be expedient, to delegate all or any of the powers and discretions vested in it by this Charge in such manner, upon such terms, and to such person as the Bank in its absolute discretion may think fit and such person shall have the same rights and obligations as it would have had if such person had been a party to the Finance Documents in place of the Bank.

21.20 Statements of account conclusive

Any statement of account of any Chargor and/or the Borrower, signed as correct by an officer of the Bank, showing the amount of the Secured Obligations, shall, in the absence of manifest error, be binding and conclusive on and against any Chargor.

22. ASSIGNMENTS AND TRANSFERS

22.1 Bank's right to transfer

22.1.1 The Bank may at any time (and without notice or consent) assign or transfer the benefit of this Charge (or all or any of its rights under this Charge) to any person and the expression "**the Bank**" shall include its successors and assigns.

22.1.2 The Bank shall be entitled to disclose any information to any actual or prospective assignee, successor or participant.

22.2 Chargor may not transfer

No Chargor may assign or transfer the benefit or burden of this Charge or all or any of its rights under this Charge without the prior written consent of the Bank.

23. NOTICES

23.1 Communications in writing

Any communication to be made under or in connection with this Charge shall be made in writing and, unless otherwise stated, may be made by letter to the Bank and (without prejudice to any other effective means of service) by letter or email to a Chargor.

23.2 Addresses

The address (and the department or officer, if any, for whose attention the communication is to be made) of the Bank and the address and email address of a Chargor for any communication or document to be made or delivered under or in connection with this Charge are:

23.2.1 as regards the Bank, the address (and the department or officer) specified with its name below; and

23.2.2 as regards a Chargor, the address specified at the beginning of this Charge and the email address used or held by the Bank for communicating with that Chargor,

or any substitute address, email address or department or officer as may be notified to the other party by not less than five Business Days' written notice, provided that, if a Chargor is a company, corporation or other entity having a registered office, any communication or document under or in connection with this Charge may instead be made or delivered to that Chargor at its registered office.

23.3 Delivery

23.3.1 Any communication or document made or delivered by one person to another under or in connection with this Charge shall be deemed to have been received:

23.3.1.1 if delivered personally, when it has been left at the relevant address; or

23.3.1.2 if sent by pre-paid first class post, one Business Day after being deposited in the post; or

23.3.1.3 if sent by email, at the time of transmission,

provided that, if it is delivered personally or sent by email on a day which is not a Business Day or after 4pm on any Business Day, it shall instead be deemed to have been given or made on the next Business Day.

23.3.2 Any communication or document to be made or delivered to the Bank will be effective only when actually received by the Bank and then only if it is expressly marked for the attention of the department or officer (if any) specified with its name below (or any substitute department or officer as the Bank shall specify for this purpose).

24. COUNTERPARTS

This Charge may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same instrument.

25. THIRD PARTIES

A person who is not a party to this Charge may not enforce any of its terms under The Contracts (Rights of Third Parties) Act 1999.

26. GOVERNING LAW AND ENFORCEMENT

26.1 Governing law

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

26.2 Jurisdiction of English courts

26.2.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Charge (including a dispute relating to the existence, validity or termination of this Charge or any non-contractual obligation arising out of or in connection with this Charge) (a "**Dispute**").

26.2.2 Each Chargor agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary.

26.2.3 This Clause 26.2 (*Jurisdiction of English courts*) is for the benefit of the Bank only. As a result, the Bank shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Bank may take concurrent proceedings in any number of jurisdictions.

IN WITNESS WHEREOF this Charge has been executed and delivered as a deed by the parties hereto on the date stated at the beginning of this Charge.

SCHEDULE 1
FORMS OF NOTICE AND ACKNOWLEDGEMENT

Part 1
Form of notice of assignment
[On the letterhead of each Chargor]

[COUNTERPARTY]
 [ADDRESS LINE 1]
 [ADDRESS LINE 2]
 [POSTCODE]

[DATE]

Dear Sirs

Charge over shares and subordinated debt (the "Assignment") dated [DATE] between [CHARGOR] and Investec Bank Plc

We refer to the [*specify Subordinated Debt Document*] (the "**Subordinated Debt Document**").

This letter constitutes notice to you that under the Assignment [(a copy of which is attached)] we have assigned to Investec Bank Plc (the "**Bank**"), by way of security, all our rights, title and interest and benefit in and to the Subordinated Debt Document.

We irrevocably instruct and authorise you to:

1. comply with the terms of any written instructions received by you from the Bank relating to the Subordinated Debt Document, without notice or reference to, or further authority from, us and without enquiring as to the justification or the validity of those instructions;
2. hold all sums from time to time due and payable by you to us under the Subordinated Debt Document to the order of the Bank;
3. pay, or release, all monies to which we are entitled under the Subordinated Debt Document to the Bank, or to such persons as the Bank may direct; and
4. disclose information in relation to the Subordinated Debt Document to the Bank on request by the Bank.

Neither the Assignment nor this notice releases, discharges or otherwise affects your liability and obligations in respect of the Subordinated Debt Document.

Subject to the foregoing, you may continue to deal with us in relation to the Subordinated Debt Document until you receive written notice to the contrary from the Bank. Thereafter, we will cease to have any right to deal with you in relation to the Subordinated Debt Document and you must deal only with the Bank.

Please note that we have agreed that we will not amend or waive any provision of or terminate the Subordinated Debt Document without the prior written consent of the Bank.

The instructions in this notice may only be revoked or amended with the prior written consent of the Bank.

Please confirm that you agree to the terms of this notice, and to act in accordance with its provisions, by sending the attached acknowledgement to the Bank at 2 Gresham Street, London EC2V 7QP (marked for the attention of []), with a copy to us.

This notice, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by and construed in accordance with English law.

Yours faithfully

.....
[CHARGOR]

Part 2
Form of acknowledgement of assignment

[On the letterhead of the Counterparty]

Investec Bank Plc
 2 Gresham Street
 London EC2V 7QP

Attention: []

[DATE]

Dear Sirs

Charge over shares and subordinated debt (the "Assignment") dated [DATE] between [CHARGOR] and [BANK]

We confirm receipt from [CHARGOR] (the "**Chargor**") of a notice (the "**Notice**") dated [DATE] of an assignment, by way of security, of all the Chargor's rights under [*specify Subordinated Debt Document*] (the "**Subordinated Debt Document**").

Terms defined in the Notice shall have the same meaning when used in this acknowledgement.

We confirm that:

1. We accept the instructions and authorisations contained in the Notice and agree to comply with the Notice.
2. There has been no amendment, waiver or release of any rights or interests in the Subordinated Debt Document since the date of the Subordinated Debt Document.
3. We will not cancel, avoid, release or otherwise allow the Subordinated Debt Document to lapse without giving the Bank at least 30 days' prior written notice.
4. We have not, as at the date of this acknowledgement, received notice that the Chargor has assigned its rights under the Subordinated Debt Document to a third party, or created any other interest (whether by way of security or otherwise) in the Subordinated Debt Document in favour of a third party.
5. The Bank will not in any circumstances have any liability in relation to the Subordinated Debt Document.
6. The Subordinated Debt Document shall not be rendered void, voidable or unenforceable by reason of any non-disclosure by the Bank.

This letter, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by and construed in accordance with English law.

Yours faithfully,

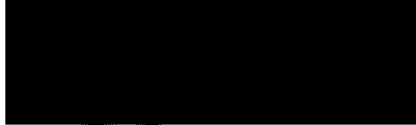
.....
[COUNTERPARTY]

EXECUTION

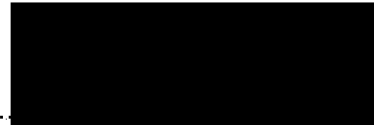
IMPORTANT NOTICE – WE RECOMMEND THAT YOU CONSULT YOUR SOLICITOR OR OTHER INDEPENDENT LEGAL ADVISER BEFORE EXECUTING THIS DOCUMENT

The Chargors

EXECUTED and DELIVERED as a DEED by
RBE Investments Limited acting by a director



Full Name: PHILIP WHARMANN



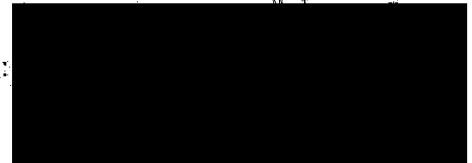
Director/Secretary/Witness

Full Name: CHARLOTTE UDEN

Witness only: DENTONS UCMER LLP

Address:

Occupation:



TRAINEE SOLICITOR

EXECUTED and DELIVERED as a DEED by
Newmark Properties LLP acting by a member in
the presence of:

Designated Member

Full Name:

Witness

Full Name:

Witness only:

Address:

Occupation:

Yours faithfully,

[COUNTERPARTY]

EXECUTION

IMPORTANT NOTICE – WE RECOMMEND THAT YOU CONSULT YOUR SOLICITOR OR OTHER INDEPENDENT LEGAL ADVISER BEFORE EXECUTING THIS DOCUMENT

The Chargors

**EXECUTED and DELIVERED as a DEED by
RBE Investments Limited acting by a director
in the presence of:**

Director

Full Name:

Director/Secretary/Witness

Full Name:

Witness only:

Address:

Occupation:

**EXECUTED and DELIVERED as a DEED by
Newmark Properties LLP acting by a member in
the presence of:**

Designated Member

Full Name: MARK BOUSANT

Witness

Full Name: Lucy Green

Witness only:

Address:

Occupation:

PA/OFFICE MANAGER

The Bank

EXECUTED and DELIVERED by
INVESTEC BANK PLC
 acting by its duly appointed authorised signatories
 under a power of attorney dated 4 June 2013 as
 follows:

.....
 Authorised Signatory

in the presence of:

.....
 Authorised Signatory

in the presence of:

.....
 Witness

Full Name:

Address:

Occupation:

.....
 Witness

Full Name:

Address:

Occupation:

Address for notices: Investec Bank plc
 2 Gresham Street, London EC2V 7QP, United
 Kingdom

Attention:

..